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INHERITANCE TAX ON PENSIONS: LIABILITY, REPORTING AND PAYMENT RESPONSE BY THE ASSOCIATION OF TAXATION TECHNICIANS

1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to respond to the HMRC consultation document *Inheritance Tax on pensions: liability, reporting and payment* ('the Consultation') issued on 30 October 2024¹.
- 1.2 The primary charitable objective of the ATT is to promote education and the study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.
- 1.3 Our response is written primarily from the context of members who work in practice advising individuals and personal representatives (PRs) on Inheritance Tax (IHT) matters, rather than from the perspective of Pension Scheme Administrators (PSAs). A member in practice attended the HMRC-led workshops which ran from November 2024 to January 2025 and focused on the issues from the perspective of PSAs. We understand that a further group will be looking at the position from the perspective of PRs and we look forward to contributing to this group in due course.
- 1.4 While we appreciate the intention behind the proposals is to ensure that pension savings are used to provide income in retirement, rather than an IHT efficient route of passing down wealth, we are concerned that the proposed approach will bring significant additional administration for families and additional professional costs. We think there would be merit in exploring a separate IHT regime for pensions to minimise some of the challenges identified below.
- 1.5 We have responded to the questions in the consultation, but also included comments below in section 2 about alternative approaches and in section 3 we discuss some practical concerns. We cover the nine consultation questions in sections 4 to 12.

¹ <https://www.gov.uk/government/consultations/inheritance-tax-on-pensions-liability-reporting-and-payment/technical-consultation-inheritance-tax-on-pensions-liability-reporting-and-payment>

2 General comments and observations

- 2.1 We understand that the policy intention is to ensure that pension funds are not used as a vehicle for tax-efficient wealth transfer down the generations, but rather as the route via which people provide for their income needs in retirement, and those of their dependants (spouse, civil partners and non-married partners). The proposals are seeking to add the value in unused pensions and death benefits to the wider estate for IHT purposes, in order that the value can be assessed to IHT.
- 2.2 We are concerned around the impact on non-married couples, who will not be able to benefit from IHT reliefs available to married couples. This could impact significantly on the financial planning for survivors who have not planned (and may not be able to plan) for the impact of IHT charges. The potential for unintended consequences for unmarried partners increases where the individual has died young, where the fund will be subject to IHT at a point when the survivor was expecting to draw on it for many more years.
- 2.3 While we can see how this will achieve some of the intended goals, we think the regime which has been proposed will be very difficult to administer, and we wonder if a similar outcome could be achieved by designing an IHT regime which is specifically focused on pensions. This would require a further consultation before the introduction of draft legislation/guidance.
- 2.4 A separate regime may be a good way to reflect the fact that many aspects of IHT reliefs/administrative easements which apply to non-pension assets (as set out in section 3.6) do not easily translate to pensions. Pension assets are also subject to significantly more restrictions and complexity than the equivalent value of investments held in say an ISA, or with an investment manager. Separating the assessment of pension assets and wider assets would help avoid the challenges of making amendments (section 3.12), may allow some mitigation around dealing with illiquid assets, if one scheme was able to pay more IHT to cover the share of another, and potentially help to simplify administration by excluding small pensions below a certain value.
- 2.5 One of the challenges of the current proposals is that there has rarely been a requirement for interaction between PRs and PSAs, and now significant back and forth will be needed in much tighter timescales than PSAs currently operate to. We consider that the increased workload and delays will negatively affect many individuals – even those which do not have any extra IHT to pay as a result of the changes. In a world where moving jobs is common, people can easily build up large numbers of pensions, meaning the process of establishing the initial IHT position and then potentially amending computations could be very challenging.
- 2.6 In terms of getting probate, PRs will now be in the hands of PSAs as they will not be able to apply until the last PSA has settled their share of the IHT liability. There is a material mismatch between the current timelines which pension providers work to (the two year rule) for paying out death benefits and the six months for paying IHT. PSAs' systems and processes are not currently set up for IHT timescales. PSAs will also have less time to exercise their discretion over the distribution of funds if they are targeting payment within six months. The additional cost and time involved in settling of estates could leave the beneficiaries in a difficult situation at a vulnerable time following bereavement and potentially the risk of financial hardship for a period. This is especially likely where surviving spouses or civil partners are relying on pension income but are unable to sell assets until probate is received.
- 2.7 There are also a number of areas where we wonder if the scope of the policy has gone beyond the originally stated intent of ensuring pensions are used to provide income in retirement, rather than relief in later life. We are unclear of the merits of taxing death in service payments where there is no underlying asset and which are not designed to facilitate IHT planning but to provide financial security for the deceased's family in the event an individual dies while still working. In these situations, the employee has no entitlement or control over any share of underlying assets. It appears that the IHT treatment here depends on how the policy has

