ASSOCIATION OF CONSULTING ACTUARIES

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HM Revenue & Customs

By email to ihtonpensions@hmrc.gov.uk

05 February 2026

Dear HMRC

Inheritance Tax on pensions: Finance (No.2 Bill) 2024-26

I am writing on behalf of the Association of Consulting Actuaries (**ACA**) in response to the clauses published in Finance (No 2) Bill 2024-26[1] to implement the Government's policy to bring unused pensions funds and death benefits within the scope of inheritance tax (**IHT**).

The ACA welcomes the opportunity to provide input. Members of the ACA are all qualified actuaries – mainly Fellows of the Institute and Faculty of Actuaries. All actuarial advice given by our members is subject to the Actuaries' Code. 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. We are therefore responding in the capacity of a representative body for professional advisors who provide advice to a range of occupational pension schemes.

We have two key concerns:

- **Financial dependants:** As explained in our earlier responses[2], we have serious concerns over the prospective worsening of provisions for financial dependants. Pension schemes have been designed not only to support members in retirement, but also their financial dependants following their death. In this connection, we highlight that the needs of financial dependants who are unmarried, especially those with young children, are identical

[1] https://bills.parliament.uk/bills/4042/publications version as introduced (4 December 2025)
[2] https://aca.org.uk/aca-response-to-echnical-consultation-inheritance-tax-on-pensions-draft-legislation/

with those of spouses who are formally married. The number of such persons who will be affected is considerable and spans all groups in society. Given, the very real distress and hardship that will otherwise be caused to children and others, we would again request that the Government reconsiders and treats all financial dependants equally regardless of their legal status.

Linked to the above, we are unclear of the policy intention for DC/CB dependants. We set out in sections 1.1 and 1.2 below why the boundary between a payment stream being a dependant's scheme pension and an annuity can be blurred and, since they both provide identical income-stream benefits for the dependant, this makes no difference in a pension scheme context. It would make the new legislation clearer, easier to operate and consistent with our understanding of the policy intention (i.e. to focus pension schemes on providing retirement income rather than IHT wealth-planning) if all lifetime scheme pensions or annuities were explicitly excluded from IHT.

- **Timescales:** We note that the 3-week deadline for payment of IHT has been extended to 5 weeks, but this is still unrealistic and simply unworkable for some types of assets – including those required to encourage productive investment. Moving this to 12 weeks would be workable for most illiquid assets. Nigel Sloan and Mark Plewes[3] would be happy to talk with HMRC to explain the issues that arise. As a minimum, we request that PSAs are able to use the same time to pay arrangements that apply to PRs for the wider estate. Please see 0 below which provides more detail.

We are disappointed that the draft information regulations will not be available until Spring 2026. However, we welcome that HMRC has engaged with the industry by issuing the headline requirements. We comment briefly on those in 6 below.

Our detailed comments are set out below.

- Parts 1 and 2 deal with areas where legislative change may be required – split between new questions and points that we have raised before.
- Part 3 explains why the 5-week deadline is unworkable.
- We welcome that HMRC will be publishing more information clarifying issues as part of a newsletter in early 2026. We have highlighted items that we would like covered in this response. Parts 4 and 5 set out points that we would like clarified – split between new questions and, for ease of reference, points that we have raised before
- Part 6 sets out some thoughts on the forthcoming information requirements over and above those raised in our September 2025 response

We would be happy to discuss this matter further. Please contact Kirsty Cotton on 01737 274496 or Kirsty.cotton@wtwco.com. For discussion of the issues for smaller schemes, please contact Nigel Sloam on 020 8209 1222 or nigel@nigelsloam.co.uk.

Yours sincerely

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Kirsty Cotton FIA
Chair of the Pensions Taxation Committee

On behalf of the Association of Consulting Actuaries Limited

This response has been drafted by the pensions taxation committee and has not been reviewed by the main committee. This is because we refer to HMRC's "Inheritance Tax on Pensions – Budget 2025" slides presented on 5 and 8 December 2025 which had restricted circulation. We refer to these as "HMRC's slides".

About the Association of Consulting Actuaries

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. Members also advise thousands of smaller pension arrangements and individuals (many in self-employment) as well as advising life and general insurers.

Particularly relevant for this consultation, our members' work includes general consulting to enable the proper running of pension schemes from the perspective of sponsoring employers and trustees. Several of our members' firms also provide third party administration for pension schemes and so are key agents for the trustees running schemes.

1 New questions on legislation which may require changes to the Finance (No.2) Bill

In addition to completely new questions, this section also includes questions that we raised in September 2025, but where there have been subsequent developments.

1.1 Definition of notional pension property: DC/CB: dependants' scheme pensions

What is the policy intention regarding DC/CB funds which are uncrystallised at retirement and then used to provide a dependants' scheme pension?

Slide 4 of HMRC's slides state that the "principled approach" for money purchase and defined benefit arrangements is the same (albeit set out separately) and "The value of notional pension property does not include excluded benefits such as dependants' scheme pension …"

Slide 7 of HMRC's slides imply that funds passed to beneficiaries as dependants scheme pension from either uncrystallised funds or funds in drawdown would not be part of the member's estate and so there would be no IHT liability.

If this is the policy intention, then we would welcome that for the reasons explained in our September 2025 consultation response[4]. However 150A(5) of the draft legislation reads (our emphasis)

> *"excluded benefit", in relation to a pension scheme, means a benefit that* ***may only be paid*** *under the scheme as one or more of the following—*
>
> > *(a) a dependants' scheme pension;…*

A DC/CB fund cannot be used to provide a dependants' scheme pension unless the beneficiary has been given the option to purchase a dependants' annuity instead[5]. This means that a DC/CB fund 'may' always be used to provide a dependants' annuity rather than a dependants' scheme pension. Our reading of the draft legislation is that this means that all DC/CB funds are in scope of IHT regardless of how they are used. Specifically, they are in scope even if, in fact, the DC/CB funds are used to provide a dependant's scheme pension. In our view, if the policy intention is that DC/CB funds would be out of scope in these circumstances, then the legislation needs to be amended[6].

