Evidence from Association of Consulting Actuaries

House of Lords Finance Bill Sub-Committee: Call for evidence: Reforming inheritance tax: unused pension funds and death benefits

https://committees.parliament.uk/committee/230/finance-bill-subcommittee/news/209304/finance-bill-subcommittee-launches-call-for-evidence/

An introduction to you or your organisation and your reason for submitting evidence

1. Members of the **Association of Consulting Actuaries (ACA**) are all qualified actuaries – mainly Fellows of the Institute and Faculty of Actuaries. Members provide advice to thousands of private sector, local government and public sector employers. The associated pension schemes provide defined benefit (DB), defined contribution (DC), cash balance (CB) and collective defined contribution (CDC) rights, with total assets of DB private sector schemes alone exceeding £1 trillion.
2. We are therefore responding in the capacity of a representative body for professional advisors who provide advice to a range of occupational pension schemes. Some of our member firms provide third party administration services to pension schemes. We have answered the questions from the perspective of pension schemes, not personal representatives. Our two key concerns are:
   - **2.1 Financial dependants:** The prospective worsening of provisions for financial dependants who would not qualify for the spousal exemption. The pensions system has been designed not only to support individuals in retirement, but also their financial dependants following their death. It is understandable that the Government should wish to prevent the system being used to shelter assets from inheritance tax, something it was not designed for, but the legislation currently goes further than that.
   - **2.2 Timescales:** The 4 weeks to value assets and 3-week deadline for payment of IHT. These are unrealistic and simply unworkable for some types of assets – including those required to encourage productive investment. The 6-month deadline to pay IHT is likely to result in late payment interest in a significant number of cases because it is not sufficient time for pension trustees to carry out their fiduciary duties.

1 How challenging will it be for personal representatives to identify and report inheritance tax due on unused pension funds and death benefits?

3. We are not experts on the role of personal representatives, but it is clear that an underlying challenge will be for the pension element of inheritance tax to be reported and paid within the 6-month deadline.
4. From pension schemes' perspective, we welcome that there will be no deadline for pension scheme trustees to complete their processes to determine how death benefits should be distributed. However, this does mean that for more complex cases personal representatives will not receive the details of the split of death benefits subject to inheritance tax by the 6-month payment deadline.
5. We are extremely concerned that HMRC appears to be unwilling to be flexible on this inheritance tax deadline which is needed in order to allow pensions tax processes to be carried out properly. It seems that late payment interest will arise in a significant number of cases, because 6 months is not sufficient time for pension trustees to carry out their fiduciary duties. A well-designed tax system should not result in late payment charges by default.

2 What is your view of the Government's proposals to ensure personal representatives can obtain the information they need from pension providers? How practicable is it?

6. We welcome that disclosures will be split into three stages. The first stage involves the pension scheme providing the total amount of death benefits in scope within 4 weeks – for smaller estates, this should enable the personal representatives to establish that no inheritance tax is payable however the benefits are paid out.

7. Sometimes valuing these death benefits will be relatively straightforward, but in other cases it will be impossible to obtain valuations for perhaps up to a year. The following difficulties arise:

   - **7.1 Provider delays** Pension scheme administrators will often be dependent on other bodies to provide valuations. For example many pension funds include assets managed by insurance companies. We understanding that it can be very challenging to obtain information from an insurance company in a timely manner.

   - **7.2 Property:** pension scheme administrators will require a RICS valuation for any properties. That alone can often take more than 6 months.

   - **7.3 Disputed valuations:** The valuation can be controversial where there is more than one member of the trust. Payment of the death benefit will result in a real one-off reduction to the pension schemes' assets which will reduce the amount available to other members of that trust. The effective forced sale of assets could mean that it is not just the deceased beneficiaries who will lose out. Trustees have a fiduciary duty to act in the best interests of ALL of the beneficiaries of the trust.

- **7.4 Illiquid assets:** We note the Government continued focus on increasing the proportion of assets of pension schemes in less liquid long-term unquoted investments, patient capital or long-term infrastructure. These are likely to be harder and slower to value.