been set up, rather than the ultimate nature of the payment. There is an argument that employer-provided death-in-service benefits should be considered as more akin to an employment benefit.

- 2.8 Finally, with all pension changes come the risk of reducing future engagement. Pensions involve and require long term planning, and frequent changes are unwelcome.

3 Practical Concerns

3.1 Clarification and consistency of treatment

- 3.2 The consultation notes repeatedly the desire to ensure consistency of treatment. For example: “These changes also remove inconsistencies in the IHT treatment of different types of pensions – both discretionary and non-discretionary pension schemes will now be included in the value of a person’s estate for IHT, rather than just non-discretionary schemes” and “it is fair that Inheritance Tax is applied as consistently as possible across similar types of assets, including pensions and savings products. Fairness and neutrality are widely recognised as fundamental principles of a well-designed tax system”. We agree that consistency is a reasonable goal.

- 3.3 Where the pension is inherited by a spouse or civil partner, then although the value of the pension will be included in the IHT computation, spousal exemption will apply. However, Annex B suggests that a dependants scheme pension from either a defined contribution (DC) or defined benefit (DB) pension is also outside the scope for IHT - while other forms of pension income which include dependants are not. It would be helpful to understand more about the reasoning for allowing a *dependants scheme pension* to be used to provide an income for any dependants (such as a spouse, civil partner or dependant child under the age of 23) without IHT but in all other circumstances IHT relief is only available to the spouse/civil partner.

- 3.4 We wonder if individuals will be able to clearly understand the difference between a *dependants scheme pension* which is outside of scope and a *dependants’ annuity* which is not.

- 3.5 We also wonder what the policy intention is for ongoing annuities or payments made under the terms of a capital guarantee which have been set up some time ago. This will be an issue where the surviving individual is not a spouse or civil partner and spousal relief is not available. These annuities will be difficult to value as they depend on the life of the surviving individual. Such schemes are already subject to income tax.

3.6 Wider inconsistencies

When IHT is applied to investment and property assets in the main estate, there are a range of measures which help PRs manage their IHT liability including:

- The ability to make payments on account in advance of the IHT payment deadline (before the final IHT liability has been established) to reduce the risk of interest charges accruing. Extending such a facility will increase administration for PSAs - and HMRC - in handling multiple receipts and possibly refunds, but does seem to be essential if the deadline for IHT payments is kept at six months from the date of death.
- The ability to make payments in instalments where the IHT liability arises on land and buildings, certain unquoted shareholdings and business or partnership interests. Will similar options be available to PSAs holding illiquid assets? Pension funds may not be able to sell properties or obtain loans to settle IHT liabilities. Pension funds such as SIPPS which contain part-shares of property or business assets may particularly struggle to realise value for the jointly-held asset. Such funds were set up under previous rules where consideration did not need to be given to making IHT payments.