1.2 Definition of notional pension property: DC/CB: dependants' annuities

Our reading of the legislation is that the only dependant's annuities excluded by new 150A(5)(c) are those "purchased together with a lifetime annuity payable to the member". For the reasons set out in our September response, we would like all funds used to provide a dependants' annuity to be out of scope for IHT.

Further, in our experience, dependants' scheme pensions are usually paid for the lifetime of the dependant (even though that is not a legislative requirement[7]). Where provided by an insurer chosen by the scheme administrator, provided that the beneficiary/member had the opportunity to select an annuity instead, they can either be labelled a dependants' scheme pension or a dependants' annuity, even though they provide exactly the same pattern of payments. This seems an unjustifiable arbitrary split which will be challenging to explain to beneficiaries. If, as we hope, all

[4] https://aca.org.uk/aca-response-to-echnical-consultation-inheritance-tax-on-pensions-draft-legislation/
[5] FA2004 S167 Pension death benefit rule 3
[6] We note that a collective money purchase (**CMP**) arrangement is also treated under FA2004 S152 as a type of money purchase benefit. However, unlike for DC/CB funds, the only type of pension death benefit that can be paid from a CMP arrangement under FA2004 S167 Pension death benefit rule 2 is a dependants' scheme pension. So, our understanding is that dependants' scheme pension paid in respect of a CMP arrangement will be excluded from scope of IHT.
[7] Further, where a dependants' annuity is purchased using money purchase funds available at death, we think the annual cap under FA2004 Schedule 29 Para 16A does not apply, so there is no limit to the amount that can be paid in any year, or in how that amount varies from year to year.

dependants' scheme pensions are out of scope for IHT, then dependants' annuities should be similarly.

1.3 Definition of notional pension property: individuals who are not long-term UK resident

We are not experts on IHT, but our understanding is that an individual who is not a long-term UK resident, e.g. a person living permanently overseas, is only subject to UK IHT on UK-situs assets. Section 5(1)(b) of IHTA says that "the estate of a person immediately before his death does not include excluded property", and section 6(1) says that "Property situated outside the United Kingdom is excluded property if the person beneficially entitled to it is an individual who is not a long-term UK resident."

New section 150A creates a notional asset, "notional pension property", which is not an actual asset, but it does not say where that notional pension property is situated. Common sense would suggest that the location of the notional asset should be regarded as in the UK in respect of registered pension schemes. (Many UK registered pension schemes invest some of their assets overseas so, unless the notional pension property was deemed to be sited in the UK for a registered pension scheme, the PRs of a deceased scheme member who was not a long-term UK resident would argue that they should not be taxed on an element of the notional pension property.)

However, if notional pension property for a QNUPS (or Section 615 scheme) was considered to be in the UK, then this could lead the UK to be asserting rights to IHT over foreign pension rights in non-UK pension schemes, built up during periods of non-residence and payable on the death of non-resident foreigners, merely because the deceased foreigner had previously lived and worked in the UK for a part of their career. A solution to this would be that the location of the notional pension property should be regarded as not in the UK in respect of QNUPS (and section 615 schemes). As noted, this only impacts those who are not a long-term UK resident at death.

It would be helpful if the deemed location of notional pension property was made explicit in the legislation as being in the UK in respect of a registered pension scheme and not in the UK in respect of a QNUPS and a section 615 scheme.

1.4 Actuarial assumptions

We note that there are four new references to "actuarial assumptions" (150A(3); 226A(3); 226B(4)(b) and 226B(5)). Our understanding is that these are required either to:

a) place a value on a benefit, for example a scheme continuation payment, which can impact the amount of IHT payable. [150A(3)]

b) place an upper limit on the amount paid out relating to a withholding notice or a direct payment by the scheme administrator (which would not directly impact the total IHT due). [226A(3) and 226B(4)]

c) calculate other changes in benefits paid to beneficiaries/personal representatives (which would not impact the amount of IHT due). [226B(5)]

There are two areas which we wish to comment on:

1.4.1 Approach to setting actuarial assumptions and terminology used.

There are a range of approaches to setting actuarial assumptions, which depend on the purpose of those assumptions. For example, they can be 'best estimate' or incorporate either optimism or prudence.

Where the benefit that can "reasonably be expected to be paid" under 150A(2)(b) of Steps 1 or 2 would be determined by the scheme (ignoring any IHT considerations) using scheme-specific actuarial assumptions – we presume that the policy intent is for those same actuarial assumptions to be used in 150A(3) – in which case use of 'appropriate' seems reasonable to us. However, please see 4.1 below as we are unsure of the meaning of "reasonably be expected".

Where no actuarial assumptions are required in order to determine the benefit payable, for example continuation of a member's pension, then we have found it hard to determine the appropriate approach. In particular we found references to the 'maximum amount possible' within 2(c) unclear and PSAs and actuaries would need to consider any actuarial assumptions very carefully as they would directly impact the amount of IHT due. To give more time to consider this, one option would be to allow for the method of valuation to be set out in regulations. Based on our initial considerations, our preference would be for an approach that is simple to apply, for example placing a value on a scheme continuation payment using the initial pension multiplied by the maximum payment period.

For the other three references, we suggest that 'just and reasonable' is added to 226B(4)(b) (this phrase is already included in 226A(3) and 226(B)(5)). We note that these terms are already used and applied by actuaries, in particular in relation to adjustments to benefits in relation to annual allowance charges FA2004 s237E[8].

1.4.2 Responsibility for setting assumptions.

We would expect that the responsibility for determining the assumptions would lie with the PSAs for registered pension schemes, after taking appropriate actuarial advice. For QNUPS and section 615 schemes we would expect the responsibility would lie with the "scheme manager" as defined in FA2004 s169(3)[9]. We wanted to confirm that this is the policy intent for all four references to actuarial assumptions. If there is an alternative then this should be stated clearly.

