

Adviser Update

Outstanding changes to new pension rules

We may be in the new tax year, but the rules on testing pension benefits following the removal of the lifetime allowance aren't quite finalised. There are a few areas where the current legislation doesn't meet the policy intent, and HMRC has confirmed that changes will be made by regulations.

We don't have a date for these regulations, but they will be retrospective and apply from 6 April 2024. As some of the changes would result in higher tax charges than the current legislation, the regulations need to be approved in the House of Commons, so parliamentary time will be needed for these to become law. These changes are set out in [HMRC's newsletter 158](#) which also states that under the circumstances set out “... **members may need to wait until the regulations are in place before taking or transferring certain benefits. This is to ensure that their available allowances and tax position do not need to be revisited later in the year.**”

The areas where changes are due to be made that may impact some of your clients include:

Scheme-Specific Lump Sums (SSLS)

- The calculation in legislation produces a higher lump sum amount than it did under the old rules; this is not intentional. It also doesn't correctly interact with the Lump Sum Allowance (LSA) and Lump Sum and Death Benefit Allowance (LSDBA).
 - This means if clients take an SSLS now it could be overpaid, and they would face a tax bill later when the rules are amended. The interaction with the LSA means that taking their SSLS could reduce the PCLS available to them from other schemes.

Enhanced and Primary Protection with protected lump sum

- Lump sums are currently limited to £375,000, even when a higher protected amount is held.
 - Clients may need to wait to access higher PCLS.

Transferring while holding Enhanced Protection

- The protected LSDBA is limited to death benefits that could have been paid from the arrangement on 5 April 2024. If a transfer to a new arrangement is made after 6 April 2024, this value will be nil, so protection is lost.
 - Clients may need to wait to transfer to keep the protection.

Transferring while holding Enhanced Protection with protected lump sum

- The protected LSA is limited to the lump sum that could have been paid from the arrangement on 5 April 2023. If a transfer to a new arrangement is made after 6 April 2024, this value will be nil, so protection is lost.
 - Clients may need to wait to transfer to keep the protection.

Lump sum death benefits paid from funds crystallised prior to 6 April 2024

- The legislation currently restricts the tax-free lump sum payable on death pre-75 to the available LSDBA, despite the policy intent being that funds crystallised prior to 6 April 2024 should not be tested, so the amount in relation to these funds should be unlimited.
 - Beneficiaries may be able to take death benefits as a one-off income payment to avoid the test, or if this is not an option, they may want to delay the lump sum payment if the LSDBA would be exceeded when pre 6 April 2024 crystallised funds are included.

Transitional certificates when PCLS has been taken after age 75

- Where a client has taken PCLS after age 75 and they apply for a transitional certificate, the calculation in current legislation ignores the post-75 PCLS, as it was not a benefit crystallisation event under the old rules. This means more LSA would be available than it should be.
 - If a certificate is issued on this basis, it will be incorrect when the rules are amended. This will make the certificate invalid. If a PCLS has been taken after 6 April 2024 this is a RBCE so it would not be possible to apply for a new certificate after the event. It is also possible that the PCLS will have been overpaid and a tax charge will be payable.

Overseas Transfer Allowance (OTA)

- The OTA is reduced by the lifetime allowance previously used; however, all funds are tested against the available OTA on transfer to QROPS. This means that drawdown funds are effectively double counted.
 - Clients with crystallised funds transferring to a QROPS may want to delay the transfer if they do not have sufficient OTA available until the legislation is amended.

If you have any clients who are impacted by the rules and they are urgently wanting to take a lump sum or transfer from their AJ Bell pension, please contact us first to discuss the options.



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