- Where an estate has opted to pay IHT in instalments, there is relief from interest on certain assets such as land qualifying for APR, business assets and controlling holdings of assets to reflect the lack of liquidity in these assets². Where pension funds hold similar assets, will a similar relief be available?
- The opportunity to make a claim for relief if there is a net loss on sales of shares or property which are sold within 12 months (shares) or three to four years (property). This helps to ensure fairness, if the value of assets declines after death. Making similar provisions available to PSAs may help with fairness, but would significantly add to complexity.
- Agricultural Property Relief (APR) and Business Property Relief (BPR) are available for qualifying assets in the main estate, including AIM shares, which allow for the reduction or elimination of IHT. Is there any intention to allow PSAs to qualify/claim for BPR? (We understand that the availability of APR has been ruled out following a Parliamentary question, and the wording suggests that the same may be true for BPR³.)

Making these measures available to PSAs would increase complexity but help to place pension assets on a similar footing to other assets in the estate. Otherwise we will end up with a two tier system with pension fund assets entitled to differing reliefs to other assets. If that is the intention, then given that assets in a pension are already subject to a range of complex rules and restrictions, there would be merit in a IHT scheme which is specifically designed to target pension schemes.

3.7 Death benefits

The consultation notes that death benefits will also be brought into scope and we understand that this has also come up in the workshop discussions. Does the Government intend to bring *death in service benefits* provided by an employer – where there is unlikely to be any actual underlying asset – into scope?

- 3.8 The consultation currently refers to “All life policy products purchased with pension funds or alongside them as part of a pension package offered by an employer are not in scope of the changes in this consultation document.” We are not experts in this area, but would this be expected to capture workplace benefits which have been set up in a different way? We wonder if this might lead to inconsistencies in treatment.

3.9 Proposed calculator

- 3.10 At paragraph 2.26 of the consultation, it is proposed that a new calculator will be produced to assist PRs to allocate the proportion of the nil rate band to unused pension funds or death benefits. As with all new HMRC services it would be helpful if:

- The calculator is available both to PRs and their advisors
- The results can be saved and returned to, so that PRs/their advisors can easily update the figures and generate a new set of forms to send to PSAs if an amendment is required.
- The form for PRs to notify PSAs of the amount of available nil-rate band and the IHT reference is automatically produced as part of completion of the calculator in a format which can be emailed to providers, as well as printed out. We think it will aid communication and reduce errors if this form is standardised and produced automatically.

- 3.11 Our understanding from the workshops is that the plan is for a service which is not behind a Government Gateway. While this is simple, our concern is that such an approach doesn't allow for drafts, amendments,

² <https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm30363>

³ <https://questions-statements.parliament.uk/written-questions/detail/2024-12-05/HL3229>

review – or even completing the document in instalments if information is found to be missing. A service which can be completed progressively, saved, and returned to would be more beneficial.

We hope that the development of any new process would involve feedback from PRs and their agents, and that a paper-based route is available to PRs who are digitally excluded.

3.12 Amendments

3.13 One of the biggest challenges, even for otherwise relatively straightforward estates, is the amendment process. It is not uncommon, even with family executors who have some familiarity with the deceased's affairs, for assets or liabilities to 'come out of the woodwork' some period of time after the IHT liability has first been reported and paid, which requires an amendment to be submitted. Where the individual has little to no familiarity with the deceased's affairs, then amendments are almost inevitable.

3.14 As it currently stands, if PRs identify an additional asset for example, the process is relatively simple, the relevant forms to report a correction are submitted and any additional IHT and interest is paid. From April 2027, any additional items of asset/liability in the estate – or changes to valuations in the estate or the pension funds – will mean a reallocation of the IHT nil rate bands between the pension providers and the estate. So, the PRs will need to go back to the tool and amend the figures, and advise each of the PSAs of the change in IHT. HMRC will then need to raise an extra charge for each PSA.

3.15 For example, if an extra bank account with £25,000 is identified under the current rules in an estate already paying IHT at 40%, this gives rise to an extra £10,000 in IHT which is payable by the PRs. From April 2027, if we say that the estate has four pensions, the extra account still leads to an extra £10,000 but HMRC now needs to collect payments from five different sources – the PRs and four different PSAs.

3.16 HMRC systems will need to be designed to accommodate collection of multiple additional receipts – or refunds – plus any interest adjustments.