1.5 Withholding notice: de minimis

The policy note[10] published alongside the Autumn Budget 2025 stated that "This will not apply to:

- exempt benefits
- funds under £1,000

[8] https://www.legislation.gov.uk/ukpga/2004/12/section/237E
[9] https://www.legislation.gov.uk/ukpga/2004/12/section/169
[10] https://www.gov.uk/government/publications/inheritance-tax-unused-pension-funds-and-death-benefits

- continuing annuities”

We think that ‘This’ means the withholding notice.

However, as far as we can see, the only £1,000 de minimis applies to the IHT that a PR/beneficiary can request a PSA to pay to HMRC.

Is the policy intention that there is a de minimis that would apply to the withholding notice?

If so, is the policy that the PRs cannot request a withholding notice if:

- The notional pension property for that scheme is no more than £1,000; or
- The maximum amount that can be withheld is no more than £1,000 (i.e. the notional pension property for that scheme would be no more than £2,000); or
- A reasonable expectation of the amount that could be payable as IHT (and interest) in respect of the notional pension property for that scheme is no more than £1,000?

Does the legislation need to change to meet the policy intention?

It would be essential that a PSA could rely on the withholding notice as being valid even if it later turned out a de minimis condition was not met e.g. if the final IHT (including interest) payable was in fact less than £1,000.

1.6 Withholding notice: spousal exemption

New 226A (4) would read:

> *Subsection (2) does not apply—*
>
> *(a) to the payment of an excluded benefit, or*
>
> *(b) to the payment of a benefit to the deceased's spouse or civil partner or to charities or registered clubs.*

Our reading of “deceased's spouse or civil partner” would be that this would include any spouse or civil partner regardless of whether the IHT spousal exemption applies.

We welcome that. This would provide a simple rule whereby PSAs could pay out benefits with no delay to spouse/civil partners. PSAs are comfortable determining whether a person is a spouse/ civil partner of the deceased, as this status should be well documented with a marriage certificate or equivalent for a civil partner.

However, slide 9 of HMRC’s slides says “Withholding will not apply … to payment of … exempt beneficiaries”.

Is the policy intention that a withholding notice does not apply to any benefit payable to a spouse/civil partner, or only where the spousal exemption applies? If the latter, does the legislation need to be amended? If so, then we would prefer a default position that spousal benefits are not covered by a withholding notice unless the PRs make a specific declaration on the withholding notice form that the spouse is not entitled to the spousal exemption and explicitly ask to extend the withholding obligation to cover spousal death benefits (other than excluded benefits).

Related to the above, would it be possible to amend the legislation so that the PRs could specify that the withholding notice does not apply to certain individuals? PRs could use this to enable pension payments to beneficiaries who are beneficiaries under the Will and so the PRs know that the IHT due on the pension assets can, if necessary, be covered by the wider estate.

1.7 Withholding notice: transfers

Where a scheme or benefit section is being transferred to another scheme it is often the case that some death benefits still need to be discharged in respect of members who have already died before the transfer. In these circumstances we think the outstanding death benefits along with the associated IHT-related duties will need to be transferrable.

What is the policy intention regarding transfer of notional pension property? We would expect that this should be permitted, at least to a UK-registered scheme, with the withholding notice similarly transferred to apply in the same circumstances. This would require amendments to define the benefit entitlement in the receiving scheme by reference to the benefit entitlement in the transferring scheme. There would need to be corresponding changes to the Pensions DPS clauses to reference the amount in a previous scheme. There would also need to be associated information requirements.

This is a key point for schemes that are seeking to wind up or bulk transfer benefits. Without this provision, it seems to us that a withholding notice could delay such transactions.

In addition, it is only currently possible to transfer beneficiaries' **pension** benefits as an authorised benefit. It would be necessary to amend the requirements for a recognised transfer[11] to permit lump sum death benefits and unallocated death benefits to be transferred.

If these changes were made then, in many cases, the transaction could be expedited.

Legislation could also provide for the withholding notice to transfer to a receiving scheme where individual beneficiaries have an option to transfer their benefits.

1.8 Withholding notice: multiple beneficiaries

Under new 226A(5)(b), the withholding notice ceases to have effect at "any time when all the tax attributable to notional pension property of the deceased in relation to the scheme, and any interest due in respect of that tax, is paid;"

We have three questions:

1. How will the PSAs know when this criterion is satisfied? We think this needs to be amended:

[11] FA2004 Para 169

    a. to put a separate requirement on the PRs to withdraw the withholding notice once they know that the IHT and interest has been met by the beneficiary (see 3. Below).

    b. Remove (5)(b)

The withholding notice would then fall away under (5)(a)

2. The criterion appears to relate to payment of the IHT and interest for all beneficiaries. Could it be amended so that the withholding notice could cease to apply for any given beneficiary once their IHT liability had been met?

3. Our understanding is that to stop late payment interest arising the PRs may make an early payment of IHT. We are unsure whether such a payment could be made using the Pensions DPS – see 2.1 below. If the PRs (temporarily) meets the IHT themselves would that mean that (5)(b) was satisfied as the IHT would have been paid? Presumably, that is not the policy intention. If retained (see 1. above), does (5)(b) need to be amended?

1.9 Pensions DPS: invalid PR requests

Under the new section 226A(1), PRs may issue a withholding notice to the PSA if either the PRs

> *"know that they are, or have reason to believe that they [the PRs] may be, liable for IHT attributable to notional pension property of the deceased in relation to the pension scheme".*

However, the rules are tighter for a payment notice under new section 226B(1). A payment notice is for a

> *"tax for which the taxpayer [i.e. the PR] **is liable**" (our emphasis).*

Our reading of this is that if the PRs have made a mistake and are not liable for IHT on the notional pension property then any notice to the PSA to pay tax to HMRC is not a "payment notice" under section 226B.

