



HM TREASURY



HM Revenue  
& Customs

# Options to manage high annual allowance charges from pension benefits:

a summary of the discussion document responses

March 2011





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# 1

## Introduction

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**1.1** The Government has announced reforms to pensions tax relief to ensure that it remains fair, affordable and sustainable. As part of this, from April 2011, the annual allowance (AA) for tax-privileged pension saving will be reduced from its current level of £255,000 to £50,000. Individuals will be able to carry-forward any unused allowances from the previous three years.

**1.2** The Government anticipates that most individuals, employers and pension schemes will adapt so that pension savings remain below the AA. This means that a minority of those affected will actually incur an AA tax charge. From an Exchequer perspective, tax relief not given has the same value as tax relief removed via an AA charge.

**1.3** However, it is possible that some people will trigger tax charges that could be difficult to manage from current income, particularly in the early years of the regime. This is expected to be most prevalent among high earners with long service in traditional, final salary defined benefit (DB) pension schemes, given the potential for uneven accrual in these schemes.

**1.4** The Government believes it is for individuals to manage their own tax affairs. However, the Government also believes that where individuals do face high AA charges, it is necessary to provide additional support, and has committed to introduce a facility to enable them to meet high AA charges from their pension benefits. This reflects the point that it is the significant increase in pension wealth that has led to the tax liability. Overall, the experience for individuals who meet their AA liability in this way would be of a lower, but still substantial, uplift to their pension benefits.

**1.5** On 30 November 2010, the Government published *Options to meet high annual allowance charges from pension benefits: a discussion document*. This launched an informal consultation, which closed on 7 January 2011, and considered two broad options for meeting the tax liability: payment from pension benefits at the point the charge arises, or payment at the point the pension benefit crystallises. The purpose of this exercise was to establish which of two broad options better meets the Government's objectives, and how it would work in practice.

**1.6** In total, 69 formal written responses to the discussion document were received. A full list of respondents can be found in Annex A. These include pensions professionals, industry bodies, employers and individuals' representatives. The Government is grateful to all those who have provided views and participated in discussions, and will continue to work closely with interested parties to ensure that the reform is introduced as smoothly as possible.

**1.7** In light of the strong preference expressed by the vast majority of respondents, **the Government has decided that where AA liabilities are met from pension benefits, the tax should be paid at the point the charge arises**. In effect, schemes will have a considerable amount of time to complete the payment process. This approach was favoured because, relative to the deferred payment model, it would be:

- Better for providing certainty: as the tax charge and corresponding reduction to pension benefits could be resolved immediately;

- Less administratively burdensome: in particular, by avoiding the comprehensive record-keeping that would have been necessary under a model where AA charges were rolled up over a number of years;
- Less constraining: as there would be no set of ongoing AA tax liabilities for schemes to manage, or which might impede future changes to pensions legislation or the pensions tax regime; and
- Better for tax collection: as tax revenues would flow to the Exchequer sooner, compliance would be easier and there would be fewer risks of error and avoidance, which would be accentuated by a time-lag between incurring and paying the charge.

**1.8** The primary policy objective is to give individuals a means of managing AA charges that is not disadvantageous. However, the Government recognises that this is a significant reform in itself, and has heard calls to allow schemes as much discretion as possible over how they implement it, without undermining the primary policy objective. Therefore, the Government will maximise flexibility for schemes, enabling them to minimise complexity and administrative burdens by tailoring the facility to fit with their scheme's particular features and existing practices.

**1.9** This document sets out the Government's proposals for how this facility will work in practice. Chapter 2 describes who will be eligible to elect to meet their AA charges from their pension benefits, and which pension schemes will be required to offer this. Chapter 3 explains the processes involved for individuals and pension schemes using this method of meeting AA liabilities. This includes specific circumstances where the approach will be flexed.

**1.10** The particular issues on which the Government asked for views and evidence are listed in Annex B. Comments received on these points, and in general, are highlighted throughout this Summary of Responses.

