

Proposed Public Service Pension Schemes - Rectification of Unlawful Discrimination – Tax Administration Regulations

Background

1. HMRC will be launching a technical consultation on a set of regulations in the very near future that will include changes to the income tax position of members. This paper gives a short introduction with detail to follow in due course.
2. The proposed regulations will deal with those members who have increased, new, or decreased tax charges arising from the public service pension remedy from the point the remedy is implemented (which for **most** schemes will be 1 October 2023). Examples of those impacted can include, but not limited to, members who are active; deferred; former member; pensioner; deceased; and/or personal representatives and beneficiaries.
3. The regulations will ensure that the public service pension remedy will impact the same tax years for members regardless of when they get rolled back or make their choice of benefits.
4. The basic timing principle is to ensure that those rectification tax years open for change or amendment on 1 October 2023 can be kept open **only** for the purposes of the tax charges listed below in paragraph [5]. These years are 2019/20, 2020/21 and 2021/22. The regulations will also include 2022/23.
5. The proposed changes will apply to the following specific income tax charges related to pension savings:
 - annual allowance charge (“AA”)
 - lifetime allowance charge (“LTA”)
 - unauthorised payments charge (“UP”)
 - unauthorised payments surcharge (“UPS”)
6. The reasons for introducing these changes are:
 - To standardise the years in which members will make claims for compensation and must make amendments to tax records, regardless of when schemes are able to provide their members with relevant information.
 - To remove the unfairness of years falling out of date for tax adjustments for some members whose schemes take more time compared to those who receive their information more quickly.

How this regime will work

7. The regime will split the years of rectification as follows:

Rectification years							
2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Compensation				Income Tax Regulations			

8. The regulations will require a member to provide information to HMRC with regards to the tax charges listed at paragraph [5] for the tax years 2019/20 to 2022/23. They will need to provide the information even if they have submitted tax returns for the years in question.
9. The deadlines for providing this information to HMRC will be dependent upon what type of member the individual is:
- Unless the member is a retired or deceased Chapter 1 scheme member before section 2 PSPJOA comes into force, the required date for the provision of information is 31 January 2025, or three months following the receipt of the relevant information from the pension scheme, whichever is later.
 - For Chapter 1 scheme members who retired or died before section 2 PSPJOA comes into force the required date for the provision of information is 31 January 2027, or three months following the receipt of the relevant information from the pension scheme, whichever is later.
10. Once the information is received, HMRC will compare the information to the member's SA record for those years and calculate, on a year-by-year basis, what any changes mean to the member's tax position. This may result in a member facing new tax charges where an SA return was not previously submitted.
11. Where a member owes more tax HMRC will raise a one-off assessment. The member can either pay this themselves directly to HMRC or elect to have the scheme pay it.
12. Where a member has overpaid tax HMRC will issue a repayment to the member. If the scheme paid on behalf of the member the payment will be returned to the scheme.

Application process

13. HMRC's digital service will enable members to meet their obligations under the new regulations at the same time as applying for compensation from their pension scheme manager. HMRC will process each component separately:
- transmitting applications for compensation to scheme managers – HMRC will check a random sample
 - processing the tax information and contacting the member about any tax charge or repayment for the years 2019/20 to 2022/23



2022/23 Self-Assessment Returns

14. There have been concerns that members will not have received the scheme specific information required to submit their 2022/23 self-assessment return before the statutory deadline of 31 January 2024.
15. Where a member's liability to the charges outlined in Paragraph [5] are affected as a result of the public service remedy, the proposed regime will remove the requirement to report them in the 2022/23 return. However, it will require those members to report separately any charges at a later date, a date that will be defined in the regulations (see Paragraph [9]). As such, where the scheme does not provide the information required until after the 31 January 2024 deadline, this should not prevent the member from complying with their obligation to submit a self-assessment return. All other members should complete the 2022/23 return to the best of their knowledge and belief in the normal way.

Conclusion

16. As stated in Paragraph [1], HMRC will consult on these regulations soon and we will welcome comments as part of the consultation process. Detailed guidance will follow in due course.

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