The PSAs are protected under s226B(7) from a breach of trust if, despite anything in the scheme's rules, they pay the tax specified in the payment notice and reduce a beneficiary's benefits accordingly. However, this protection only applies to "the payment of tax by the scheme administrator as required under this section [226B]". If the payment notice was plausible but not valid then the PSA would have no protection, even if the PSA acted in good faith (noting that the PR may also have acted in good faith).

For example, If the purported payment notice was for tax of £20,000, which the PSA paid across to HMRC, but it turned out on review that the actual IHT due was only £15,000:

i. Would the PSA be protected for the full £20,000 and the consequential reduction in the beneficiary's benefit, because the payment notice looked plausible, even though it was not correct?

ii. Would the PSA be protected for the actual amount of IHT, being £15,000 in this case, but remain liable to the scheme beneficiary for the remaining £5,000 that could not have been a valid payment, even if the PSA did not realise this? Would the scheme also have made an unauthorised payment (which would be subject to an unauthorised payment charge) in respect of the remaining £5,000, since this amount was not a payment of tax due but was effectively a payment routed through HMRC to somebody other than HMRC who had not been chosen by the trustees in the proper exercise of trustees' discretion over the death benefit? The scheme beneficiary might not be a beneficiary under the will.
iii. Would the entire purported payment notice be invalid, since it did not specify an amount for which the PRs were liable for tax, and so the trustees and the PSA would be liable to the beneficiary for the whole £20,000?

Please could s226B(7) extend to any tax payments made by the PSA in good faith even if the PRs or the scheme beneficiaries are not actually liable for tax on the notional pension property in relation to the scheme.

1.10 Pensions DPS: timing

The 35 days payment period for the PSA to pay the tax to HMRC starts on the day the PSA receives a payment notice from either a PR or a beneficiary. The PSA may want to satisfy itself that the notice is valid, e.g. evidence of the sender's identity and that the sender is a PR. We note that HMRC's slides state that the notice was expected to include details of the PR making the direction to pay supported by legal standing. We assume that this means that if insufficient evidence was submitted with the notice (or had not been already supplied) then the notice would be invalid and so fall away. If that is not the case, then we would want the 35 days clock to start only after the PSAs had reasonably satisfied themselves about the identity of the sender.

1.11 Pensions DPS: multiple beneficiaries: IHT request by PRs

New S226B (3)(e) reads:

> *that where the taxpayer is the deceased's personal representatives the amount specified does not exceed the difference between—*
>
> *(i) the amount of the benefits payable under the scheme on the deceased's death, and*
>
> *(ii) the amount that has already been paid on the deceased's death in benefits under the scheme, or that has already been specified in a payment notice given by any person in relation to the deceased;*

We hope that the policy intention is that the IHT due can never exceed the sum of the IHT that could be requested by each of the beneficiaries. If so, then we think the legislation needs to be amended.

For example:

> *The death benefit is a lump sum of £50,000 split equally between two children (£25,000 each). The pension scheme has paid £25,000 out to Joe, but nothing yet to Mary. IHT due is £5,000 from each of Joe and Mary in respect of the £25,000 lump sum death benefit.*

In this situation, Joe can no longer ask the PSA to pay his IHT as Joe no longer has any benefits under the pension scheme. Mary can ask the PSA to pay the full £5,000 due. So, the total amount that the beneficiaries can request the PSA to pay is £5,000.

However, would the amounts under S226B(3)(e)(i) and (ii) be £50,000 and £25,000 respectively? If so, can the PRs ask the PSA to pay the full £10,000? That seems wrong as Mary would then be meeting Joe's share of the IHT.

If this would be the result, please could the legislation be amended, for example by capping the amount under (3)(e) to the sum of the amounts that could be requested under (3)(d).

Although this might appear to be a niche situation, there are various reasons why death benefits may be distributed at different times. For example, it can take some time to work out how to secure benefits for minor children, which means those are paid later than benefits to older beneficiaries.

Related to the above, but a wider point, our understanding of the policy intention is that the nil-rate band is distributed proportionally. Is that correct? If not, then we would have additional points to make.

1.12 Pensions DPS: asset reduction

The amount that can be paid under Pensions DPS scheme is limited by new 226B(3)(d) and (e) to the difference between the benefits "payable … under the scheme on the deceased's death" and the "amount that has already been paid".

There needs to be a further cap to deal with cases where there is dramatic reduction in the value of the assets – which means that the amount that can be realised will be lower than the cap in (d) or (e).

1.13 Pensions DPS: Lump Sum Death Benefit Allowance (LSDBA) charge

Slide 14 of HMRC's slides said "The direct payment scheme … can use it to direct PSAs to pay the IHT and interest due to HMRC."

However, new 226B (1) says that a notice under the Pensions DPS can be issued for "any tax for which the taxpayer is liable and which is attributable to the value of the notional pension property of a deceased member of the scheme".

Could this clause be used by a beneficiary to require payment of tax which is not IHT (or the associated interest)? For example, could this include a right to request the scheme to meet a charge for income tax where the lump sum death benefit allowance (**LSDBA**) has been exceeded? If so, then we assume that is not the policy intention and so the legislation would need to be amended.

1.14 Pensions DPS: Consequential reduction

1.14.1 May or must

We note that, as currently drafted, new section 226B(5) says (our emphasis)

*"(5) Where the scheme administrator pays an amount of tax under this section, a consequential adjustment **may** be made, on a basis that is just and reasonable having regard to appropriate actuarial assumptions and to any tax previously paid—*

(a) where the taxpayer is a beneficiary, to the benefits payable to that beneficiary under the scheme on the deceased's death;

(b) where the taxpayer is the deceased's personal representatives, to any benefit payable under the scheme on the deceased's"

This contrasts with the existing legislation in Finance Act 2004 regarding reductions where a scheme meets the annual allowance charge

"237E Consequential benefit adjustments to be reasonable etc

*(1) Where the scheme administrator of a pension scheme satisfies a liability under section 237B in respect of the individual, consequential adjustment **must** be made to the entitlement of the individual to benefits under the pension scheme on a basis that is just and reasonable having regard to normal actuarial practice."*

Does "may" mean "must" here? If so, then should the legislation be amended? If not, what would be the consequences of the PSAs paying the IHT and not making a consequential reduction to the benefit?