**1.11** To provide the clarity that individuals, employers and pension schemes need to prepare for the new regime, the Government intends to legislate for individuals to meet high AA charges from their pension benefits in Finance Bill 2011. This will apply for the first time to charges incurred during 2011-12. Individuals will have until the 31 January 2013 Self Assessment filing and payment deadline to decide whether to manage their tax affairs in this way.

**1.12** On 9 December 2010, draft clauses on the new pensions tax regime were published, accompanied by a Tax Information and Impact Note (TIIN). The Government has received comments on the draft clauses for the reduced annual and lifetime allowances since December. The Government will respond to these representations and publish revised guidance and legislation by the end of March.

**1.13** Additional draft clauses have been published and the TIIN has been updated to reflect the proposals outlined in this Summary of Responses. These are available on the HM Revenue and Customs (HMRC) website.<sup>1</sup> The Government is keen to receive any observations or queries about how the legislation will apply before 17 March. Supporting regulations will be published during the Finance Bill process.

**1.14** The Government will make the relevant changes to the Department of Work and Pensions legislation governing the surrender of pension rights, to enable individuals to meet liabilities related to their pension saving for a given year.

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<sup>1</sup> <http://www.hmrc.gov.uk/budget-updates>

**1.15** The views and expertise offered by interested parties to date have been extremely valuable in informing the policy specification for the reduced annual and lifetime allowances. The Government remains committed to working with individuals, employers and pension schemes as they transition to the new regime. The Government will continue to use the HM Treasury website<sup>2</sup> to communicate upcoming events and areas for engagement.

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<sup>2</sup> [http://www.hm-treasury.gov.uk/consult\\_pensionsrelief.htm](http://www.hm-treasury.gov.uk/consult_pensionsrelief.htm)



# 2

## Eligibility

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**2.1** The Government is committed to restricting the level of tax-free pension saving that can be made each year, to ensure that pensions tax relief remains fair, affordable and sustainable. However, the Government believes it would be inappropriate to apply this policy in a way that could mean that individuals who benefit from a significant increase in their pension wealth face a tax charge that is difficult to manage from their current income. That is why the Government intends that individuals with high AA charges can meet these from their pension benefits.

**2.2** This chapter outlines who will be eligible to use this facility. It also explains which pension schemes will be required to offer it.

**2.3** In setting the eligibility criteria, the Government aims to ensure that administration is practicable and proportionate, and to recognise the efforts that employers and schemes make to adapt, so that individuals do not incur AA charges in the first place.

### Who is eligible to meet AA charges from pension benefits

**2.4** The Government and consultation respondents share the view that an eligibility threshold is necessary to ensure that only those with high AA charges look to meet them from their pension benefits. Responses were mixed regarding the appropriate nature of any such eligibility threshold, and the level at which it is set.

**2.5** The Government has considered carefully where to set any eligibility threshold, and resolved to set it at £2,000. This recognises that a minor increase in the rate of a pay rise for a member of a DB scheme can lead to a much greater increase in pension entitlement and so AA charge. Typically, respondents with responsibility for administering pension schemes expressed a preference for a much higher threshold, in the region of £10,000, on the expectation that this would significantly reduce take-up of the facility. This is higher than the range suggested in the discussion document and would create the risk that some individuals might still face what they perceive to be unmanageable AA charges. In addition, distributional analysis suggests that the administrative implications would not be substantially different.

**2.6** The Government believes that setting the threshold as a fixed cash sum is the most workable approach. It recognises that ability to pay depends not just on the size of the charge but also the individual's income, and so understands the case for setting a threshold based on the charge as a proportion of some measure of income. However, it would be markedly simpler for individuals to understand, employers to communicate, schemes to administer, and for HMRC's operational and compliance purposes to use a fixed cash sum.

**2.7** The Government has decided that individuals whose AA charges exceed £2,000 will be able to elect to meet the full value of the charge from their pension benefits. Individuals can choose to elect to meet a portion of the charge rather than the full amount (provided the amount to be paid is over £2,000). Unlike options considered in the discussion document, this simple approach means the facility will not generally be used to meet very small tax liabilities.

