



HM TREASURY



HM Revenue
& Customs

Pensions Tax Consultation: *Implementing the restriction of pensions tax relief*

DELIVERY PROCESS WORKSHOP
23 and 24 February 2010
14:00 – 16:30
HMRC

SUMMARY OF DISCUSSIONS

Introduction

Angela Miles and Paul Cottis of HMRC pensions policy team gave an introduction to each event, a brief background and introduced the outline process map which set out all the possible steps of the end to end delivery process. Not all steps in the process map would be required in every case [and the position of certain steps on the timeline was a diagrammatic representation and not necessarily fixed at the particular point on the process map]. Participants discussed the overall process map and then considered how the process would work in various scenarios in small groups before feeding back to the whole group.

The following points were made in the feedback discussions across the two workshops.

Session 1: the end to end delivery process

The consensus amongst participants was that knowledge about the changes and the impact they would have was a key issue. If people were not aware of the changes and the possibility that they may be affected by them, they would not ask for the information they needed or know what to do with what they received and could inadvertently not complete their tax return correctly. Participants felt that there should be a communications strategy and that HMRC should be targeting

communications with all affected individuals to alert them to the changes before April 2011. It was felt these communications should go to all those affected, not just unrepresented ones. As well as HMRC, it was suggested there needed to be a concerted communications campaign by industry and employers so there was good coverage of the changes. It was felt that the population of people leaving things to the last minute would be large.

The comment was made that in advance of 2010-11 individuals who had heard about the changes would be likely to require information and would approach the pension scheme or employer for this, resulting in an additional admin burden on the schemes and employers. Some participants felt that once affected individuals understood the impact they would be likely to opt out of the pension scheme. But this process takes time so they felt employers too should start some communications in 2010-11 so individuals would be alerted to the change and could consider their position.

Employer obligation

Participants said the individual could get the pension benefit statement automatically, if their employer had requested one, or they could ask the scheme themselves. Schemes would want to reduce duplication and the suggestion was made that the employer should inform the member when they had requested a statement from the scheme. But questions were raised about when the employer forgot, was late or choose not to request a statement. What would the sanction be here on the employer and how did this help the individual.

Groups commented that the timescales on the process map were based on the P60/P11d information. This information was required so the employer would know whether they had to request a benefit statement. The process map timings had to reflect this. It was commented that the employer could not get this and other information such as for share schemes all by 6 April. For members of overseas schemes receiving UK tax relief participants could see additional delays.

The suggestion was made that to overcome the timing issues that the employer obligation linked to cash payments only. This linked with the P35 return due in mid May so would speed the process up. It was recognised this would mean less requests from employers so more individuals would have to do it themselves.

For non occupational schemes there is no contractual link between the employer and the trustees therefore they may not be able to request them to do anything.

The comment was made that for DC schemes employer contributions were paid over a month after deduction and this could mean timing could be an issue as schemes would not have all the information at the start of the tax year.

Benefit statement

The 3 month deadline for schemes would be difficult to meet if the employer either delayed or had not got all the relevant information to them by the time the request was received. For those individuals whose employers would not request a statement, they still had to request the information and this may be much later in the tax year.

The reference to 'benefit statement' could also be misunderstood. What was required was an actual statement of accrued entitlement, which may or may not fit with the timing of usual benefit statements. However, the comment was made schemes already have to do statements of accrued entitlement for leavers although these tend to be spread through the year. The issue with statements for the restriction is that they are all condensed into a short period at an already busy time of year for scheme administrators (year end, data reconciliation, summer holidays etc) so volumetrics are an issue. Schemes may need to take on additional staff to meet the demand. If the pension scheme had an overseas employer the difficulty in getting the information was compounded and would affect deadlines. Not all countries provided benefit statements and there would need to be a process to estimate accruals.

Additionally the individuals affected have complex affairs, making the calculation more complicated and each case would need to be checked. The calculation can also be made more complex if the scheme uses old Inland Revenue limits. The comment was made that controlling volumes linked into costs. Some felt the figure of £2000 per case was not unrealistic for complex high earners. Others felt the costs in the impact assessment had been understated.

Scheme pays

Participants commented that the process map did not accommodate the situation when the individual approached the scheme for scheme pays but scheme pays was not available because of underfunding. They also felt it did not reflect the position if more than one scheme was involved and missed some of the advisor-individual interactions. Participants also commented that timeline for scheme pays did not work with people who filed paper tax returns.

Some commented that scheme pays meant there might be a disincentive for the employer to fund the scheme properly to enable it to gain an exemption from scheme pays.

The amount of the scheme pays charge would not equal the recovery charge and participants felt this would lead to correspondence between the individual (or their advisor) and the scheme, leading to additional burdens on schemes.

One group commented that HMRC should request the scheme pays charge from the scheme; it should not be for the scheme to pay direct without an assessment.