1.14.2 Not adjusting benefits after paying IHT using DPS

What is the policy intent where IHT charges are met by a pension scheme, but corresponding changes are not made to benefits payable under the scheme on the deceased's death? Under the Lifetime Allowance regime, this generated an additional tax charge [section 215(6)[12] of Finance Act 2004]. This may be addressed through reviewing our feedback of 'must' vs 'may' in 226B(5) (see 1.14.1 above). Otherwise, please could you confirm the policy intent on whether such actions would result in an addition to notional pension property for IHT purposes, and how it interacts with the steps within 150A.

1.15 Liability for tax: QNUPS

Is it deliberate that the protection from liability offered to the trustees of registered pension schemes under new section 210(3)(c) omits to provide the same protection to the trustees of qualifying non-UK pension schemes ("QNUPS")?

1.16 Income tax on IHT refunds

We understand that the policy intention is that the income tax treatment should follow that for the original benefit. Is that achieved by the legislation? We have set out two examples below, which illustrate that this might be difficult to get "right". If there is a desire to do so, then it might be better

[12] https://www.legislation.gov.uk/ukpga/2004/12/section/215/2023-10-01

covered by adding an enabling power for regulations to the Bill allowing secondary regulations to grapple with the detail.

Example: annuity purchase

Assume the beneficiary has no other taxable income.

Assume the pre-IHT tax bill annuity was £60k per annum, so the annuity would be partly taxable at the 40% income tax rate. Further assume that had the pension scheme paid the IHT the annuity, bought with reduced funds, would only have been £50k pa, noting that £50k pa is just about the threshold at which the 40% band starts. Effectively, the IHT bill would have come (almost!) entirely from surrendering pension that would have been taxed at 40%. The reduced pension of £50k pa would be taxed only at 0% and 20%.

If the individual paid the IHT bill and had received the unreduced annuity of £60k, he or she would also have received a tax credit allowing tax-free income equal to the size of the IHT bill. Assume for simplicity this was £180k of IHT. What would happen is that the first three years of the £60k annuity would be free of tax, and the annuity would be taxed in the normal way from year four onwards. (Section 567B(2) and (3)). This gives tax relief at 0% on the nil rate band (i.e. the personal allowance) for three years, and at 20% on the basic rate band, plus a small slice at 40%. The average rate of tax relief given is probably around 20% for three years. This is about half the rate of tax relief given if the pension scheme had paid the IHT and bought an annuity of the reduced amount of £50k pa.

Beneficiary received some benefits on which no income tax is due and others on which income tax is due

Assume that the member dies before age 75. The beneficiary receives £100,000 within the relevant 2-year period, so no income tax is due, and £50,000 after the relevant 2-year period, so income tax is due.

Assumed IHT due of £30,000 paid by beneficiary i.e. at IHT applies at an effective rate of 20%.

Our reading is that the deduction from income tax under Section 567B(2) is the lower of:

(a) £30,000 (IHT paid)

(b) “so much of amount TPI as reflects the payment to the beneficiary of the benefit.” Which we think is £50,000.

So, allowable deduction from TPI is £30,000. This means that income tax is only payable on £20,000.

If instead, the IHT had been deducted from the pension assets before payment to the beneficiary, then the beneficiary would have received a non-income-taxable payment of £80,000, and an income-taxable payment of £40,000.

2 Questions raised before on legislation which may require changes to the Finance (No.2) Bill

We have repeated these here for ease of reference.

2.1 Pensions DPS: Interaction with IHT process

New 226B (1) says that a notice under the Pensions DPS can be issued for "any tax for which the taxpayer is liable"

How does this interact with the IHT process?

It might be helpful for PRs/beneficiaries to be able to make a request based on estimates in order to stop late payment charges building up. For example, where the only significant assets are the main home and the pension scheme death benefits. Is the legislation wide enough to enable a Pensions DPS payment notice to be used in those circumstances? If not, should the legislation be amended?

We welcome that HMRC is organising[13] research sessions into the technicalities as to how the new Pensions DPS would work – hands on administrators are best placed to comment on that aspect.

2.2 Pensions DPS: DWP legislation

We are not lawyers, but will there need to be consequential changes for DWP's legislation? For example, an exemption from the inalienability and forfeiture provisions corresponding to that for scheme pays.[14]

2.3 Pensions DPS: Pension Protection Fund (PPF) assessment

Where the member died prior to the scheme entering PPF assessment, our understanding is that a death benefit within scope of IHT under 150A may be payable[15]. Does the existing DWP legislation permit a scheme in PPF assessment to make a payment under the Pensions DPS? We note from the draft minutes of the December 2025 Pensions Industry Stakeholder Forum that PPF regulations are planned, which may address this issue.

2.4 Lump Sum and Death Benefit Allowance (LSDBA)

What is the policy intention for the lump sum death benefit to be assessed against the LSDBA? Is it the actual lump sum death benefits to the beneficiary? If so, then for the same benefit promise under the scheme, where IHT is payable, the amount assessed against the LSDBA would be lower if the IHT is met using the Pensions DPS than if the IHT is met in some other way. If the policy intention

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[13] HMRC Pensions schemes newsletter 177 (29 January 2026)
[14] SI1997/785 Regulation 8(7)
[15] Generally, the only death benefits payable during PPF assessment would be dependant scheme pensions and so out of scope of IHT. However, a relevant death benefit might be payable during the assessment period if the member died before the commencement of the assessment period. Pensions Act 2004 S138(12) and SI2005/590 Regulation 17(2)

is that the same amount should be assessed against the LSDBA regardless of how the IHT is met, then we think the legislation will need to be amended.

3 Asset issues: 5-week deadline to pay etc

We made these same points in our September response, but we repeat them here for ease of reference.