**2.8** The Government is clear that members of all types of pension scheme should be able to make use of this facility.

**2.9** The Government continues to expect that AA charges will generally arise in relation to DB pension rights. However, it has decided not to limit eligibility to members of just these schemes for a number of reasons. The Government believes that support for paying AA charges should be consistent and equitable, irrespective of what type of pension scheme an individual is a member of. As noted by many employers, this would also simplify communications. It recognises that individuals often hold more than one type of pension arrangement, including within the same scheme. Respondents noted that excluding members of defined contribution (DC) schemes would therefore be difficult in practice, and would markedly reduce schemes' options to make offsetting adjustments to pension benefits in the most efficient way.

**2.10** As outlined in the next section, however, while members of all schemes will be eligible to meet their AA liabilities from their pension benefits, schemes will not be required to provide this in all circumstances.

### **Which schemes will be required to operate this facility**

**2.11** In the discussion document the Government proposed that, to guarantee that individuals can access the facility, it will be mandatory for schemes to provide this where requested to do so.

**2.12** A number of consultation respondents expressed concerns about the wide-ranging nature of this requirement. The Government has therefore developed a more focussed obligation. While schemes will be able to offer this facility to all members with AA charges exceeding £2,000, it will be mandatory to do so only in certain circumstances, which schemes will generally be able to predict and control.

**2.13** Specifically, if a scheme member has triggered a high AA charge by virtue of their savings within a certain scheme, then that scheme will be obliged to support them to meet the charge. However, no scheme will be required to offer this facility or pay any AA liability that did not arise as a result of pension savings in that scheme in that year.

**2.14** The Government remains of the view that employers and pension schemes will look to adapt their remuneration practices and scheme design to help individuals keep their pension savings below the AA. By adapting, employers and schemes may legitimately expect that they have prevented individuals from exceeding the AA, and so removed the need for their scheme to offer this facility. To ensure that this is the case, **it will be mandatory for the scheme to offer this facility only where the member's savings within that scheme were more than the AA for the relevant year. This includes all arrangements within the same scheme.** As a result, employers and schemes will have the certainty they need to be able to plan how they adjust to the reduced AA.

**2.15** Individuals with an AA tax charge of more than £2,000, who have exceeded the AA by virtue of savings across multiple pension schemes, without exceeding it in any one scheme, will be able to request that one of their schemes operates this facility. However, no scheme will be compelled to do so. It is expected that very few people will be in this situation, and that those who are will have some control over their level of pension saving.

**2.16** The scheme will be obliged to pay no more than the portion of the member's AA tax charge attributable to the excess over the AA in that scheme in that year. Schemes will be permitted to pay the full value of the member's AA liability (provided it totals more than £2,000) if they choose. Consultation respondents noted that from an administrative perspective, it may be as easy to reduce pension benefits by the full value of the AA charge as part of it. However, some felt that it could compromise the trustee's fiduciary duty to take on an additional liability, given that they would not be able to readily verify details of the charge related to savings made in other schemes.

**2.17** The £2,000 eligibility threshold applies to total pension savings across all schemes, not within a single scheme. Similarly, the carry-forward of unused allowances applies to an individual's total pension savings, not their savings within any one scheme.

**2.18** DC schemes and arrangements would be expected to pay only to the extent that sufficient value is available in the individual's pension pot.

**2.19** In the event that a scheme is required to meet a member's AA liability, it will be obliged to do so free of charge. This proposal was not welcomed by most consultation respondents, who were concentrated among representatives of employers and pension schemes, rather than individuals. They typically drew parallels with the fact that schemes can levy administrative fees for pension sharing on divorce. However, the Government believes that, on principle, it would be inappropriate if a mechanism designed to help individuals manage AA tax charges actually increased their outlay overall.

**2.20** The Government sought views on whether, in exceptional circumstances, it may be inappropriate for a scheme to meet a member's AA tax charge. It has decided that, for the very specific case of **schemes which have already entered the assessment period for the Pension Protection Fund (PPF), or do so after the individual has elected to meet the AA charge from their pension benefits but before the scheme has been able to process this, the schemes will be exempt from offering this facility.** This recognises that such schemes are prohibited from taking on any new liabilities.