Participants felt individuals would be likely to go to advisors and this would increase their admin burden. Participants felt individuals would also have to file online and as free HMRC online software was not comprehensive the individual may have to purchase an online filing package increasing their costs (if not represented).

Session 2 – case studies

Case study 1 – Louise

Participants felt determining the income was an issue because the beneficial loan benefit-in-kind would take time to establish. So she would not know whether she is affected or not. Equally her employer may not know by 6th April whether she was above the £130,000 threshold and so would not be in a position to know whether they need to request a benefit statement from the scheme. The comment was made that some benefits-in-kind are pensionable and schemes need to know that information.

The group felt that the employer may as a precaution request a statement from the pension scheme, but asked whether, if they did, they would inform Louise about this. The interaction between the employer and employee also needed to be considered, there needs to be some link so the scheme does not receive duplicated requests. The comment was made that Louise would need to identify AVCs (or if she had any added years) as these wouldn't necessarily be picked up in the benefit statement from her final salary scheme.

To work out her gross income Louise would need a benefit statement from the scheme with her accrual to see if it was enough to take her above the £150,000 threshold. From Louise's point of view if she had been above £130,000 in previous years with the same employer then it would be helpful if she automatically continued to receive them.

The group felt there needed to be guidance on who was responsible for each stage of the process.

Participants felt there were no particular issues for scheme pays for this case although the question was raised as to whether scheme pays is just for the DB benefits or the added years.

The group felt having representation would make little difference to the time, although it may extend it a little.

Case study 2 – Tony

Participants commented that Tony would have to ask the DB pension scheme for a benefit statement as his income for the year would not be above £130,000, so there would be no employer obligation. Tony would be potentially in the taper but would not know until later in the tax year. An issue was raised that for the first two years in an occupational pension scheme an individual will accrue benefits but they may have no actual entitlement to the benefits. What would happen if they left during those 2 years? It was noted that it was different for Pension Sharing Orders.

Participants felt that Tony was likely to be represented but the comment was made that his agent might not know he had employment income until Tony went to him towards the end of the tax year to do his tax return. Most felt if his agent was

aware of his position he may have been advised not to make the pension contributions to his personal pension. The issue of whether all tax accountants/agents would have pension tax expertise was raised.

Case study 3 – Fiona

Participants felt that as Fiona would normally have to collect information to complete her tax return this should not be an issue. The comment was made that if the Self Invested Personal Pension received relief at source then the only contributions receiving higher rate relief at source would be the Group Personal Pension (GPP) plan. If scheme pays was elected for it would be to the GPP. The comment was made that there could be issues for the GPP to produce the cash in the short term as there are limits on the amount of cash they can have at any one time.

Other scenarios

Divorce – the comment was made that the reduction would have to reflect any pension sharing order; it may be that schemes would have to reassemble benefits to work out statement. It was suggested that any pension with an earmarking order should be excluded from scheme pays. It was noted that an individual may pay tax on a benefit they were not going to get (because it would go the ex-spouse).

Transfers – participants commented that the member might choose to transfer or be forced to transfer due to a company re-organisation. Because benefits are valued differently for transfers an individual may end up with a higher pension input even though their rights have not changed.

Death – might be an issue if an individual had elected for scheme pays but died before it was completed. Participants felt the scheme pays charge should continue.

Year of benefit crystallisation –

- The issue of how would scheme pays work in the case where tax would be due after benefits had been taken was raised. The benefits could have been vested in an annuity which cannot be undone.

- The issue of the look back test was raised and whether this would occur any time benefits were taken. A suggestion was made that if HMT/HMRC were concerned about increased benefits in the final year then for that year they should remove the £130,000 income floor (compare benefits accrual to income).

Refunds – participants felt any refund should be a matter for HMRC and the individual and the scheme should not be involved.

The following issues were also raised:

Deferred members should be excluded.

Annual allowance (AA) and Lifetime allowance charge (LTA) – how would these interact with the recovery charge, this would lead to added complexity.

Participants thought the main issue was the LTA, if the AA was dealt with in a similar way as for anti-forestalling.

How would retrospective pay awards be dealt with?

Certain schemes provided for an incapacitated child benefit. The member would never be getting the benefits - would this be included.

Some may surrender rights for increased dependant benefits. The question was raised as whether this would this get round the recovery charge.

Returning to work after unpaid maternity leave. Some schemes allowed members to make up 'lost' contributions, so they would get an increased benefit at that point.

Summing up

It was recognised that the outline process map may need to be modified to reflect timing issues with getting benefits statements to members at the beginning of the tax year, and to reflect the role of advisors. It was also recognised that not all steps in the process would be needed for all situations.

There was also general agreement that communications were central to getting the process to work, if at any stage members or others were not clear on their obligations then the deadlines may well be missed.