These issues are likely to be most acute for SIPPs and SSASs, so an alternative might be to have longer deadlines for these types of arrangements.

3.1 Pensions DPS

We welcome that there has been an extension of the deadline from 3 to 5 weeks, but a 5-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 actively encouraging for pension investment. These illiquid investments include:

a) Private equity in UK and other companies of all sorts.
b) Loans
c) Collective funds involving a) and b) above.
d) Suspended funds or quoted equities.
e) Hedge funds or other collectives which do not deal daily.
f) Properties – funds can only be raised in respect of such holdings by either sale or remortgage. Premature sale could affect beneficiaries and other scheme members adversely. In any event sale cannot be assumed to take place with a year. Similarly, mortgage facilities may not be readily available.

A deadline of 12 weeks would be workable for most illiquid assets - even a move from 5 weeks to 8 weeks would give a challenging but at least vaguely practicable timetable for a significant number of schemes with illiquid assets.

The effective forced sale of illiquid assets could:

- seriously impact small and growing companies who benefit from pension fund equity loan or property investments; and
- impact the value of such investments negatively. Trustees have a fiduciary duty to act in the best interests of ALL the beneficiaries of the trust. Meeting a Pensions DPS payment for a single beneficiary could force trustees into a position where they are forced to realise assets at low value which is detrimental to both other scheme members as well as the beneficiaries of a deceased member. Trustees will be obliged to make decisions which are detrimental to multiple other beneficiaries.

We note there are options for PRs to pay IHT over time (with interest) if the deceased owned real property, etc. In order to avoid problems as highlighted above, we believe that at the very least a similar facility should be granted in similar circumstances where the pension scheme holds assets which would permit time to pay IHT if those assets were held in the wider estate.

3.2 Asset valuation

In anticipation of the information regulations, for ease of reference, we repeat here why there can be difficulties in valuing benefits.

In some cases, it will be impossible to obtain valuations for perhaps up to a year. In addition, to the issues set out above, there are the additional following points to consider:

- **Provider delays** PSAs 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.

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

- **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.

- **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 – and may not deliver ready access to encashment to pay any tax due. One simple example of this is pooled funds, which deal six monthly or yearly.

Please see also comments in 4.5 below on schemes in PPF assessment.

We suggest that 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 provides for an approximate value to be provided initially, with confirmation within 12 months. There must be no penalties on the PSAs if their approximation proves to be inaccurate (provided not fraudulent etc).

4 New points that we would like covered in guidance/newsletter

You will see that some of these points relate to changes to the legislation, but others are queries on legislation that is essentially the same as that circulated in July. This illustrates that as we delve into the implications of the legislation we will unearth more questions, and so we anticipate that our list of queries is still incomplete.

4.1 Definition of notional pension property "reasonably be expected"

Step 1(b) and Step (2)(b) of new 150A(2) includes benefits that "may be and can reasonably be expected to be paid as a lump sum death benefit under the arrangement on the death of the member".

As non-lawyers, the meaning of this wording remains unclear to us. We understand from the December 2025 workshops that one purpose of the expression is to capture death benefit augmentations.

Do you have in mind a situation where the pension scheme rules give discretion to the trustees to determine the amount of the death benefit payable? It is certainly the case that DB rules might give discretion as to whether to award a dependants' scheme pension (but this would be excluded from notional pension property), but it would be more unusual for there to be discretion as to the amount of a benefit that would fall within notional pension property. (In passing, we note that it is very common for the trustees to have discretion as to who to pay a certain benefit to, but that does not affect the calculation of notional pension property.)

Where there is discretion over the amount of the benefit, is the intention that the amount to be included in notional pension property would be a probabilistic value such that if the benefit was paid in 25% of cases then the notional pension property would be deemed to be increased by 25% of the value of the expected payment? Or some other approach? Would this then be adjusted at a later date to the actual amount paid (as at death)?

Alternatively (or in addition), do HMRC have in mind a benefit determined under an augmentation rule? We understood that the value of notional pension property was determined immediately before the death of the person by reference to the arrangements under the pension scheme as they stood at that time. By definition, a post-death augmentation, unless expected through established custom and practice, would not "reasonably be expected to be paid" when viewed immediately before death. A random discretionary augmentation would not be impossible and so might be paid, however unlikely that scenario was in practice. Another possibility is a distribution of surplus. It is possible (more likely if HMRC rules are amended to permit payment of one-off lump sums to older members or their beneficiaries) that such augmentations might be extended to those who had died prior to the augmentation being agreed. Are these types of augmentations intended to be captured?

It would be helpful if the purpose of this expression and how it was meant to be applied in practice was explained somewhere.

4.2 Trivial commutation lump sum death benefits

A trivial commutation lump sum death benefit can only be paid if there is a pension death benefit[16]. However, the actual lump sum can include both a sum from the commutation of the pension death

[16] FA2004 S167 (2): "pension death benefit" means a pension payable on the death of the member (other than a member's pension payable after the member's death under pension rule 2: see section 165), or a pension payable in respect of the member on the subsequent death of a dependant, nominee or successor of the member.

benefit and a payment in respect of a lump sum death benefit. We understand that the policy intention is that it is only the element of the trivial commutation lump sum death benefit payable in respect of a pension death benefit that would be excluded from the member's estate. It would be helpful to clarify this in guidance/newsletter, perhaps including an example along these lines:

> *A beneficiary is entitled to a dependant's scheme pension of £1,000 and a death benefit lump sum of £4,000. The scheme intends to trivially commute that for a lump sum of £20,000 (of which £16,000 represents the scheme pension). Of the £20,000, only the £16,000 in respect of the scheme pension would be an excluded benefit under 150A.*

4.3 Payment of benefits

We note that withholding notices do not apply automatically, but only if a notice is received by the PSA.

We welcome that this means that PSAs can pay death benefits without waiting for someone to take responsibility for the estate – provided that PSAs explain the IHT implications to the beneficiary. This is particularly useful for small estates where there may be no assets other than a small pension benefit. It would be very helpful if HMRC could issue a statement confirming that PSA do not have to have been in contact with PRs in order to pay benefits as there is some confusion in the industry on this point.