**2.21** A number of respondents suggested that seriously underfunded DB schemes should also be exempted from the regime. However, the Government considers this is unnecessary. It is highly unlikely that in practice a scheme would not be able to meet a member's AA charge relating to pension accrual in that scheme. Schemes with highly stretched funding positions should already have capped or limited accruals for active members. If such a scheme is allowing future accrual at all, the employer should be funding the high pension accrual which has led to the tax charge, so that the fund would have the capacity to meet the tax liability, which would be a much smaller sum.

**2.22** Nonetheless, in line with the approach taken in the lifetime allowance regime, the Government **will legislate that in exceptional circumstances, where scheme administrators are able to demonstrate to HMRC that it would detrimentally affect the overall health of the scheme to a substantial extent to offer this facility, they may be granted an exemption.**

**2.23** Individuals whose scheme is not mandated to offer this facility will still be able to use HMRC's 'time to pay' process.



# 3

## Design and implementation

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**3.1** In addition to ensuring that individuals are not left with high charges that are difficult to meet from current income, the Government also wants to help schemes and individuals comply with the regime in a way that minimises administrative burdens. The Government has looked to design the overall regime so that it is practical to implement, without undermining overall policy objectives. It agrees with respondents that schemes meeting AA charges at the point that the charge arises will allow for more manageable processes. To minimise administrative impacts further, the Government will:

- provide schemes with flexibility around how they offset AA charges through reductions to pension benefits, and how they set their terms of engagement with individuals; and
- set reasonable parameters within which the process for meeting AA charges from pension benefits will work.

**3.2** This chapter also sets out details of how the regime will work for individuals and schemes in specific circumstances.

### Making the offsetting adjustment to pension benefits

**3.3** Individuals who are eligible to opt for their AA charge to be met from their pension benefits will be able to report their choice on their Self Assessment (SA) tax return. The individual also needs to inform the scheme of their election. Schemes completing this process will have to make an offsetting adjustment to the individual's pension benefit, to reflect the value of the tax due. This option is not intended to be more tax advantageous to the individual compared to an individual who changed their behaviour and "aimed off" the AA. The amount of the AA charge that the scheme will pay is the same amount as the charge that the member would have had to pay from income.

**3.4** The Government is clear that any reduction to an individual's pension benefits to account for the payment of an AA charge must be broadly fair and accurate, so that the individual and other members of the scheme cannot be advantaged or disadvantaged as a result. However, the Government recognises that adjustments made within that framework may translate into slightly different outcomes in different circumstances, given the wide variety of scheme designs and individual characteristics that exist.

**3.5** The Government does not believe that it is appropriate to prescribe how schemes make the adjustment to pension benefits, recognising that doing so could create undue burdens for pension schemes and that there will not be one approach that fits best for all schemes. As set out in Chapter 1, the Government is keen to provide schemes with flexibility to minimise administrative burdens as far as possible.

**3.6** When an AA charge does occur for a member of a DC scheme, the Government expects that the scheme would translate the AA charge into an exact cash divestment from an individual's pension pot. However, for DB schemes, where the cash value of the AA charge is less easily translated into a reduction of pension benefits, the Government understands that there are a number of potential methods that could be used for the offsetting adjustment.

**3.7** As highlighted in responses, some schemes may choose to use a variant of the debit approach as used for divorce cases, in order to build on existing processes. Several respondents also indicated that they would look to reduce benefits in a DC arrangement held within a DB scheme, such as additional voluntary contributions. Others suggested that schemes could hold a debit against the DB benefits in the form of a 'negative DC' (or loan) made to the individual to account for the AA tax paid. The Government sees that, generally speaking, these approaches could be appropriate for schemes to use. There may also be circumstances where a deduction of a period of service could be appropriate, for example if there are unlikely to be future changes in salary that could otherwise lead to volatile outcomes.