8. A longer deadline is required for an accurate valuation – though as noted that is likely to be up to 12 months for some types of assets – or the legislation should provide for an approximate value to be provided initially, with confirmation within 12 months. There must be no penalties on the pension scheme administrators if their approximation proves to be inaccurate (provided not fraudulent etc).
9. The second stage is the scheme providing a split between exempt and non-exempt beneficiaries – this will enable personal representatives to establish the inheritance tax due, though not how it should be split between beneficiaries. The third stage is providing detailed beneficiary information where inheritance tax is payable.
10. It is helpful that the second and third stages do not have any deadlines for pension schemes, other than the implicit two-year timescale to pay discretionary benefits to avoid income tax in certain cases, but again there is likely to be an impact on the ability to pay any inheritance tax due without being subject to interest for late payment.

3 How significant will liquidity challenges be for personal representatives paying inheritance tax due on unused pension funds and death benefits?

11. Personal representatives will be best placed to comment on the liquidity challenges that they will face, but there will also be liquidity challenges for pension schemes and hence beneficiaries. Pension scheme administrators have 3 weeks to meet a payment request under the Pension Direct Payment Scheme (DPS). A 3 week deadline is unworkable and impractical for some types of illiquid assets held by pension schemes for their long term purposes. Such illiquid assets include asset classes which the Government is encouraging actively for pension investment.
12. The effective forced sale of illiquid assets could:
    - 12.1 seriously impact small and growing companies who benefit from pension fund equity loan or property investments; and
    - 12.2 impact the value of such investments negatively. Trustees have a fiduciary duty to act in the best interests of ALL of the beneficiaries of the trust. Meeting a Pension DPS payment for a single beneficiary could force trustees into a position where they have to make decisions which are detrimental to multiple other beneficiaries.
13. The reasons why a pension scheme administrator is unable to pay the inheritance tax within the 3-week deadline are likely to be similar to those for personal representatives. The pension scheme administrators should not be subject to any rules or deadlines more onerous than those which apply to other inheritance taxpayers. For example, the pension

scheme administrators should have the same time to pay facilities as would be available if an illiquid asset was held in the general estate.

4 How straightforward will it be for personal representatives to recover amounts in respect of inheritance tax from pension beneficiaries?

14. We recognise that the responsibility for reporting and paying inheritance tax now falls on personal representatives, who will be in the unenviable position of being responsible for paying inheritance tax on assets they don't control. Although pension beneficiaries will become jointly liable once they are appointed, there could still be fraught situations where the personal representatives and/or beneficiaries of the "free" estate are in conflict with the trustees and/or beneficiaries of the pension scheme.
15. However, where parties co-operate, the legislation will introduce a Pension DPS which will assist where beneficiaries have not received their death benefits. There are various measures which could make the Pension DPS more flexible including a **2-stage process** whereby beneficiaries could first elect to take part of their death benefits and then at a later stage require the scheme to pay some inheritance tax under the Pension DPS and take the rest of their benefits. Our preference would be that should be an **option** for schemes not a **right** for beneficiaries. In most occupational pension schemes, the death benefits for any given beneficiary are dealt with in one stage. There are barriers to making a second payment designed to prevent fraudulent activity.

5 What are your views on the Government's suggestions as to how personal representatives can manage any liquidity challenges? How else could the Government support personal representatives who face liquidity challenges?

16. Where personal representations and beneficiaries are co-operating, additional options to help manage liquidity concerns could include:
    - **16.1 Voluntary Pension DPS**. Pension scheme administrators, at the trustees's discretion, could pay a higher amount requested by a beneficiary, capped at their total inheritance tax due in respect of registered pension schemes. This would enable a beneficiary to use more liquid assets in one pension scheme to meet an inheritance tax liability if they hold illiquid assets in another.
    - **16.2 Estimated inheritance tax** We are unclear whether the policy intention is that probate must have been granted before the beneficiary can make a request to use the Pension DPS. It might be helpful for beneficiaries to be able to make an earlier request based on estimates.

6 Has the Government sufficiently taken into account the impact of the measure on personal representatives and pension schemes administrators?