3.17 Other matters

3.18 Executors must already provide details of certain pensions through the IHT400, including where pension funds are transferred in anticipation of death. This may be something that needs to be looked at more frequently once the new changes are introduced.

4 Question 1: Do you agree that PSAs should only be required to report unused pension funds or death benefits of scheme members to HMRC when there is an Inheritance Tax liability on those funds or death benefits?

4.1 Reporting on all pension funds, regardless of the requirement to pay IHT, is likely to increase administration costs for pension funds across the board. Restricting reporting to when it is needed may help to reduce costs and administrative delays to those inheriting pensions where the estate is not affected by the new measures.

5 Question 2: How are PSAs likely to respond if they have not received all the relevant information from the PR to pay any Inheritance Tax due on a pension by the 6-month payment deadline?

5.1 It is worth noting that it can be challenging for PRs to get all the necessary information together in order to calculate an accurate IHT position for the estate. This can be for a large number of reasons including:

- Lack of knowledge about the deceased's affairs and difficulties in obtaining that information. This is especially challenging if the PR is not closely related, or related at all, to the deceased.
- Lack of access to data or information – as more information is online/on computer rather than paper-based, it can be challenging for PRs without access to the deceased's online records/computers to find out who they need to tell that the individual has died.
- The grief process – not all PRs are in a position to commence the administration process promptly.
- Where there is no Will and the individual has died intestate, it may take some time to establish who will be acting as the PR.
- Overseas assets or income sources can introduce delays and complications
- There may be delays in obtaining information from third parties.
- There may be a lack of funds to pay for advice.

5.2 PRs who are not able to finalise the IHT position within the payment deadline of six months from the end of the month of death are generally concerned about interest accruing, given the potentially large sums involved. The current rate of interest on overdue IHT is 7.25%, and this is due to increase to 8.75% in April 2025. Where possible, PRs will make payments on account of an estimated figure to manage interest liabilities. It would be helpful if PSAs were also able to make payments on account to prevent interest accruing.

5.3 We also think it would also be useful to consider how PRs are likely to respond if insufficient information has been received from the PSAs. (The workshops have considered the position of how PSAs might respond to delays from PRs.) Members report to us that it can be hugely problematic trying to trace pensions and gather necessary information for existing pension planning work where the individual is still alive. Individuals may have built up a number of pensions during their lifetime - one member reported to us that it is not uncommon to see clients with up to eight different providers.

5.4 The consultation proposes at paragraph 2.24 that PSAs will be required to respond to PRs within two months of receiving a request. Is the Government considering the introduction of penalties or sanctions or any kind of enforcement on the PSAs where these timescales are not met? Who would bear those costs if so? In the meantime, additional interest charges arising from delays could penalise pension beneficiaries if PSAs have the ability to pass them on.

6 [Question 3: What action, if any, could government take to ensure that PSAs can fulfil their Inheritance Tax liabilities before the Inheritance Tax payment deadline while also meeting their separate obligations to beneficiaries?](#)

6.1 We assume this question is relating to the ability of the PSAs to continue to/start to pay pensions to dependants at a point when the IHT position has not been finalised. Concerns have already been raised in the press regarding the impact on dependants, given that payments could be delayed or deferred even if no IHT is due. Some of the harm could be mitigated perhaps if PSAs were able to make provisional payments, assuming a worst case scenario of 40% IHT applying – or up to 100% where the dependant is a UK-based spouse/civil partner or the funds have been left to charity.

6.2 This sort of problem, and the potential for hardship, provides further weight to our suggestions that the taxation of pensions should be separate from the rest of the estate.