**3.8** The Government believes that it is for scheme trustees,<sup>1</sup> drawing on advice from actuaries, to ensure that any offsetting adjustment made to a members benefit delivers a just and reasonable outcome to that individual and to other scheme members. The existing fiduciary duties that trustees are bound by should mean that this happens. This will enable schemes to make adjustments that fit best for their own scheme design and individual circumstances.

**3.9** This approach will be legislated for in Finance Act 2011. However, if there are concerns that general legal requirements around the way that trustees act cannot be relied on to deliver appropriate offsetting adjustments, the Government will ask the Government Actuary to lead work on developing a more prescriptive regime, which will be legislated subsequently.

### **The process for meeting AA charges from pension benefits**

**3.10** As a result of the information requirements on pension schemes and employers, individuals will have information relating to their pension saving amounts (for the relevant pension input periods being assessed against the AA) for a tax year, by the October after the end of the tax year. At that point, it will be possible for individuals to establish by how much they have exceeded the AA – after any unused allowance carried forward from previous years has been taken into account.

**3.11** If an individual realises that they do have an AA charge in excess of £2,000, they will need to consider whether they are able to pay that charge from current income, or whether they need to elect for their scheme to meet their charge from their pension benefits. The informal consultation exercise that the Government has conducted suggests that employers and pensions schemes are already developing communication tools and processes to raise individuals' awareness that they will need to consider their position and engage with their scheme. HMRC will also provide guidance for schemes and individuals.

**3.12** Schemes will have the flexibility to set their own terms of engagement with members – for example the time limits and processes for making an irrevocable election (at which point schemes and the individual would become joint and severally liable) – within the overarching timetable set out in Chart 3.A below.

**3.13** As illustrated below, the individual would use their SA tax return to report that they had an AA charge and the amount they wish to have paid by their scheme. The scheme would then pay the AA charge on behalf of the individual using the December Accounting for Tax return, and make a corresponding reduction to the individual's pension benefits. The Government believes that this provides schemes with a reasonable amount of time to manage the process. As long as the scheme reports and pays the charge by these dates there will be no interest to pay on this amount.

**3.14** The Government believes that it is important for individuals to understand the potential impacts on pension benefits of meeting an AA liability in this way, and would therefore expect

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<sup>1</sup> If the scheme is not trust-based then the responsibility will fall on the scheme administrator.

schemes to ensure that members are well-informed. Respondents felt that it was essential for the member to understand the effect of the offsetting adjustment on their overall pension benefits.

**3.15** To prevent individuals from delaying engagement with their schemes, and to ensure schemes can comply with their deadlines for payment, the Government **will require that individuals have to make their irrevocable election for the scheme to pay by 31 July following the relevant SA filing deadline.** In the first year of the regime this deadline will be extended to 31 December 2013.

**Chart 3.A Timeline: the process**

Date	Action
April	<ul style="list-style-type: none"> <li>• HMRC sends notice to the individual to file their SA tax return for the tax year just ended</li> </ul>
April – October	<ul style="list-style-type: none"> <li>• Pension scheme identifies individuals who have exceeded the AA in their scheme for the tax year just ended</li> <li>• Individual requests a pension statement from their pension scheme(s) where they may not receive it automatically. (Could be at any time in the year)</li> </ul>
October	<ul style="list-style-type: none"> <li>• Pension schemes send pension statements covering the tax year just ended and the previous three years to individuals who have exceeded the AA*</li> </ul>
October onwards	<ul style="list-style-type: none"> <li>• Individual establishes whether they have any pension savings in excess of the AA (after utilising any unused allowance carried forward)</li> <li>• Individual considers whether they want to meet the charge directly from their current income, or from their pension benefits</li> <li>• Individual corresponds with their scheme about making an election, schemes explain potential impacts on pension benefits of meeting an AA liability in this way</li> </ul>
January	<ul style="list-style-type: none"> <li>• Individual completes SA tax return and reports the amount to be met from pension benefits</li> <li>• Individual pays the tax charge from their current income where they do not meet the qualifying conditions or where they choose not to make an election</li> </ul>
January onwards	<ul style="list-style-type: none"> <li>• Individual notifies the scheme that they have opted to meet their AA liability from their pension benefits (if they have not already done so)</li> <li>• Scheme processes the election, and individual confirms they wish to proceed</li> <li>• Scheme works out the offsetting adjustment to the individual’s pension benefits</li> <li>• Scheme informs the member about the impact on their future pension benefits</li> </ul>
31 July	<ul style="list-style-type: none"> <li>• Deadline for individual to make the irrevocable election**</li> </ul>
By December***	<ul style="list-style-type: none"> <li>• Scheme reports the tax to be paid to HMRC on the Accounting for Tax return</li> <li>• Scheme pays the tax to HMRC via the Accounting for Tax system (45 days allowed – up to mid-February)</li> </ul>
After January	<ul style="list-style-type: none"> <li>• HMRC compliance checks to match elections with scheme payments</li> <li>• If no payment by the scheme due to no election, charge reverts to the individual and HMRC sends a demand for late paid tax</li> </ul>
<p>* In the first year of the regime these figures may be based on estimates</p>	
<p>** This deadline will be extended to 31 December 2013 in the first year of the regime</p>	
<p>*** This deadline will be extended to the Accounting for Tax return quarter ending on 31 March 2014 in the first year of the regime</p>	

