

Assets, Residence and Valuation team
HM Revenue and Customs
100 Parliament Street
London
SW1A 2BQ

(sent by e-mail)

22 January 2025

Dear Sirs,

Technical consultation – Inheritance Tax on pensions: liability, reporting and payment

Thank you for the consultation on the processes required to implement the changes to Inheritance Tax on pensions that were announced at the Autumn Budget 2024. The Cumbria Pension Fund, administered by Westmorland and Furness Council, represents 65,000 members and manages assets of £3.4bn. We are a member of the Border to Coast Pension Partnership, a partnership of 11 Local Government Pension Scheme (LGPS) funds and responsible for c. £64bn of assets, on behalf of over 1.1m members. Our administration is undertaken by a third party provider, Local Pensions Partnership Administration Ltd. (LPPA).

Please find attached our response to the questions. There are two areas we would specifically like to flag:

1. The inclusion of death in-service and death in-retirement death grants within the scope of inheritance tax. We are in favour of changes that prevent individuals from misusing their pension (and associated tax relief) as a vehicle to pass on their wealth without paying tax when they die. We believe pensions should be used to provide income in later life for scheme members. But the LGPS death grant does not represent an asset that the member holds before death, these benefits are more akin to insurance backed life assurance. We question whether death grants of this type should be in scope of this policy.

In-service and in-retirement death grants are nearly always the first payment that a family will receive when a bread winner dies, at a time when uncertainty and money is often at its tightest. Whilst the majority will go to a spouse or civil partner, the nomination form also enables this to payment to other dependants, which reflects the more complex family arrangements that exist today. Unlike defined contribution schemes, the LGPS does not allow individuals to accumulate unlimited tax-free savings in their pension, as the pension is linked to pay. Nearly 70% of our working scheme members are women, of which 82% are part-time, and the average pension being paid is c£4,500 per year, with death in service sums being similarly low. Bringing in-service death grants in scope of Inheritance Tax will disproportionately affect the families of younger, unmarried LGPS members who die in service. These may be single parent families or unmarried couples with children. The death of a parent could put these families in severe financial difficulty, and the deduction of Inheritance Tax from the LGPS death grant would worsen their financial position. Similarly, not all in-retirement grants are paid to older members. Ill-health retirement is often a route followed for severely or terminally ill members. Where individuals die within 10 years of retirement, a lump sum death grant is payable to their dependant and would be captured by these proposals.

In the light of these considerations, we would ask you to reconsider whether death benefits paid by defined benefit schemes, including the LGPS, should be in scope of Inheritance Tax.



2. The proposed processes to determine and pay IHT appear overly burdensome compared to the number of cases likely to be captured. We would suggest that the determination of IHT lies with the estate, and alternative options are explored to avoid the 'double' taxation of IHT and income that can occur at the point that the estate is distributed.

I hope the content is helpful. Please do not hesitate to contact me if you have any questions about this response

Yours faithfully,



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Response from: Cumbria Local Government Pension Fund

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?

Yes

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?

Meeting the six month payment deadline will be affected by the PSA's ability to meet the two month deadline for providing information about the pension scheme death benefits to the PRs. We believe that this deadline will be very challenging for LGPS administering authorities. Providing information about the death grant is achievable, but the two month deadline relies on two factors: timely notification; and deciding how the death grant will be distributed. The latter can take a considerable amount of time, due to old or incomplete nomination information. We know that the majority of the UK population do not have a will, and in our Fund, and even with regular communication and campaigns, in our most recent data only 36% of employee scheme members, and 45% overall had made nominations in respect of their death benefits.

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?

Our aim is to pay the bereaved family what they are entitled to as soon as possible. The spousal exemption means that PSAs will know at an early stage that certain death grants will not be subject to Inheritance Tax. We support a streamlined process that will help PSAs being able to pay death grants to spouses or civil partners at an earlier stage of the process, without waiting for PRs to finalise their Inheritance Tax calculations.

In other cases, if the PSA assumes that none of the nil-rate band will apply to the death grant, they could pay up to 60 per cent of the death grant as soon as they have made a decision on its distribution. When the PR confirms how much of the nil-rate band should apply, the PSA could pay the Inheritance Tax and any remaining death grant to the beneficiaries. Such an approach could alleviate financial hardship of the beneficiaries with minimal risk of underestimating the Inheritance Tax due.

However, the government needs to consider the cost of this measure, which will place new legal responsibilities on PSAs to report to HMRC and pay Inheritance Tax due on unused

pension funds and death benefits. Such costs will inevitably include, but are not limited to, system developments and resources.

More fundamentally, we do not believe it is not appropriate to put the responsibility for reporting and paying IHT onto the Pension Administrator. The responsibility should remain with the Personal Representative for the Estate who has first hand knowledge of the wider Estate, and instead regulation should include changes to avoid double taxation on in-service and in-retirement death grants.

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?

None.

Question 5: Do you agree that 12 months after 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?

The PSA is reliant on the PR providing information, accurately and on time. We do not agree that PSA should be jointly and severally liable for the payment of IHT.

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?

After a death grant is paid, an LGPS administering authority may also pay an ongoing survivor pension to one or more of the beneficiaries. When this is the case, they will keep contact details for the dependant up to date. If no survivor pension is being paid, the authority will keep details of the death grant recipients in accordance with their data retention schedule, but they will not be notified of any changes to the individual's contact details.

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

No comment

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

As set out in the response to question 5, the PSA is reliant on the PR providing accurate information in a timely way. Due to a variety of circumstances this may not be the case, not least if there is no obvious PR, or no PR appointed. Where the PSA believes there is no prospect of receiving full information from the PR within a reasonable timescale, a backstop could be employed enabling the PSA to make payments to the beneficiaries.

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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?

We do not believe that making all PSAs responsible for paying and reporting Inheritance Tax is a proportionate solution. It feels overly complex and burdensome. We particularly question this in the context of in-service and in-retirement death grants payable under the LGPS, which we believe should not be captured by this change.

We agree that the current process where there is 'double' taxation on some pensions does not appear logical, and would suggest that inherited pensions may be subject to IHT at the time the pension transfers, but are only subject to income tax as and when the pension benefits are crystallised by the beneficiary.