



HM Revenue  
& Customs

Policy paper

# **Technical note: Inheritance Tax on pensions**

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# 1 Introduction

From 6 April 2027, most unused pension funds and pension death benefits will be brought within the value of a deceased person's estate for Inheritance Tax purposes.

This removes distortions which have led to pension schemes being increasingly used and marketed as a tax planning vehicle to transfer wealth, rather than for funding retirement. It also removes inconsistencies in the Inheritance Tax treatment of different types of pensions.

## 1.1 Where we are in May 2026

Finance Act 2026 received Royal Assent on 18 March 2026. This Act made changes to the Inheritance Tax Act 1984 (IHTA 1984), Finance Act 2004 (FA 2004) and Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003) to bring reforms to Inheritance Tax on pensions into effect for deaths on or after 6 April 2027.

Finance Act 2026 will be supported by secondary legislation, primarily covering the necessary information sharing requirements between personal representatives and pension scheme administrators. Draft regulations will be shared for a short technical consultation, and the government will lay the regulations later this year.

Guidance and other supporting materials will be updated and published for April 2027. This will include details on the evidence pension scheme administrators should request or accept from personal representatives and prospective personal representatives, and templates to use for withholding and payment of Inheritance Tax. HMRC will also provide interactive tools to support personal representatives by April 2027.

This technical note expands on the legislation and gives more supporting information on how unused pension funds and pension death benefits (referred to as “notional pension property”) will be treated for Inheritance Tax purposes. The note also covers what we expect to be included in the information sharing regulations.

This technical note is not draft guidance. Guidance will be published in due course through GOV.UK and HMRC tax manuals.

## **1.2 When does this change come into effect?**

This change is effective for deaths on or after 6 April 2027. If the pension scheme member dies before 6 April 2027, then the current rules will apply even if pension benefits are paid to their beneficiaries after this date.

## **1.3 Next steps**

The government's indicative timetable for next steps is as follows:

- spring 2026: publish draft regulations on information sharing requirements for technical consultation alongside draft templates for withholding and payment notices and draft guidance on evidence of personal representative identity
- spring/summer 2026: make and lay the regulations on information sharing requirements with a commencement date of 6 April 2027
- spring/summer/autumn 2026: continue process design and develop guidance and other support tools
- autumn/winter 2026/2027: share draft guidance with industry stakeholders
- winter/spring 2026/2027: communications activity to publicise upcoming changes to impacted groups
- spring 2027: publish guidance and other supporting materials

We will continue to publish further clarifications as needed. We will update our tax manuals for April 2027 with detailed guidance on inheritance tax and pensions.

# **2 Core principles**

## **2.1 When notional pension property is vested in a**

## **beneficiary**

Most registered pension schemes operate on a discretionary basis, under which scheme trustees determine who should receive death benefits (and how much) after considering potential beneficiaries and any expression of wishes made by the member.

Although the existence of trustee discretion will no longer determine whether pension assets fall within the scope of Inheritance Tax, it remains relevant to the process and timing of entitlement. Until the trustees have made their decision, no beneficiary has an actual entitlement to the death benefits.

For Inheritance Tax purposes, the notional pension property is treated as being vested in a beneficiary at the point the trustees make their decision, and the beneficiary thereby becomes entitled to the benefits. The timing of any subsequent payment to the beneficiary is not relevant for these purposes.

For non-discretionary schemes, the notional pension property is treated as being vested in a beneficiary once they have been identified in accordance with the scheme rules.

## **2.2 Liability for Inheritance Tax**

Personal representatives will be responsible for reporting and liable for paying any Inheritance Tax due on notional pension property. From the point that any notional pension property is vested (read section 2.1) in a beneficiary they become jointly and severally liable, with the personal representatives, for any Inheritance Tax attributable to that property.

In normal circumstances, neither pension scheme administrators nor trustees of registered pension schemes will be liable for any Inheritance Tax. However, pension scheme administrators will become jointly and severally liable with the beneficiary and personal representative if they fail to action a valid withholding notice or payment notice.

## 2.3 Collection of Inheritance Tax

The process for administering estates with inheritable pension wealth will be similar to the process which already exists for administering estates and paying any tax due.

Inheritance Tax payable on any notional pension property is due as normal at the end of the sixth month after the date of death. After this point, late payment interest will accrue on any outstanding tax.

## 2.4 Evidence of personal representative identity

At present, it is common for a pension scheme administrator to request sight of the grant (that is Grant of Probate, Letters of Administration or Confirmation in Scotland) to establish the identity of the deceased member's personal representative. However, from April 2027 pension scheme administrators will need to share information and respond to notices before the grant is issued. This means that personal representatives, or prospective personal representatives, will need to share evidence of their identity with the pension scheme administrator before they have received a grant of probate or letters of administration. Further guidance will be issued in due course, but the basic principles are set out below.

If there is a Will, the evidence could reasonably include a copy of the Will and codicil that names the person as executor, evidence of identity that matches the named executor, a copy of the death certificate and a signed declaration that the person has accepted the role of executor. If the named executor has appointed someone else to act on their behalf, a copy of that instruction would also be needed.

Where there is no Will, pension schemes are still required to share information and respond to notices. However, the evidence needed from prospective personal representatives — those individuals who have reason to believe they will become a personal representative of the deceased — will be different.

In England and Wales, Rule 22 of the Non-Contentious Probate Rules 1987, provides the order of priority for obtaining the Grant. This states that an individual must usually be a spouse, civil partner, or relative of

the deceased to have reason to believe they will become a personal representative of the deceased where there is no Will.

For deaths in Scotland and Northern Ireland, there is no direct equivalent of Rule 22 of the Non-Contentious Probate Rules 1987. However, both jurisdictions operate established systems that determine who is entitled, or likely to become entitled, to act as the deceased's personal representative.

In Scotland, this is determined by whether the individual is an executor nominate named in a Will, or a prospective executor dative entitled to apply for appointment by the court under the established order of priority.

In Northern Ireland, entitlement to apply for a Grant of Representation follows a statutory and procedural order of priority that broadly mirrors the position in England and Wales.