## Applying the process in the first year of the regime

**3.16** In the first year only, the Government has opted to relax the deadlines for the information requirements on employers and pension schemes, to help industry adjust to the new pensions tax regime<sup>2</sup>. Where schemes and employers choose to take up this flexibility, schemes and individuals may not necessarily have the information about pension savings in 2011-12 to calculate an AA charge accurately until 6 October 2013. The Government wants to ensure that schemes do not need to account for an AA charge until they have accurate information about the member's pension saving in excess of the AA.

**3.17** Therefore, additional flexibility will be given in the first year of the regime, with schemes being entitled to use the March 2014 Accounting for Tax return (rather than the December date that would normally be used). This will ensure that schemes will still have at least 5 months to engage with individuals on the basis of accurate information, and to report and make the payment to HMRC. Neither the individual nor the scheme will incur interest as a result of this extension.

## Applying the process before benefit crystallisation

**3.18** The Government believes that individuals approaching retirement should have the same ability to meet AA charges from their pension benefits as any other member. Responses to the discussion document generally recognised that while overall numbers are relatively small, individuals could see significant increases in pension resulting in large tax AA charges as they approached retirement, and therefore that many individuals affected by the reduced AA would be in this demographic group. However responses also highlighted the potential administrative difficulties that could occur in allowing individuals to elect for the schemes to meet their charge in the year of benefit crystallisation. The Government recognises that without specific rules in place, it would be possible for a pension to be put into payment before an individual has identified that they are subject to an AA tax charge, or more likely until they are sure of their marginal tax rate and therefore the size of the charge.

**3.19** To reduce this uncertainty, the Government has therefore decided that individuals must make an election for a scheme to pay their charge before their benefits crystallise. This may bring forward the process for some individuals. Schemes must then make any adjustment to the member's benefits before the pension goes into payment, any tax-free lump sum is calculated, or an annuity is purchased, as they do currently when assessing individuals against the lifetime allowance. The Government believes that individuals should remain entitled to a tax-free lump sum of up to 25 per cent of their pension benefits, but is clear that this should be determined after AA charges have been met.

**3.20** The Government believes that most individuals will have a sufficient understanding of any other income they are likely to receive in the year that they take their pension benefits, to anticipate their marginal tax rate. However, where individuals cannot reasonably know their marginal tax rate, they will be required to use a 40 per cent rate to work out the AA charge arising in that scheme, with any excess above that to be met directly from income via their SA return. The section below sets out what would happen should the individual have a lower marginal rate and be due a refund of tax.