17. We welcome that the draft legislation provides for a simplified process for, in effect, payments to a beneficiary totalling up to £10,000 which can be paid without interaction with personal representatives. Pension schemes need to be able to pay out small pension pots without disproportionate administration or complex communications.
18. We also welcome the change to the initial proposals which will exempt more lump sum death in service benefits from inheritance tax.
19. We welcome that moving responsibility for reporting and paying IHT from pension schemes to personal representatives will mean that pension scheme timelines will be unaffected – with schemes able to make speedy payments to those in need and have time to gather all the evidence for complex cases, as appropriate. However, as noted above, pension scheme processes are incompatible with the 6-month payment deadline for inheritance tax and this has not been addressed.
20. We recognise the serious concerns of personal representatives, but they are best placed to set those out.

7 How aware of the proposals are those who may be affected by the proposed change? What more should the Government do to raise awareness ahead of April 2027?

21. In our view, lack of awareness is not the key issue here. Pension schemes have been designed not only to support members in retirement, but also their financial dependants following their death. Where inheritance tax applies, these measures will reduce the monies available to support financial dependants other than those covered by the "spousal exemption". In our view there needs to be wider exemptions for financial dependants. We believe that unless changes are implemented there will be considerable hardship caused in the event of death to partners and young families of unmarried deceased persons who were members of DC schemes. We worry that raising awareness won't help if those impacted have insufficient resources to adjust their financial position.
22. This is not the case with members of DB/CDC schemes because dependants' scheme pensions in respect of DB/CDC arrangements will not be included within scope of inheritance tax, but we understand no similar exemption applies for pensions/annuities purchased following death from DC or CB schemes. This anomaly should be corrected and the treatment of DC/CB dependants aligned with DB/CDC dependants.

8 What are your views on the proposed timetable for the introduction of this measure? Do you think there should be any transitional provisions?

23. We currently only have an outline of the information proposals with a consultation on draft regulations expected in the winter. We have many questions on the detail and note that pension scheme administrators need time to update their communications. System changes take months, not least because changes are addressed sequentially and each element locked down and tested before being released. Final regulations need to be available at least a year before implementation from 6 April 2027. If that can't be achieved, then the implementation date should be pushed back.

Reforms to agricultural property relief and business property relief

9 How easy will it be for those affected to report and make arrangements for funding the inheritance tax due, within the statutory six-month period?

24. No comment

10 What issues, if any, might arise in relation to obtaining (and agreeing) valuations of qualifying business and agricultural property for inheritance tax purposes?

10.1 Business property and agricultural property

25. We understand that agricultural property relief and business property relief do not apply to the assets under a pension scheme treated as part of the estate for inheritance tax purposes.

26. We certainly support that the values provided by pension scheme administrators to personal representatives should be before any agricultural property relief or business property relief. However, we believe that there should be equal treatment for agricultural property and business property held in pension schemes to the reliefs available in the wider estate. It is a) unfair and b) a disincentive to desirable pension investment in business and agricultural property if pension scheme holdings are uniquely discriminated against by being ineligible for these reliefs.

11 What are your views on the Government's assessment of the impact of the changes, in terms of the number and type of estates which are affected? For example, do you think that smaller farms will be affected by the changes?

27. No comment

12 Are farmers and business owners prepared for these changes, and what help or support might they need?

28. No comment

13 How straightforward will it be for those eligible for the reliefs to identify how the proposed changes will impact their inheritance tax liability, in order that they can plan accordingly?

29. No comment

14 What are your views on the proposed timetable for the introduction of these measures, and do you think there should be any transitional provisions?

30. No comment

Consultation on both measures

15 What are your views on the consultation process the Government has followed in relation to each of these measures?

31. We are pleased that HMRC listened to the feedback that the initial proposals for pension schemes to be responsible for paying inheritance tax in respect of unused pension funds and death benefits were unworkable. The revised proposals still have some impact on pension schemes, with additional disclosure requirements and a new duty to pay inheritance tax directly to HMRC at a beneficiary's request where certain conditions are met. However, overall pension schemes welcome the new approach which will mean that death benefits can be distributed to beneficiaries in line with existing timelines.

Association of Consulting Actuaries Limited · Second Floor (206) · 40 Gracechurch Street · London · EC3V 0BT
Tel: +44 (0)20 3102 6761 · Email: david.robertson@aca.org.uk · Web: www.aca.org.uk