If there is a Will, but the named executor has died, lost capacity or is unwilling or unable to act, the approach for where there is no Will should generally be followed. Further details will be available when the draft guidance is circulated later this spring.

Pension scheme administrators should reasonably accept alternative evidence demonstrating the individual's status as a prospective personal representative, together with evidence of identity, pending issue of the Grant or Confirmation.

This could include a copy of the death certificate, signed declaration of authority from the prospective personal representative, correspondence from solicitors acting for the deceased, or other evidence that the person is a prospective personal representative, along with evidence of their identity and relationship to the deceased.

Once an individual has supplied evidence that they are a personal representative, or prospective personal representative, and that evidence has been accepted by the pension scheme administrator, this should be taken as satisfying the requirement for that individual at all stages. Further details will be available when the draft guidance is shared later this spring (read section 1.3).

## 2.5 Identifying pensions

Personal representatives should take reasonable steps to identify any pension schemes from which death benefits may be payable, as they will be doing for other assets in the estate. In practice this usually involves looking through all the deceased's papers, records and bank accounts and speaking to known relatives, beneficiaries, advisors and business partners. They will need to contact the pension schemes and insurance companies to inform them of the death and request information (read section 5). Pension schemes may contact the personal representative directly, if they become aware of the member's death. In this case the personal representative will still need to request the information they need.

If a pension scheme is identified sometime after the death, the personal representative must still contact the pension scheme administrator to obtain date of death valuation and beneficiary details. If an Inheritance Tax account has already been submitted, it will need to be amended by way of a corrective account. Alternatively, the personal representative may need to submit an account. Section 10 provides more information on probate and discharge certificates.

Pension schemes may want to encourage members to keep an up-to-date record of all their pension arrangements to help their personal representative after their death. This will significantly ease the administrative burden on their personal representative and help ensure that benefits are processed in a timely manner after their death.

## 2.6 Qualifying non-UK pension schemes and section 615(3) schemes

Notional pension property held within qualifying non-UK pension schemes and section 615(3) schemes will be in scope for Inheritance Tax.

This means that personal representatives, pension scheme administrators and managers of these types of pension scheme will need to determine the value of a member's notional pension property

immediately before their death. Therefore, in section 3 and 4, references to “pension scheme administrator” should be read to include the qualifying non-UK pension schemes and s615(3) scheme managers. However, a withholding or payment notice cannot be given to these scheme types.

## **3 Scope and notional pension property**

### **3.1 Introduction**

New section 150A IHTA 1984 treats a member as being beneficially entitled to the notional pension property held within a registered pension scheme, a qualifying non-UK pension scheme or a section 615(3) scheme, immediately before their death (subject to residency status as explained in 3.5). The member’s notional pension property is the value held under all arrangements within the scheme, reduced by any excluded benefits. Personal representatives will need to contact all the deceased member’s pension schemes to inform them of the death and request the value of notional pension property.

### **3.2 How to calculate notional pension property**

New section 150A IHTA 1984 sets out how a member’s notional pension property in relation to the scheme is to be calculated based on whether the property is held in money purchase or defined benefits arrangements. For the purposes of new section 150A, held in a pension pot means available for the purpose of providing benefits to or in respect of one specific member of the scheme.

#### **3.2.1 Money purchase arrangements**

For each money purchase arrangement under the scheme add together:

A. the value, immediately before death, of any property that:

(i) is held in a pension pot, and

(ii) may or must be used to provide benefits under the arrangement on the death of the member, and

B. the value, immediately before death, of any property that both:

(i) is not held in a pension pot

(ii) may be and can reasonably be expected to be used to provide benefits under the arrangement on the death of the member.

Pension scheme administrators should then deduct the value of any property that may only be used to provide an excluded benefit (read section 3.3).

The purpose of considering value of property under B, is to ensure that amounts intended to be used to pay death benefits are included in a member's notional pension property, even where those amounts are not held in a defined pot and are instead determined by the pension scheme using other methods. This includes, for example, benefits provided under cash balance arrangements (read section 3.2.3 for collective money purchase arrangements).

Value under B also includes the situation where a member's money purchase pot is augmented to include additional amounts, but only where there is a reasonable expectation, at the time of death, that the death benefits will be augmented.

### **3.2.2 Defined benefit arrangements**

For each defined benefits arrangement under the scheme add together:

- the amount of any benefit that must be paid as a lump sum death benefit under the arrangement on the death of the member
- the amount of any benefit not within paragraph (A) that may be and can reasonably be expected to be paid as a lump sum death benefit under the arrangement on the death of the member
- the amount of any benefit that may be and, assuming that the maximum amount possible is paid as a lump sum death benefit, can reasonably be expected to be paid as a scheme continuation payment under the arrangement on the death of the member

Pension scheme administrators should then deduct the amount of any benefit that may only be paid as an excluded benefit (read section 3.3).

Including the value of benefits under B is aimed at augmentation powers, where the death benefit can be increased over and above what would normally be payable under the scheme. It seeks to only bring in any additional amount where there is a reasonable expectation that the death benefits will be augmented.

The amount included in C, brings into scope pension or annuity payments made under guarantee provisions. Where a member dies within the first 10 years of becoming entitled to a pension or annuity, payments may continue to be paid to a beneficiary until the end of that period. This treatment is provided for by Pension Rule 2 in section 165(1) Finance Act 2004. Pension scheme administrators should calculate the total value of the continuing payments on the assumption that the maximum amount available as a lump sum death benefit is paid.

### **3.2.3 Collective money purchase schemes**

In collective money purchase schemes, the pension scheme administrator will follow the calculation that is appropriate for each arrangement the member is part of.

## **3.3 Excluded benefits**

New section 150A(6) IHTA 1984 defines what is meant by an excluded benefit. More detail on this is set out below.

### **3.3.1 Dependants' scheme pension**

A dependants' scheme pension is an authorised death benefit paid to a dependant after a member's death. The meaning of "dependant" is set out in paragraph 15 of Schedule 28 Finance Act 2004. This includes a surviving spouse or civil partner, children and (if scheme rules permit) others who were financially dependent on the member, or where their relationship was one of mutual dependence. Further conditions are set out in paragraphs 16-16C of the same schedule. Within these legal constraints, to whom and for how long a dependants' scheme will be paid depends on the rules of the pension scheme or annuity contract.