4.4 Clearance

Slide 22 of HMRC's slides includes a clearance example which ends with "The beneficiary will then have the option of asking the PSA to pay the IHT due using the Pensions IHT direct payment scheme or paying out of the benefits they received."

In line with that scenario, our understanding is that a clearance certificate does not change the IHT process for a PSA. A PSA would still only pay IHT if instructed to do so by the PR or beneficiary using the Pensions DPS i.e. there is no automated deduction of IHT or a requirement for the PSA to check the IHT position with HMRC before making a payment. Is that correct? If so, please could that be confirmed in guidance/newsletter.

Related to the above, we understand that there may be implications of late discovery for the IHT due on notional pension property included by the PRs in the estate for which they have a clearance certificate. Again, we assume that the late discovery will not impose any additional requirements on PSAs of pension schemes where the assets had already been taken into account i.e. where assets are still held by those PSAs, a PSA would still only pay IHT if instructed to do so by the beneficiary (or PR) using the Pensions DPS and the other conditions such as the de minimis are met.

4.5 PPF assessment

S150A(1) of the draft legislation reads "beneficially entitled immediately before their death to property ("notional pension property") by reference to the arrangements under the scheme as they stand at that time."

S150A(2) Step2 (b) refers to the amount of any benefit "that may be and can reasonably be expected to be paid as a lump sum death benefit under the arrangement on the death of the member"

How should that be interpreted for a scheme in PPF assessment where the standard death benefits include benefits that would be within scope of IHT under new 150A?

Consider a member who dies after the scheme has entered PPF assessment. This means that the benefits that would be within scope of IHT under new 150A are not paid during PPF assessment. Some, albeit a minority, of these schemes will leave PPF assessment and their benefits will be fully or partially restored at a later date[17]. Please could HMRC provide guidance on how this scenario should be accommodated. For example, options might include:

- Where the PSAs take the view that it can "reasonably be expected" that the scheme will exit PPF assessment, then value the benefit that the PSA expects would then be payable;
- Or always reflect PPF benefits.

Under either approach, would a later adjustment be required if the scheme subsequently leaves PPF assessment and the benefits paid differ from those assumed, potentially requiring additional IHT to be paid?

4.6 Pension sharing on divorce

The date on which a pension sharing order or agreement takes effect under the Welfare Reform and Pensions Act 1999 is known as the "transfer day". Under Section 29, from the transfer day, the member's rights are subject to a debit of the appropriate amount. We expected that this would mean that the notional pension property would always be reduced by a pension sharing debit even if the paperwork has not been received by the PSA at the date of death. (The transfer day has to be before the date of death as otherwise our understanding is that the pension sharing order falls away). We had a quick look at IHTM17032, but this says to refer the file to Technical. Although still unusual, with a significant proportion of marriages/civil partnerships resulting in divorce, this scenario is likely to become more common. Please could guidance be provided?

5 Points that we would like covered in guidance/newsletter (already raised)

These points were raised in our September 2025 response. We include them here for ease of reference.

[17] https://www.ppf.co.uk/-/media/PPF-Website/Public/Purple-Book-Data-2024/PPF-The-Purple-Book-2024.pdf Figure 10.2

5.1 Clause 63 inserting S150A: Certain pension property treated as part of estate: Valuation of benefits at death

5.1.1 Assets can only be accessed infrequently:

Some collective investment funds have restrictions that only deliver valuations and withdrawals periodically, for example once a month, once every three months, once every six months or even once a year. Is it reasonable to base the valuation on the value of the fund at the next withdrawal date following death?

Please see 3.1 above which explains that payment of IHT under Pensions DPS could impact the value of the assets relating to the deceased (and indeed for continuing scheme members).

Please see 3.2 above which sets out situations in which an accurate value cannot be obtained in 4 weeks and possible approaches.

5.1.2 Business property and agricultural property

The explanatory note to the draft legislation circulated in July 2025 set out that "New subsection 150A(4) maintains the existing position that agricultural property relief and business property relief do not apply to the assets, under the pension scheme, treated as part of the estate for Inheritance Tax purposes."

We certainly support that the values provided by PSAs to PRs should be before any agricultural property relief or business property relief, but 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. As far as we can see, there is no longer any mention of business and agricultural property relief. Please confirm that these reliefs now apply to pension scheme holdings.

5.2 Clause 63 inserting S150A: Certain pension property treated as part of estate: Death-in-service lump sums

We are very pleased that most death-in-service lump sums will be out of scope of IHT.

5.2.1 Only payable to actives and in employment

However, we think it will be very confusing for the parties involved that some death benefits are in scope and others are not. This is illustrated by the fact that the use of the term "death-in-service benefit" in the draft legislation circulated in July led to many reports that all death in service benefits were out of scope. We illustrate some of the difficulties that arise in the table below.

Given death-in-service benefits are relevant only for a minority of deaths, and usually involving deaths much earlier than expected, could HMRC consider a broader in-service exemption that does not require a comparison against non-active and employed members' death benefits?

Under 150A(5)(d) of the draft legislation, a death in service lump sum "is *payable … if the member is an active member of the scheme, and is in employment or other work of a particular description, immediately before their death."*

We have set out some situations below together with a possible interpretation of which death in service benefits would be in or out of scope of IHT, but it would be helpful for HMRC to confirm in newsletter/guidance how to interpret this provision.