## Applying the process in non-standard years and circumstances

**3.21** Some respondents raised concerns about how this facility would operate where the member's circumstances change, for example in the case of divorce or death; or where schemes

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<sup>2</sup> This is set out in the document *Restricting pensions tax relief through existing allowances: a summary of discussion document responses*, published October 2010.

themselves are undergoing changes, for example entering wind-up. Although these circumstances can arise, the Government does not believe that it is either necessary or proportionate to change the regime around individuals meeting the charge from their pension benefits. As set out in Chapter 2, this regime will apply in all but the most exceptional circumstances.

### **Applying the process where individual circumstances have changed**

**3.22** On occasion, individuals may see substantial changes in circumstances that affect their overall marginal tax rate, meaning that it is possible that their AA charge may have been overpaid. If this happens, schemes and individuals will need to use existing HMRC systems in order to resolve the outstanding payment. Individuals will need to use the SA amendment process to report the overpaid tax and tell their scheme. Schemes will need to send HMRC an amended Accounting for Tax return so that the overpaid AA charge can be refunded to the scheme, and then carry out a form of the offsetting adjustment in reverse to reconcile the member's entitlement. The Government believes that it is for schemes to set their terms for engaging with members in these circumstances and to encourage individuals to access all relevant information that could change their tax position.

**3.23** The Government does not believe that it is necessary to create new rules to account for the possibility that divorce or death may occur within a similar timeframe to an individual electing to meet their AA charge from their pension benefits, although it recognises that in some cases processes may become more burdensome for schemes. Again, the Government believes that it is for schemes to set their terms for engaging with members (or members' dependents) in these difficult circumstances, and to decide how any concurrent processes should be handled where they do arise.

**3.24** This means that if, for example, a pension sharing order on divorce (PSOD) has already been issued but the pension has not yet been split when an individual elects to meet an AA charge from their pension benefits, the scheme must set the terms and timescales under which it is prepared to make adjustments to the individual's pension as part of the PSOD administration process. If an individual has made an election for their scheme to pay their AA charge but dies before any adjustment has been made, as the election makes the scheme joint and severally liable, the scheme will need to make that adjustment before determining any death benefits. If the individual had not yet elected for the scheme to pay before death, the charge would fall on the estate.

### **Applying the process where schemes are undergoing change**

**3.25** As set out in Chapter 2, the only circumstance under which schemes will be exempted from meeting the charge on behalf of the member will be if the scheme is already in a PPF assessment period (where they are prohibited from taking on any new liabilities) or in exceptional circumstances where schemes are able to demonstrate to HMRC that it is not appropriate for them to offer this facility.

**3.26** The Government recognises that where schemes are going through change, for example entering into a buy-out process, or winding-up, existing scheme rules may not currently allow the scheme to make a payment on behalf of a member. If necessary, the Government will exercise its regulatory powers to put overriding legislation in place and in order to enable the scheme to facilitate the member meeting the AA charge from their pension benefits.

**3.27** Individuals who change pension schemes, for example as a result of a company reorganisation or scheme merger, will be able to elect the receiving scheme to meet their AA charge from their pension benefits if they exceeded the AA in the transferring scheme. This will ensure that the individual is not penalised as a result of transferring schemes.



# A

## List of discussion document respondents

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**A.1** The following is a list of all the organisations that responded to the discussion document (individual respondents have not been listed):

Accounting Chartered Certified Accountants  
AJ Bell  
Aquilaheywood  
Association of British Insurers  
Association of Consulting Actuaries  
Association of Member-Directed Pension Schemes  
Association of Principal Fire Officers  
Aviva Insurance UK Limited  
Aviva plc  
AXA Wealth  
British Air Line Pilots Association  
Barclays Bank Plc  
Barnett Waddingham LLP  
BP Pensions Limited  
British Airways Pensions  
British Broadcasting Corporation  
British Dental Association  
British Steel Pension Scheme  
Cabinet Office  
Capita Hartshead  
Confederation of British Industry's  
DWF LLP  
Fidelity International  
Fire-fighter Pensions Department for Communities and Local Government  
First Actuarial LLP  
Greater Manchester Pension Fund  
Hewitt Associates Limited  
Higher Education Employers Pensions Forum  
Hundred Group  
Hymans Robertson LLP  
Investment and Life Assurance Group  
Jaguar Land Rover  
Kraft Foods  
Legal & General Assurance Society Limited  
Liverpool Victoria Friendly Society Ltd  
Lloyds Banking Group plc  
Local Government Employers  
Local Government Pension Scheme (Northern Ireland)  
London Pensions Fund Authority  
Mercer  
Merseyside Pension Fund  
Ministry of Defence  
National Association of Pension Funds  
NHS Pensions