Any dependants' scheme pension that meets these conditions will be an excluded benefit, regardless of the type of pension arrangement from which it is paid.

### **3.3.2 Trivial commutation**

A trivial commutation lump sum death benefit is an excluded benefit where it extinguishes a beneficiary's entitlement to a dependants' scheme pension. This is because the pension income that is commuted would have been exempt.

For example, Dan was entitled to a dependants' scheme pension of £1,000 and a death benefit lump sum of £4,000. The scheme intends to trivially commute that for a lump sum of £20,000 (of which £16,000 represents the scheme pension). In this example, the £16,000 representing the dependants' scheme pension would be an excluded benefit and not included in the valuation of the notional pension property.

### **3.3.3 Joint life annuities**

A dependants' annuity, or a nominees' annuity, is an excluded benefit if it was purchased together with a lifetime annuity payable to the member. For this purpose, "purchased together" is to be construed in accordance with paragraphs 17(1A) and 27AA(2) of Schedule 28 to the FA 2004.

So, to be an excluded benefit, an annuity must have been purchased together with a member's lifetime annuity, and the nominees' or dependants' annuity is related to the lifetime annuity. There is no requirement for the other party to be a dependant of the deceased member.

### **3.3.4 Death in service benefits**

Death in service benefits are provided for by new section 150A(6)(d) IHTA 1984. These are any amounts that are:

- payable as a benefit (in any form) in respect of a member of the scheme if the member is in employment or other work of a particular description, immediately before their death
- not payable as a benefit (in any form) in respect of a member of the scheme if the member does not meet those conditions

Death in service benefits that meet these conditions are treated as excluded benefits for Inheritance Tax purposes. Payments made by qualifying non-UK pension schemes and section 615(3) schemes that meet these conditions are also excluded benefits.

A death in service benefit is typically payable as a single lump sum but can be paid as pension income or another benefit type. The type of authorised payment and the trustee's discretion on how to pay the death in service payment do not impact on whether it meets the conditions to be an excluded benefit.

### **Employment or other work**

To be a death in service benefit, the member must have been either directly employed or in other work of a particular description immediately before their death. This allows for individuals on non-standard employment contracts or in other types of work to receive a death in service payment. It is for individual employers or scheme sponsors and pension schemes to determine for the purposes of their scheme whether members on career breaks, long-term sickness absence and supported redundancy periods meet either of these requirements.

However, lump sums paid to members who are not employed or considered to be working for the employer immediately before their death would not qualify as death in service payments.

Not all benefits payable following a death of a working member are death-in-service benefits for Inheritance Tax purposes. Only benefits paid from their current employment (or other type of work) qualify as death-in-service. Payments from pension schemes related to previous jobs that the deceased was a deferred member of, do not meet the conditions for this exclusion.

So, if on a member's death, they receive a payment of 3 times their salary linked to their employment plus a refund of their contributions, the death in service payment would be 3 times the salary. The refund of contributions, which in this scheme would have been paid under other circumstances, would not meet the conditions to be a death in service payment and would not be an excluded benefit.

### **Reporting death in service payments**

Payment of a death in service benefit from a registered pension

scheme will be a reportable event. We expect pension scheme administrators will report death in service payments to HMRC using the Managing Pensions Schemes service. Further details of what will be reported will be included in the amendments to the provision of information regulations that will be published later this spring.

### **3.4 Exempt beneficiaries**

Payments to certain types of beneficiaries are exempt from Inheritance Tax, such as transfers between spouses and civil partners, where they are long-term UK residents. The beneficiaries that are exempt from Inheritance Tax are set out in sections 18, 23, 24, 24A, 25 and 27 IHTA 1984. These exemptions are not considered when calculating the value of the notional pension property.

Pension scheme administrators will need to know whether any beneficiaries are exempt from Inheritance Tax in order to provide the split of notional pension property between exempt and non-exempt beneficiaries (read section 5.2.2). They will also need the information to manage any withholding notices received (read section 6).

Pension schemes must provide personal representatives with the value of the deceased's notional pension property, including any benefits going to exempt beneficiaries. Personal representatives must include this value in their account submitted to HMRC and claim the appropriate exemption, so that Inheritance Tax is not charged on the value of those benefits. Pension scheme administrators will need to work with the personal representative and any potential beneficiaries to establish if a particular payment is going to exempt beneficiaries.

### **3.5 Residency status, situs of pension assets and Inheritance Tax**

#### **3.5.1 Long-term and non-long-term UK Residents**

For long-term UK residents, Inheritance Tax arises on notional pension property within registered pension schemes, qualifying non-UK pension schemes, or section 615(3) schemes, regardless of where the scheme is situated or established, subject to any exemptions or reliefs.

For non-long-term UK residents, Inheritance Tax arises on any notional pension property held in a registered pension scheme, a qualifying non-UK pension scheme, or section 615(3) scheme that is established in the UK, subject to any exemptions or reliefs. Non-long-term UK residents will not be charged Inheritance Tax on pension schemes which are established outside the UK.

### **3.5.2 Registered pension schemes**

All registered pension schemes established in the UK will need to follow the legislation including notices for withholding or payment of Inheritance Tax regardless of whether or not the member was a long-term UK resident.

Registered pension schemes established outside the UK will only need to follow the legislation if the member was a long-term UK resident — this includes complying with notices for withholding or payment of Inheritance Tax.

### **3.5.3 Section 615(3) schemes and qualifying non-UK pension schemes**

The legislation regarding notices for withholding or payment of Inheritance Tax (via Pensions Direct Payment Scheme) does not apply to Section 615(3) schemes and qualifying non-UK pension schemes.

More information on how a qualifying non-UK pension scheme is defined can be found in the [Inheritance Tax manual \(IHTM17025\)](https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm17025) (<https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm17025>). If personal representatives have questions about where a pension scheme is established, they should confirm this with the scheme.