Death in deferment benefit	**Death in service benefit**	**Possible interpretation of death in service benefits in scope of IHT**	**Possible interpretation of death in service benefits out of scope of IHT**
DC Pot	DC Pot, plus A lump sum of 4 x pensionable salary	DC Pot	A lump sum of 4 x pensionable salary
A refund of contributions	A refund of contributions, plus A lump sum of 4 x pensionable salary	A refund of contributions	A lump sum of 4 x pensionable salary
A refund of contributions with no interest	A refund of contributions with interest to the point of death, plus A lump sum of 4 x pensionable salary	A refund of contributions	Interest to the point of death, plus A lump sum of 4 x pensionable salary
A refund of contributions if no survivor pension payable.	A refund of contributions (even if a survivor pension payable), plus A lump sum of 4 x pensionable salary	A refund of contributions if no survivor pension would have been payable if deferred	A refund of contributions if a survivor pension would have been payable if deferred, plus A lump sum of 4 x pensionable salary
A lump sum of 4 x deferred pension with revaluation to date of death	A lump sum of 4 x pensionable salary	None	A lump sum of 4 x pensionable salary

5.2.2 Employed deferreds

150A(5)(d) of the draft legislation refers to “an active member”.

Please could HMRC confirm in guidance/newsletter that where an employee does not qualify for the deferred member carve-out[18], then they would be treated as active members under this provision. This would include, inter alia, employees with a continued salary link and employees with continuing life cover.

[18] PTM053910 - Annual allowance: pension input amounts: deferred members: general

If the lump sum death benefits are as set out below, in what circumstances, if any, would the lump sum death benefit be out of scope for IHT? Would it depend on whether the salary linked benefit was higher immediately before death?

Death in deferment benefit	Death in service benefit: member is an employed deferred
A lump sum of 4 x deferred pension at death; the deferred pension is calculated as at date pensionable service ceased with statutory revaluation thereafter	A lump sum of 4 x deferred pension at death; the deferred pension is calculated as the better of the deferred pension at date pensionable service ceased with (i) statutory revaluation and (ii) (broadly) salary linkage

5.3 Clause 65 inserting S226B: Tax on notional pension property: direct payment by scheme administrator: Pensions DPS

5.3.1 Pensions DPS: Meaning of paid

The amount that can be paid under Pensions DPS scheme is limited by new 226B(3)(d) and (e) to the difference between the benefits "payable" and the "amount that has already been paid".

As noted in 1.7 above, we are not sure of the policy intention regarding transfers, but, in any event, please confirm that paid includes funds which have been transferred to other schemes. This includes where funds have been transferred elsewhere to secure annuity payments in the beneficiary's name.

Is the policy intention that funds used to provide annuities/scheme pensions to the extent still held by the scheme would be in scope, but not otherwise? This will be problematic where the scheme has purchased an annuity from an insurer to match the pension payments (a "buy-in"). Could such payments be excluded?

Please could the position regarding annuities be confirmed in newsletter/guidance.

In our September response, we suggested that the amount paid also needs to include cases where it was too late to stop these processes[19]. Our interpretation of the legislation is that the test will be the amount held at the point that the IHT is paid by the scheme. Given that schemes now have 5 weeks to make that payment, it should no longer be necessary to have such a specific exemption.

There are other ways in which benefits under a scheme can be reduced without them being "paid". For example, under The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc) Regulations 1997. Would these circumstances be captured? For the reasons set out below, we are not sure whether 'paid' is wide enough – might another word be required e.g. discharged?

[19] See for example wording in SI2009/1171 Regulation 14 "A payment is within this paragraph if it is made even though the payer took reasonable steps to prevent its being made or its being made in that amount."

5.4 Clause 67: Connected amendments to income tax

5.4.1 Interaction of IHT and income tax

What happens if the beneficiary dies before all excess IHT has been credited? Would the unrecouped IHT be an asset of the pension beneficiary's own estate?

5.4.2 Recipient of IHT refunds

We understood from the material published in Summer 2025, that IHT refunds will be made to either the PRs[20] or the beneficiaries[21], but not PSAs. Please could this be confirmed in newsletters/guidance.

We again emphasise that it is important that the repayments should not be made to the PSAs. As explained in our response[22] to the October 2024 consultation, "Once benefits have been distributed, the deceased member's record in the pension scheme would potentially have been closed. There are material barriers and complexity in re-opening a closed member record, especially of a deceased member, which are important financial controls to prevent fraudulent activity."

5.5 Information regulations: LSDBA

PSAs are currently required to provide PRs with a statement of the amount of the member's LSDBA expended by a relevant lump sum death benefit within three months of the relevant lump sum death benefit being paid[23] [24].

In 2.4 above, we asked whether the policy intention was whether the amount expended should be calculated gross or net of any IHT liability.

Either way, for clarity, please could PTM include examples of the LSDBA disclosures required from PSAs to PRs and from PRs to HMRC where a relevant death benefit is paid; and (i) IHT is paid by the PSA using the Pensions DPS; and (ii) IHT is paid directly by the PR or beneficiary and there is no Pensions DPS payment.

6 Information sharing regulations

In the December workshops, HMRC indicated that HMRC were looking for feedback in advance that would help to shape the information sharing regulations. We have noted some thoughts below

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[20] HMRC's response says "Generally, Inheritance Tax refunds will not be made until the deceased's account is settled. When refunds are issued, PRs are responsible for distributing these to the appropriate beneficiaries.".

[21] The explanatory note includes "New section 579CB … and a subsequent repayment is made directly to the beneficiary, …"

[22] https://aca.org.uk/aca-response-says-separate-pension-inheritance-tax-regime-should-be-considered/

[23] SI2006/567 Regulation 14.

[24] ITEPA 2003 S637S (2)(a) Relevant benefit crystallisation events in relation to an individual, means … a person being paid a relevant lump sum death benefit in respect of the individual

which should be read in conjunction with our comments in our September response. We look forward to providing further comments on the draft regulations.

6.1 Withholding notice

Please see the comments in 1.6 regarding the information that may be required in relation to spouses/civil partners.

6.2 Funding the Pensions DPS payment

In our September response, we proposed that the information requirements should include the option for PSAs to require beneficiaries to specify how assets should be reduced to meet any Pensions DPS payment. That approach is clearly unworkable where a PR requests the payment. As such, for simplicity, we expect that PSAs will need to be able to operate a default approach for Pensions DPS payments and so this suggestion falls away.