ASSOCIATION OF CONSULTING ACTUARIES

PRESS RELEASE

ACA welcomes HMRC's reassurance there is no intention to expand Freedom and Choice to defined benefit schemes by the backdoor – but asks for more clarity from HMRC

21 July 2023: The Association of Consulting Actuaries (ACA) warns technical tax documents released by HM Treasury earlier this week - designed to eliminate references to the soon-to-be defunct Lifetime Allowance by 6 April 2024- have created a tax limbo for defined benefit schemes and their members.

ACA notes that:

- At present, members of defined benefit schemes routinely take a "tax free cash sum" at retirement of up to 25% of their benefits. In general, lump sums in excess of this amount would face "unauthorised payment" charges of 55% and so generally do not occur. The released drafts on 18 July would have changed this: the Background notes summarise that under the draft clauses "…there will be no limit on the size of authorised lump sums …. only a limit on the amounts not subject to income tax". This would enable cash outs well in excess of 25% and on a par with current tax treatment for defined contribution schemes (so-called "Freedom and Choice").

- HMRC have since clarified that the drafting was "designed to accommodate the absence of the lifetime allowance excess lump sum and [welcome responses from all stakeholders as to] whether restrictions may be necessary to prevent any unforeseen impact". Further they note that "it is not the government's intention to significantly expand pension freedoms". We welcome this clarification but believe this has created a tax limbo for defined benefit schemes and their members until HMRC clarifies its aims.

ACA Chair Steven Taylor said:

"As released, the draft legislation would represent a massive expansion of Freedom and Choice from the DC to the DB world. Were such a major policy change actually being considered, it would need a formal consultation, including bringing in member safeguards (including advice requirements) parallel to those that apply for DB members seeking to access DC flexibilities. We therefore welcome the clarification and look forward to helping Government modify the drafted proposals to avoid unintended consequences, on this core part of benefit structure for members – as well as for other areas in the project."

Karen Goldschmidt, ACA Pensions Tax committee Chair added:

"The overall project to write the LTA out of the statute book is a huge undertaking. HMRC have released proposals (and drafts) for some key elements – and based on what we have seen it does look like it may bring in a simpler regime and, if anything, fewer complex rules on benefits.

"But for some areas we do not yet know policy intent – including, now, to some extent, this one on scope for retirement cash. This creates considerable uncertainty until HMRC make clear its favoured approach. The consultation on the released measures closes on 12 September.

"To the extent possible, HMRC needs to be very interactive over the summer if there is to be a workable outline of a system in time for it to be implemented by schemes by 6 April 2024 and in time for members to make informed decisions. What might sound like a technical rewrite isn't just a matter of structures and systems (which are important in delivery), it potentially impacts benefits to (and planning of) members, as well as trustee and employer policies."

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About the Association of Consulting Actuaries (ACA)
Members of the ACA provide advice to thousands of pension schemes, including most of the country's largest schemes. Members of the Association are all qualified actuaries and all actuarial advice given is subject to the Actuaries' Code. Advice given to clients is independent and impartial. ACA members include the scheme actuaries to schemes covering the majority of members of private sector defined benefit pension schemes. The ACA is the representative body for UK consulting actuaries, whilst the Institute and Faculty of Actuaries is the professional body.

Sources:

[Finance Bill 2023-24 - GOV.UK (www.gov.uk)]

[Pension schemes newsletter 152 — July 2023 - GOV.UK (www.gov.uk)]

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