## **4 Valuations**

When pension scheme administrators or managers are calculating the value of notional pension property in line with new section 150A IHTA 1984, they will need to provide the open market value at the date of death. If the pension scheme administrator cannot provide the value within 28 days of receiving the request, they must provide an estimated value. Alongside an estimate, they must inform the personal representative of the basis for that estimate. Where estimates are

provided, they must tell the personal representative the final value within 14 days of obtaining a final valuation.

A personal representative can use estimated values if they are unable to ascertain the value of any asset in the estate. Estimates should only be used where the personal representative has made the fullest enquiries that are reasonably practicable in the circumstances and are still unable to provide a definitive value. Confirmation from a pension scheme administrator of an estimate and the basis of the estimation would normally meet this requirement. The final value must be reported to HMRC as soon as the definitive value is ascertained.

HMRC provides guidance for valuing assets for Inheritance Tax, which is available in the [Inheritance Tax manual \(IHTM09701\)](https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm09701) (<https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm09701>). This will be updated to include pensions.

## 5 Information sharing requirements

### 5.1 Introduction

Pension scheme administrators and personal representatives are already required to share information about the deceased and beneficiaries after a member has died. The existing requirements are set out in The Registered Pension Schemes (Provision of Information) Regulations 2006 (SI 2006/567).

Further legislation will be introduced to provide the framework to enable pension scheme administrators and personal representatives to exchange all the necessary information. For the purposes of the provision of information sharing regulations personal representative means the persons responsible for administering the estate of the deceased. This definition encompasses prospective personal representatives.

The government is preparing the draft regulations and will consult on these in spring 2026. The material below outlines the proposed approach on which the draft will be based and is included to support your understanding of the processes.

### **5.1.1 Insurance companies**

If the deceased member also held a pension annuity provided by an insurance company, the personal representative will also need to contact them to request a valuation of any notional pension property. The insurance company has the same duties and responsibilities as pension scheme administrators in this context. References to pension scheme administrators in sections 5.2 to 5.3 should be read as including insurance companies.

## **5.2 Basic information and valuation of notional pension property**

### **5.2.1 Initial information-sharing requirement**

The first point at which information must be shared is for valuing the deceased's estate to determine whether an Inheritance Tax account is required. Guidance on valuing the notional pension property is set out in sections 3 and 4.

### **5.2.2 Valuation information and timing**

Following the death of a member, the personal representative will need to contact each of the deceased's pension schemes to request both:

- the value of the notional pension property
- the split between exempt and non-exempt beneficiaries

Each pension scheme administrator should provide the valuation of notional pension property within 28 days of receiving the request. The split between exempt and non-exempt beneficiaries must be provided by the later of 28 days from the request or 14 days after beneficiaries are determined. As set out in section 4, estimates may be provided. The personal representative needs to know how much of the notional pension property will be going to non-exempt beneficiaries to determine if an account needs to be filed.

Pension scheme administrators may become aware of a member's death from other sources. In such cases, they should contact the personal representative (or a surviving family member). However, the deadlines for the pension scheme administrator to provide information do not begin until the personal representative formally requests the

information.

## **5.3 Beneficiary information**

### **5.3.1 Request for further information and timing**

Once the personal representative becomes aware that an Inheritance Tax account is required, they must request the further information needed to complete the account from each pension scheme where there is notional pension property.

This request is separate from the request for basic valuation information, as the personal representative does not need the identity of pension beneficiaries unless an Inheritance Tax account is required.

The pension scheme administrator must provide the requested information by the later of either:

- 28 days beginning with the date the request is received
- 14 days beginning with the date the beneficiaries are determined

### **5.3.3 Information to be provided**

The information to be provided by each pension scheme to the personal representative on request for each beneficiary is:

- full name
- address
- National Insurance number, where known

The pension scheme administrator must also provide the value of the notional pension property payable to each beneficiary, to enable the calculation of each beneficiary's Inheritance Tax liability.

## **5.4 Lump sum and death benefit allowance**

The interaction with the lump sum and death benefit allowance is covered in section 8.3. This section deals with the reporting of relevant lump sum death benefits to the personal representative and to HMRC.

### **5.4.1 Notification to the personal representative**

Once the pension scheme administrator has made the final payment of a relevant lump sum death benefit, they must notify the personal representative. This process will change from 6 April 2027.

From that date and for each beneficiary, the information provided must include the amount of both:

- the tax-free lump sum death benefit paid
- Inheritance Tax paid by the pension scheme directly to HMRC, if any

This information is required for the personal representative to calculate how much of the deceased member's lump sum and death benefit allowance has been used by the relevant lump sum death benefits.

The pension scheme administrator must provide this information within 3 months of making the final payment.

Additional guidance and tools to support personal representatives in calculating if the deceased member's lump sum and death benefit allowance has been exceeded will be published on GOV.UK. More information can be found in section 8.2.

### **5.4.2 Notifying HMRC when the allowance is exceeded**

Where, after considering all relevant lump sum death benefits, the personal representative concludes that the deceased member's lump sum and death benefit allowance has been exceeded, they must notify HMRC.

The information provided to HMRC must include details of the:

- deceased
- deceased's pension schemes
- beneficiaries
- amounts of lump sum death benefits paid to each beneficiary
- inheritance tax paid directly by the pension scheme from each of the lump sum death benefits

The personal representative must provide this information to HMRC by the later of either:

- 13 months after the date of death
- 30 days after the date on which they become aware that the allowance has been exceeded

## 6 Withholding

### 6.1 Introduction

A withholding notice allows a personal representative (or, where there is no will, a prospective personal representative) to instruct a pension scheme administrator of a registered pension scheme to withhold up to 50% of an individual's benefit entitlement under the scheme. This applies even where the scheme rules would not otherwise permit withholding and is provided for by new section 226A IHTA 1984.

Most estates will not have an Inheritance Tax liability. Withholding will therefore only be required in a small number of cases. It is not intended to be used routinely or on a precautionary basis. The legislation permits its use only where the personal representative knows, or has reason to believe, that Inheritance Tax may be due on the notional pension property.