7 Question 4: Do you have any views on PSAs reporting and paying Inheritance Tax and late payment interest charges via the Accounting for Tax return?:

7.1 We are not familiar with the Accounting for Tax return, but we can see some logic in using existing routes for PSAs, on the grounds there will be familiarity with the systems. There are some practical points to consider though:

- Will the systems be updated to manage relevant ID/references to ensure that individual payments from providers are matched to the deceased individual?
- Will it be possible for HMRC to clearly identify which PSAs have paid and which have not? With multiple PSAs responsible for an element of the overall bill it will be important to be able to identify which scheme has paid and whether in full or in part.
- In the event of any amendments, will the system have enough information to be able to calculate the repayments to, or collect additional charges and interest from to multiple PSAs? This will be a much more complex proposition than for existing IHT, where although payments could be made from a number of different sources, the final liability and any repayments/adjustments are the sole liability of the PRs.
- Who will report to HMRC what amounts are due? Will the PRs effectively report through an amended and updated IHT400, or will they just report the share of the nil rate band passed on to the PSAs?
- Who will follow up with the PSA if a payment is not paid on time? Will PRs be able to see what payments have been made and follow up with PSAs if their delay is holding up a probate application – or will PRs be able to apply for probate with IHT payments for pensions still outstanding?
- Will this system ensure that PSAs can evidence payments/repayments or extra payments have been made? The current IHT system is challenging for PRs as no receipts are given for payments. We would expect that financial institutions like PSAs would need a clear audit trail which evidences receipt.
- Will the system be able to handle payments on account from multiple PSAs (if these are permitted) where the IHT liability has not been finalised but there is a desire to reduce risk of interest charges building up and eroding beneficiary funds.

8 Question 5: Do you agree that 12 months after the end of the month in which the member died is the appropriate point for their beneficiaries to become jointly and severally liable for the payment of Inheritance Tax?

8.1 We can see the logic of HMRC wanting to be able to pursue IHT payments from beneficiaries where the IHT liability has increased, perhaps because of an amendments to the IHT liabilities and the pension scheme funds have been extinguished or are not sufficient to meet the revised IHT liabilities. However, we think this could bring risks for the beneficiaries and potential hardship where bills are unexpected, which could well be the case if beneficiaries of the pension funds are not the same individuals as those benefiting from or involved with the estate so they are not aware of amendments. There will need to be some safeguards to protect beneficiaries in the event they become jointly and severally liable and also adjustment mechanisms where any funds remain with the PSA.

8.2 We also think some clarification is needed around the statement at the end of 2.34 that “From this point onwards HMRC will also be able to pursue payment or repayments directly with beneficiaries as necessary”. We would be concerned if after 12 months HMRC turned to beneficiaries who had not yet received anything from the PSA, in order to pursue IHT payments. Obviously, there could be an affordability issue, but also if the PSA has not paid HMRC but still holds funds from the pension, the beneficiary is then meeting the liability

on behalf of the PSA, would there not need to be a suitable form of adjustment mechanism to enable them to recover the IHT from PSA?

- 8.3 The only potential benefit to this route might be for pensions with illiquid assets, as it may allow beneficiaries (if they are able to do so) to settle liabilities on behalf of the scheme –but we are not sure of the consequences of the scheme incurring a debt to the beneficiary in this way. If there is no debt, there is arguably a ‘value shift’ from the beneficiary to the pension scheme.

9 Question 6: What is the most appropriate means of identifying or contacting beneficiaries if either the PR or HMRC realises that an amendment is needed after Inheritance Tax has been paid? Should PSAs be required to retain the details of beneficiaries for a certain period?

- 9.1 It seems sensible for PSAs to be required to retain records for a period of time after the estate administration has been completed, not least as the proposal is they will be liable for making the IHT payment. The challenge is what time period is reasonable. Where an IHT account has been delivered and payment made, then the time limits set out in CH568000 suggest that records should be kept for at least four years and potentially six years after the last payment was made. But we note that IHT assessments can be made after significantly longer periods, particularly when no IHT return has been made. This could leave all PSAs having to hold onto data for a significant period when it is unnecessary and PSAs will need to consider what is reasonable from an administrative perspective. One approach to this might be to require all PSAs to report to HMRC regardless of the IHT position, although this contradicts our answer to question 1.
- 9.2 Even if data is transferred, how will it be kept up to date? If there has been a lump sum payment and the beneficiary is no longer receiving funds from the PSA, then it would seem unreasonable for them to be required to keep the PSA up to date with name or address changes.
- 9.3 We presume there is a potential for schemes to be transferred by the new beneficiaries to different providers once the administration has been completed. There may be a need to require relevant information about the previous IHT charges to be transferred to the new provider. This is not our area of expertise, but it may have an impact on data sharing regulations.