Pensions Management Institute  
PricewaterhouseCoopers LLP  
Principal Civil Service Pension Scheme (Northern Ireland)  
Prudential  
Punter Southall  
Reckitt Benckiser Group plc  
Sacker & Partners LLP  
Scottish Public Pensions Agency  
Scottish Widows  
Selex Pension Scheme  
Siemens plc  
Skandia  
Slaughter and May  
Society of Pension Consultants  
Staff Side of the Police Negotiating Board  
Standard Life plc  
Strathclyde Fire & Rescue  
Teachers' Pensions Scheme  
Tesco plc  
Tax Incentivised Savings Association  
Towers Watson  
Travers Smith LLP  
Wragge & Co LLP  
Xafinity Paymaster

# B

## List of discussion document questions

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**B.1** In *Options to meet high annual allowance charges from pension benefits: a discussion document*, the Government sought evidence and views in a number of areas:

- The Government's current thinking is that it would be appropriate for individuals to pay the first £2,000 to £6,000 of any AA tax charge from their current income; and welcomes evidence to indicate an appropriate threshold figure.
- The Government welcomes views and evidence on whether individuals in DC schemes would have need of and / or would make use of a facility to meet AA charges from pension benefits. Views are also sought on whether restricting access to members of DB schemes only creates significant material administrative or communication issues for schemes.
- The Government welcomes views on whether there are other exceptional circumstances in which it is appropriate to exempt certain schemes from facilitating payment of AA tax charges, including whether this would differ under the broad options.
- The Government welcomes views on its proposed approach to multiple pension-holders. That is, that individuals are allowed to elect for a single scheme – in which they are an active member – to meet the AA charges each year; and that where the AA has been exceeded outright in a single scheme in a given year, that is the only scheme that can be elected to meet the liability from their pension benefits.
- The Government welcomes views on whether it would adversely affect schemes, administratively or otherwise, to meet a charge that did not arise exclusively in that scheme.
- To inform the overall approach, the Government would be interested to see evidence on the numbers and characteristics of employees or scheme members respondents have identified as potentially eligible to meet AA liabilities from pension benefits.
- The Government welcomes views on whether respondents agree that it would be insufficient to report the value of the charge to be offset without explaining the corresponding effect on pension benefits to members; and whether the level of detail and precision required varies across the options.
- The Government welcomes views on whether it is necessary for individuals in the year of benefit crystallisation to have access to the option to meet their liability from the pension benefit, and if so how to ensure that this process works sensibly for both schemes and members.
- The Government welcomes views on whether there are other circumstances in which the application of either option may need to be given specific consideration.

- The Government welcomes information that explains how and why these [the two broad options] might work differently in practice, and where that leads to different impacts for scheme members, or scheme administration.
- The Government welcomes views and evidence to indicate where legislating for a standard approach would reduce burdens, or be necessary to ensure that the policy intent is delivered; and whether there are areas where the Government should be even less prescriptive.
- The Government welcomes views on any practical or administrative issues that may arise from implementing these options to meet charges from pension benefits, bearing in mind that the Government believes it is necessary to introduce a facility to meet high AA charges from pension benefits. In particular it is interested in the benefits and burdens associated with each of the options, and whether there are significant differences between the two.
- The Government welcomes views on whether there are particular advantages to this approach of rolling up AA excesses, rather than AA charges.

**B.2** Comments received in relation to these specific points, and about the design of the regime in general, have been reflected in the proposals outlined in this Summary of Responses document.

## HM Treasury contacts

This document can be found in full on our website at:  
[hm-treasury.gov.uk](http://hm-treasury.gov.uk)

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