Payments of excluded benefits, and payments made to exempt beneficiaries, are not subject to withholding. The remainder of section 6 applies only to payments to non-exempt beneficiaries and to benefits that are not excluded.

During the period when a withholding notice has effect, no benefit may be paid if more than 50% of a beneficiary's entitlement has already been paid, or if making the payment would result in more than 50% of that entitlement being paid. Retaining funds in this way helps to protect personal representatives and other estate beneficiaries from having to use non-pension assets to meet the Inheritance Tax liability.

Pension scheme administrators should ensure that beneficiaries are able to access up to 50% of their benefits promptly while a withholding

notice is in place. Payments of exempt or excluded benefits must be made as soon as possible.

## **6.2 Who can give a withholding notice**

Withholding may be used where a personal representative knows or reasonably believes that Inheritance Tax may be due on the deceased's notional pension property. This should be based on the knowledge of the deceased's estate and circumstances.

If the deceased died intestate, it is still important that a prospective personal representative can submit a withholding notice. The evidence required to support their identity is set out in section 2.4. References to personal representative throughout the withholding sections should be read to include prospective personal representatives unless stated otherwise.

## **6.3 Timing**

A withholding notice can be given at any time between date of death and 15 months after the end of the month in which the deceased died, but it only has effect within that period. HMRC expects that, where required, a withholding notice will be given early in the process. Once beneficiaries are determined, pension scheme administrators should not delay distributing benefits to beneficiaries where they have not received a withholding notice, even if it is still within the 15-month period.

## **6.4 Lifting a withholding notice**

A withholding notice ceases to have effect when it is withdrawn by the personal representatives, the relevant Inheritance Tax (and interest) is paid, or 15 months after the end of the month in which the deceased died, whichever occurs first.

Personal representatives should contact the pension scheme administrator to withdraw the notice as soon as the Inheritance Tax is paid or it emerges that no tax is due. If a prospective personal representative issues a withholding notice but does not then obtain the

Grant, they should contact the pension scheme administrator to withdraw the notice. However, once appointed, any personal representative can withdraw the notice, even if they did not submit the original notice.

Once a notice is withdrawn or the 15-month deadline passes, pension scheme administrators should organise payment of the withheld benefits as soon as possible.

## **6.5 What benefits can be withheld**

The notice applies to all pension benefits other than excluded benefits or benefits being paid to exempt beneficiaries.

As previously mentioned, benefits that have already been paid are unaffected by a withholding notice (section 6.7 provides more information). The withholding notice will apply to pension income payments, such as a drawdown, annuity or the continuation of a scheme pension but only when an income payment would reduce that beneficiary's entitlement to less than 50%.

### **6.5.1 Benefit entitlement**

The notice applies to a beneficiary's "benefit entitlement". This is the portion of the value of the deceased's notional pension property under the scheme that is attributable to that beneficiary.

Where there are multiple beneficiaries, that portion is determined on a just and reasonable basis, having regard to normal actuarial practice, and reflects benefits that have been paid, or are payable (or expected to be payable), to that beneficiary. HMRC would expect a scheme to be able to demonstrate that any apportionment made was just and reasonable.

## **6.6 What should be included in a valid notice**

Pension scheme administrators can choose how the withholding notice is to be received, but as a minimum it must be based on the HMRC template. This will be shared alongside the consultation on the information sharing regulations.

To be valid, the notice must be received by the relevant pension scheme administrator within the 15-month period after the date of death, and unpaid death benefits must be available. The following information must also be included:

- deceased's full name
- date of death
- any relevant pension reference number, if known
- confirmation of requester's identity
- requester's full name and address
- evidence of authority to act (if not already provided)

Personal representatives must complete and submit a separate withholding notice for each pension scheme.

Each notice must be signed and dated, confirming that the personal representative believes Inheritance Tax may be due on the estate, including the notional pension property. By signing the declaration, the personal representative confirms that they understand the effect of withholding and that the information provided is true and correct to the best of their knowledge and belief.

## **6.7 Withholding notices: guidance**

### **6.7.1 Acknowledging and confirming a withholding notice**

Pension scheme administrators must acknowledge receipt of a withholding notice and confirm whether the notice is valid within 14 days of receipt (this will be set out in the provision of information regulations).

The confirmation provided to the personal representative must include either:

- the total amount withheld
- where beneficiaries have been determined, the amount withheld in respect of each beneficiary, together with the full name of each beneficiary

There is no requirement to update the amount withheld if this changes due to the appointment of an exempt beneficiary.

### **6.7.2 Notification of beneficiaries**

Pension scheme administrators must notify each beneficiary that a withholding notice is in place by the later of either:

- 14 days from the date the withholding notice is received
- 14 days from the date each beneficiary is determined

The notification to beneficiaries must include the full name, address and contact details of the personal representative. This could be done as part of pension schemes' usual process for notifying beneficiaries about their benefit entitlements.

### **6.7.3 Payments made before receipt of a withholding notice**

A withholding notice is still valid, even if some death benefits have been paid before the notice is received by the pension scheme administrator.

Where there is a single beneficiary and more than 50% of the beneficiary's benefit entitlement has been paid before receipt of the withholding notice, the pension scheme administrator must not make any further payments of death benefits. As set out earlier, payments of excluded benefits or payments to an exempt beneficiary can still be made.

Where there are multiple beneficiaries, the effect of the withholding notice applies to each beneficiary separately. So, if when a withholding notice is received and one beneficiary has already taken more than 50% of their benefit entitlement, no further benefits can be paid to them. If the second beneficiary has not yet taken any of their benefit entitlement, they can take benefits so long as the payment does not exceed 50% of their benefit entitlement.

The second beneficiary is entitled to take up to 50% of their benefits, even if this would reduce the total amount of value withheld in the scheme to less than 50%.

### **6.7.4 Investment of withheld amounts**

While withholding is in place, investments may continue in accordance

with the rules of the pension scheme, as they currently do whilst identifying beneficiaries through the discretionary process.