10 Question 7: What are your views on the process and information sharing requirements set out above?

- 10.1 As noted in earlier sections, we have some concerns around the practicalities of information sharing between PRs and PSAs. One member who provides pension advice reported to us that they regularly experience issues with 1 hour wait times on the phone to PSAs, replies taking up to 42 working days, and challenges registering letters of authority. Where individuals have not updated their address, or changes of name, it can be difficult to pass security checks to even access information. PRs will be concerned about any delay to the application for a grant of probate, which cannot currently be made until all IHT liabilities have been settled.
- 10.2 The need for information sharing could be reduced with a pension-scheme focused approach, which would allow the PRs to continue to probate. A separate regime for IHT charges on pensions may help to minimise the administration challenges of the current proposals - and allow for more flexibility in future policy changes when considering any future changes to the wider pensions regimes.
- 10.3 We are not GDPR experts, but presume that the provisions of GPDR will also need to be taken into account in designing any new information exchange routes.

10.4 One measure that may help PRs to establish which PSAs need to be contacted would be to build these requirements into any future 'pensions dashboard' – expanding its remit to pensioners, as well as those still saving for a pension, and ensuring that PRs can apply for access.

11 Question 8: Are there any scenarios which would not fit neatly into the typical process outlined above? How might we address these?

11.1 As noted above, making payments may be difficult where the pension fund has illiquid assets. Where a SIPP for example holds a share of a property, it may not be practical to sell that share, and if the SIPP holds all or part of a business premises, say, there could be adverse consequences for the wider business in selling the property to raise funds.

11.2 Members report to us that many pension schemes currently await probate before distributing pensions to be sure they know who the PRs are, and to give time to discuss and agree the discretionary beneficiaries. Trustee meetings are often quarterly and a trustee meeting is required to make a discretionary decision. These decisions may now affect the IHT liability and will need to be taken before the grant of probate in order that the IHT liability can be established. If this has not already come up in the workshops, we suggest talking to PSAs about how their current timescales for decisions would fit within the proposed timelines for the new measure and what changes would be needed.

11.3 Other situations which might give problems are where the pension contains funds that are illiquid – perhaps because they are being wound up. It may be helpful to allow PSAs a way to dispose of such assets without triggering unauthorised payments or sanctions in order to enable them to close down funds.

12 Question 9: Do you have any other views on the proposal to make PSAs liable for reporting details of unused pension funds and death benefits directly to HMRC and paying any Inheritance Tax due on those benefits? Are there any feasible alternatives to this model?

12.1 In general, we welcome the approach of allowing payment of these new charges to come directly out of the funds in the pension. This is an improvement on the current position when non-discretionary pension benefits are subject to IHT. Unless cash can be accessed from another part of the estate, there is the potential for significant tax costs for beneficiaries as a result of grossing up – as any cash extracted to pay the IHT liability is first subject to income tax rates in the hands of the beneficiaries before the net funds remaining are used to pay the IHT on pension assets. If unused pension funds are to be taxed, then in most cases it will make most sense for the payment to come directly out of the scheme.

12.2 This will though be problematic for schemes with illiquid assets. While most employer pensions are typically invested in cash, stocks and shares, there are SIPPs/SASS structures holding commercial premises following previous tax planning.

13 Contact details

13.1 We would be pleased to join in any discussion relating to this consultation. Should you wish to discuss any aspect of this response, please contact us using atttechincal@att.org.uk.

14 Note

14.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has more than 10,000 members and Fellows together with over 7,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.