### **6.7.5 Bulk transfers**

Where the deceased member's funds are included in a bulk transfer, any withholding notice ceases to have effect in relation to those funds. The pension scheme administrator of the transferring scheme must inform the personal representative who issued the withholding notice either as soon as practicable before the transfer takes place or within 14 days of the transfer being made. This is so the personal representative can liaise with the new pension scheme administrator and issue a withholding notice to the new scheme administrator if needed.

## **6.8 Pension scheme administrator's liability**

If pension scheme administrators pay a benefit that breaches the conditions of a valid withholding notice, they become jointly and severally liable for the Inheritance Tax on the deceased's notional pension property in the scheme. If there is no pension scheme administrator, then liability is as set out in sections 271 to 272C FA 2004 (liability of scheme administrator).

# **7 Pensions direct payment scheme**

## **7.1 Introduction**

Direct payment of Inheritance Tax from registered pension schemes is provided for in new section 226B IHTA 1984 and is known as the Pensions Direct Payment Scheme. It allows personal representatives and pension beneficiaries (including trustees) to issue a notice (payment notice). This requires the pension scheme administrator to pay the Inheritance Tax and interest due on the notional pension property held within the scheme directly to HMRC. In this section, taxpayer refers to both personal representatives and pension beneficiaries (including trustees). A prospective personal representative cannot issue a payment notice.

Where a valid payment notice is received, the pension scheme administrator must pay the amount specified in the notice within 35 days beginning with the day on which they receive the notice.

Paying Inheritance Tax through a payment notice will reduce the benefits payable to the beneficiary and thus, where Income Tax is due, it will be applied to the amount net of Inheritance Tax. This will help the beneficiary achieve the right Income Tax position.

## **7.2 Who can give a payment notice**

The personal representative can issue a notice for payment of the Inheritance Tax due on the deceased's notional pension property held within that scheme. This can be done before or after the property is vested in the beneficiaries. The notice can also be given both during and after the 15-month period where a withholding notice could be in place.

Each beneficiary can also issue a notice for their own Inheritance Tax liability. A trustee of a trust that is a beneficiary of a death benefit, can also give a notice for Inheritance Tax to be paid via the pension scheme.

If either the personal representative or beneficiary wants to make an additional payment of Inheritance Tax, via the pension scheme, after any previous notice has been dealt with, they must give a new notice to the pension scheme and the conditions for that to be valid must be met.

Use of the pensions direct payment scheme is optional for taxpayers, and it can be used before probate is granted. Pension scheme administrators are encouraged to make beneficiaries aware of the pensions direct payment scheme when they discuss plans for taking benefits, as paying their Inheritance Tax this way may be easier for them and the personal representative.

## **7.3 Payment notices: guidance**

### **7.3.1 Timing**

There are no restrictions on when a taxpayer can give a payment

notice, however if there are insufficient funds left it will not be valid. Personal representatives can give payment notices beyond the 15-month period during which withholding notices have effect.

### **7.3.2 What should be included in a valid notice**

HMRC will provide a template for personal representatives to use. This will be shared alongside the consultation on the information sharing regulations.

Any notice must also include a declaration from the taxpayer. This must confirm that the information provided is true and correct to the best of their knowledge and belief, and that they understand that the pension scheme administrator will reduce the pension benefits accordingly.

Pension scheme administrators will need to ensure that the notice is valid. If the conditions are not met pension scheme administrators must not make a payment. Pension scheme administrators must tell the taxpayer why a notice is invalid within 35 days of receipt of the payment notice (section 5). The taxpayer can then issue a new notice.

To be valid the notice must:

- be for at least £1,000 and for an exact amount
- specify both the amount of tax and interest the taxpayer wants the pension scheme administrator to pay
- include details of the deceased member, including the Inheritance Tax (IHT) reference number
- include the capacity (beneficiary or personal representative) in which the taxpayer is issuing the notice
- where the taxpayer giving the notice is the beneficiary, include the details of the personal representative
- be for an amount that does not exceed the amount of tax and interest for which the taxpayer is liable in respect of the notional pension property of the deceased in the scheme — the limit then depends on who gives the notice:
  - for a beneficiary notice, the total amount (tax plus interest) must not be more than the unpaid pension benefits remaining for that beneficiary (that is, any amount still unpaid or specified in an

earlier notice)

- for a personal representative notice, the total amount does not exceed the amount still unpaid, and not specified in an earlier notice, remaining under the scheme

When checking that the amount in the notice does not exceed the amount of tax (and interest) for which the taxpayer is liable, pension scheme administrators can rely on the HMRC Inheritance Tax calculation provided by the taxpayer. If the taxpayer wants to pay in advance of the calculation, perhaps a beneficiary wanting to mitigate any interest, the amount of tax in the notice should be reasonable. Pension scheme administrators should check that the amount of tax (excluding interest) does not exceed 40% of the notional pension property.

### **7.3.3 Withdrawing a payment notice**

The taxpayer can withdraw a payment notice during the 35 days period, but only before the amount is paid or it is no longer practical to stop a payment. If a payment results in an overpayment of Inheritance Tax, this will be resolved through the normal Inheritance Tax processes without the involvement of the pension scheme and repaid to the appropriate taxpayer.

### **7.3.4 Illiquid assets**

Some pension schemes will hold illiquid assets, such as property or long-term investments. Illiquid assets already need to be liquidated to provide members with an income in retirement or their beneficiaries with death benefits. If liquidating the asset is not desirable, there are several ways to pay the Inheritance Tax due on the pension component of an estate. For example, pension beneficiaries can choose to pay the Inheritance Tax due from non-pension funds.

Personal representatives and beneficiaries should discuss the best way to pay any tax owed. As an instruction to pay must be completed within 35 days, pension schemes which hold illiquid assets may wish to inform potential beneficiaries of their options to liquidate the assets ahead of a notice being received.

## **7.4 Deducting Inheritance Tax from benefits**

Where the notice is given by the personal representative, when pension scheme administrators are deducting the amount specified in the notice, this must be on a just and reasonable basis. This means they are expected to deduct the tax from those beneficiaries receiving the benefits, in relation to which the tax charge arose. It would not be considered reasonable to deduct the tax from excluded benefits or from benefits paid to exempt beneficiaries.

Where the notice is given by a beneficiary, the pension scheme administrator must deduct the amount specified in the notice from that beneficiary's benefits.

A payment notice requires there to be available funds – that is not yet paid out – left in the scheme. For example, if the funds have been used to purchase an annuity with insurance company they are not considered to be available. If a withholding notice is in place, pension scheme administrators can deduct the tax from the withheld amount.

## **7.5 Pension scheme administrator's liability**

If payment is not made within 35 days of receiving a valid payment notice, the pension scheme administrator becomes jointly and severally liable with the personal representative and beneficiary for the amount specified in the notice. If there is no pension scheme administrator, then liability is set out in sections 271 to 272C of the FA 2004 (liability of scheme administrator).

Payments made on receipt of a valid notice are authorised payments under FA 2004 and are not subject to the unauthorised payments charges. If circumstances later change, the payment would not become unauthorised, provided the notice was valid when it was first accepted.

## **7.6 Multiple notices**

If valid notices are received from a personal representative and a beneficiary, the pension scheme administrator should act on the first notice received. They should inform the second taxpayer that a previous payment notice had been received. More information will be provided alongside the draft templates (read section 1.3).

## 7.7 Making payment to HMRC

Pension scheme administrators will report and make payments using existing functionality within the Managing Pension Schemes service. HMRC will provide a payment reference number for the pension scheme administrator to quote when they make the payment.

This payment reference number will be unique for each notice the pension scheme administrator reports. We expect the report to include the following:

- the Inheritance Tax reference number for deceased member
- details of the deceased member, including name, date of birth, national insurance number and date of death
- the amount of Inheritance Tax and interest payable and, where determined, the tax and interest payable applicable to each beneficiary
- details of the taxpayer who issued the payment notice
- where the taxpayer is the beneficiary, details of the personal representative

The pension scheme administrator must confirm to the personal representative and beneficiary that payment has been made. This will include details of the amount paid and the payment reference number so that the taxpayer can trace the payment with HMRC if necessary.

# 8 Income Tax on death benefits from pensions

## 8.1 Introduction

If a member dies below age 75, pension income from survivors' annuities and dependants' drawdown funds are usually tax-free, as are lump sum death benefits if the member's lump sum and death benefit allowance has not been exceeded (further details in section 8.2). If the member was over age 75, all death benefits are taxable.

Dependants' scheme pensions are always taxed at the recipient's marginal rate but are an excluded benefit for Inheritance Tax purposes.

If a tax-free lump sum death benefit is paid more than 2 years after the pension scheme became aware of the death, or should have been aware, it will be taxable.

If a taxable lump sum death benefit is paid to a non-qualifying person, it will be subject to the special lump sum death benefits charge (further details in section 8.3).

## **8.2 Reducing taxable pension income**

If Inheritance Tax is paid in relation to death benefits, the portion of the benefits corresponding to the Inheritance Tax (and interest) paid does not count towards the beneficiary's taxable income.

How this is achieved for beneficiaries will depend on how the Inheritance Tax is paid but the overall effect should be consistent. This will apply whether the taxpayer uses a payment notice, or the beneficiary pays the Inheritance Tax themselves (directly to HMRC, or via the personal representative by either reimbursing them or receiving reduced value from the free estate). The legislation refers to this as 'suffer the burden' of the Inheritance Tax.

If pension beneficiaries or personal representatives use a payment notice (under section 226B(6) IHTA 1984) to pay the Inheritance Tax (including any interest), the amount of pension benefits payable will be reduced by the pension scheme administrator. As a result, any Income Tax will be charged on the pension benefits net of Inheritance Tax.

Alternatively, if beneficiaries choose to withdraw their benefits, paying Income Tax on the full amount, and suffer the burden of the Inheritance Tax as set out above, the legislation provides for them to reduce their taxable pension income. Beneficiaries will need to work with HMRC to resolve their Income Tax position. Further guidance will be published in due course. Pension scheme administrators should ensure that beneficiaries are aware that Inheritance Tax may be due on any inherited pension wealth and can direct them to GOV.UK for further support and guidance.

## **8.3 Inheritance Tax and the lump sum and death benefit allowance**

The requirement for pension scheme administrators and personal representatives to share information on payment of lump sum death benefits is covered in section 5.4.

Section 637T ITEPA 2003 provides for the tax treatment of lump sum death benefits when Inheritance Tax is also due. The legislation sets out how to calculate the Inheritance Tax-adjusted amount of a tax-free lump sum death benefit when multiple lump sums need to be tested against the member's lump sum and death benefit allowance. This ensures that any available allowance is allocated fairly and is not distorted by how individuals chose to pay Inheritance Tax.

Updated guidance and support for beneficiaries and personal representatives will be published on GOV.UK. This will include how to determine if the deceased's lump sum and death benefit allowance has been exceeded and how to apportion the allowance across multiple beneficiaries.

Once the personal representative has established that the member's allowance has been exceeded, they need to inform HMRC. HMRC will then contact the beneficiary or beneficiaries directly regarding any tax owed.

There are no changes to the existing requirements for reporting event 24 (Reportable payments of lump sums or lump sum death benefits) under The Registered Pension Schemes (Provision of Information) Regulations 2006 (SI 2006/567), so pension scheme administrators should continue to report these. The amount to report is the lump sum death benefit actually paid to the beneficiary, which will be net of any amount paid using the pensions direct payment scheme.

## **8.4 Inheritance Tax and the special lump sum death benefits charge**

The special lump sum death benefits charge is a charge to Income Tax that a pension scheme administrator is liable for when a taxable

lump sum death benefit is paid to a non-qualifying person. As these lump sum death benefits are not subject to Income Tax in the normal way that pension income is, the existing process for individuals to obtain relief equal to the Inheritance Tax due on the lump sum is not available.

New section 206A FA 2004 ensures that the special lump sum death benefits charge is not paid on that part of the lump sum death benefit that is used to pay Inheritance Tax (including interest) and provides for the non-qualifying person to obtain relief. Section 206B provides for a supplementary charge on the non-qualifying person in respect of a refund of overpaid Inheritance Tax.

Pension scheme administrators will still need to pay the special lump sum death benefits charge, following existing processes. Guidance for non-qualifying persons to follow to obtain relief will be published in due course. Where a supplementary charge becomes due, HMRC will contact the non-qualifying person directly.

## 9 Amendments

It is common for the value of the estate to change. It will remain the personal representative's responsibility to inform HMRC of any amendments and they will be liable for any changes to Inheritance Tax as a result. If the notional pension property is vested in the pension beneficiaries, they will be jointly and severally liable for any additional Inheritance Tax and interest due on their benefits.

These changes could affect both the Inheritance Tax and Income Tax position for beneficiaries. Personal representatives, supported by HMRC guidance and tools, will be responsible for informing beneficiaries of amendments and the potential impact on their Inheritance Tax and Income Tax position.

If an Income Tax or Inheritance Tax refund is due, the beneficiary will need to contact HMRC for the refund. Relevant legislation can be found in ITEPA 2003 at sections 567B and 579CB.

Further detailed guidance will be published in due course.

# 10 Probate and discharge certificates

## 10.1 Introduction

Personal representatives must pay any Inheritance Tax that is due on an estate, including on any pensions, and submit an account with full details of the estate to HMRC, before they can apply for probate.

## 10.2 Certificate of discharge: application process

Personal representatives can be discharged from liability for any tax due on undiscovered pensions where they have received clearance from HMRC. Pension beneficiaries will remain liable for any tax on newly discovered pensions.

As now, personal representatives should only apply for a certificate of discharge when they believe that they have reported all assets, including pensions, liabilities and variation — and the estate has been finalised for Inheritance Tax purposes, with any tax due having been paid. However, once issued the certificate applies without time limit.

As part of the application process, personal representatives will need to have made best efforts to track down all the deceased member's pension assets.

## 10.3 Personal representative's duty to report

The personal representatives will need to report any new notional pension property that is discovered after the certificate of discharge is issued. This is the existing process where any asset from the estate is later discovered. If there is additional tax due on the rest of the estate because of the reapportionment of the nil rate band, personal representatives will still be liable for that tax. However, personal representatives are discharged from the Inheritance Tax due on the new pension asset.

Once the new notional pension property has been reported, HMRC will collect any additional Inheritance Tax following existing processes.

# 11 Related technical information

## 11.1 Charities and the general component

Where at least 10% of a person's net estate is left to a UK charity as defined in Finance Act 2010, their estate is taxed at a reduced rate of 36%, instead of 40%. Legislation divides the estate into three components: survivorship, settled property, and general. These components are considered separately in determining whether any or all of them qualify for the reduced rate. It is possible for one component to meet the charitable giving conditions and be subject to tax at 36%, whilst the other components do not and remain taxable at 40%.

Notional pension property is not within the definition of the survivorship or settled property components of the estate. As with most assets passing on death it will, therefore, form part of the general component for the purposes of the reduced rate of Inheritance Tax and will be treated like any other property passing on death.

Any charity lump sum death benefit paid out of the pension will count towards the amount donated to a qualifying charity from the general component, as will any non-excluded death benefits paid to a qualifying charity (as defined for Inheritance Tax) as a beneficiary, either nominated by the deceased or following the discretionary process.

Charity lump sum death benefits will be tax-free even if the member was 75 or older when they died. These lump sums are deliberately limited to money purchase arrangements where the deceased member had no dependants. This ensures that pension funds are used to support dependants where they exist, while allowing schemes to pay out benefits where there is no other beneficiary.

## 11.2 Inheritance Tax reliefs and payment options

### 11.2.1 Loss on sale

Loss on sale reliefs do not apply to notional pension property. Loss on

sale reliefs are available where the estate includes “qualifying investments” as defined in section 178(1) IHTA 1984, or an “interest in land” as defined in section 190(1) IHTA 1984 which are sold for a loss within specified periods after the death. Notional pension property is not within the definition of either “qualifying investments” or an “interest in land”. The member is not treated as owning the pension’s assets, so loss on sale relief is not applicable to notional pension property.

### **11.2.2 Quick succession relief**

Quick succession relief is an Inheritance Tax relief designed to reduce the Inheritance Tax payable where an estate taxable on death, includes assets received within the previous five years under an earlier transfer on which Inheritance Tax was payable. This relief is provided by section 141 IHTA 1984. There are no changes to the existing process for quick succession relief. Where notional pension property which has already been subject to Inheritance Tax is subject to Inheritance Tax again within 5 years, quick succession relief will apply.

### **11.2.3 Business property relief and agricultural property relief**

Business property relief may be available where the value transferred is attributable to the value of “relevant business property”, as per sections 103 to 114 IHTA 1984. Similarly, agricultural property relief may be available where the value transferred is attributable to the value of “agricultural property”.

Notional pension property is neither “relevant business property”, nor “agricultural property”. The member is not treated as owning the pension’s assets and, as a result, neither business property relief nor agricultural property relief can apply to notional pension property.

### **11.2.4 Instalments**

For “qualifying property” taxpayers have the option to pay the Inheritance Tax due in equal instalments over 10 years. “Qualifying property” is defined in section 227(2) IHTA 1984. Notional pension property does not fall within the definition of “qualifying property”. The member is not treated as owning the pension’s assets and, as a result, payment of Inheritance Tax by instalments is not available in respect of notional pension property.

### **11.2.5 Lifetime transfers and normal expenditure out of income**

## **exemption**

Following the announcement of changes to the taxation of pensions for Inheritance Tax, HMRC has been asked to confirm whether the exemption for normal expenditure out of income can apply to lifetime transfers made from funds withdrawn from a pension. This exemption can reduce the value of such transfers which is used for Inheritance Tax purposes or can exempt the transfers entirely.

The changes being made to the taxation of pension benefits for Inheritance Tax purposes do not alter the existing position for lifetime transfers. The normal expenditure out of income exemption has three distinct elements and they apply by reference to the facts of each individual case. Whether a particular series of lifetime transfers qualifies for the exemption must be determined by testing it against the exemption criteria.



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