



HM Revenue
& Customs

Pensions Tax Relief – Individual Protection from the Lifetime Allowance Charge

Summary of Responses

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1. Introduction

Background

1.1 The Government wants a system of pensions tax relief that is fair, affordable and sustainable. To support this objective, at Autumn Statement 2012 the Government announced reductions to the relief available from 2014-15 onwards:

- the Annual Allowance ('AA') would be reduced from £50,000 to £40,000; and,
- the Lifetime Allowance ('LTA') would be reduced from £1.5 million to £1.25 million.

The reduction to both the AA and LTA is an integral part of the Government's deficit reduction plans; it protects the public finances from the growing cost of pensions tax relief; and limits the amount of relief going to higher earners.

1.2 Reducing the LTA impacts on individuals who may have already built up pension savings in the expectation that the LTA would remain at least at its current level of £1.5 million. The Government has, therefore, announced that there will be transitional protection available for those who are affected by the change.

1.3 The announcement at Autumn Statement 2012 included details of fixed protection 2014 ('FP14'). An individual who claims FP14 will benefit from a protected LTA of £1.5 million unless the protection is lost. FP14 will be lost if the individual makes additional pension savings or accrues further benefits on or after 6 April 2014. Where FP14 is lost, the individual reverts to the standard LTA of £1.25 million and any tax relieved pension savings above £1.25 million are subject to the LTA charge. This means that individuals with FP14 are likely to need to opt out of active membership of all UK tax relieved pension schemes if they want to maintain this protection.

1.4 To offer individuals greater flexibility in protecting any pension savings they have built up before 6 April 2014 from the reduction in the LTA, the Government announced at Budget 2013 that it will offer individual protection 2014 ('IP14') in addition to FP14.

1.5 On 10 June 2013, the Government published the consultation document: Pensions Tax Relief – Individual Protection from the Lifetime Allowance Charge. This consultation, which closed on 2 September 2013, considered the detail and implementation of IP14 alongside FP14.

1.6 In total, 34 formal written responses to the consultation were received from organisations and 12 responses from individuals. A full list of organisations who responded can be found at Annex A. These include pensions professionals, industry bodies, employers and individuals' representatives. The Government is grateful to all those who have taken time to provide their views and participate in discussions.

2. Responses

2.1 This chapter summarises the formal responses received during the consultation. It should be read in conjunction with the consultation document in order to put the comments into context. The consultation document focused on a number of questions about the design and implementation of IP14 on which it sought views.

General comments

2.2 The respondents welcomed the flexibility provided by this further protection regime and the opportunity to comment on the proposals. The overwhelming view from respondents was that final legislation and guidance should be published as soon as possible to enable individuals to have as much time as possible to seek proper advice, gather information from their pension scheme administrators and make decisions on whether to apply for protection or not.

2.3 There was a general consensus amongst all respondents that the number of protection regimes was now making saving into a tax relieved pension environment too complex. One respondent suggested a review of the pensions tax rules to look at simplifying them.

2.4 One respondent raised concerns about awareness levels amongst individuals who might need to apply for IP14. In particular they felt that members of defined benefit schemes would be more likely to get information and advice than members of defined contribution schemes who do not ordinarily seek financial advice.

2.5 The questions asked in the consultation paper prompted the following responses.

Question 1: Are there particular difficulties for scheme administrators in allowing individuals to hold both fixed protection (FP12 or FP14) and IP14?

There were 30 responses to this question

2.6 The majority of respondents confirmed that they did not envisage any problems if individuals were allowed to hold both fixed protection and IP14. It was noted that some scheme administrators will already have experience of members with two types of protection.

2.7 However, there were a number of comments about the additional complexity and additional burdens on pension scheme administrators from introducing further protection regimes and additional thresholds to be monitored for individual members.

Government response

The Government acknowledges the burdens on industry and individuals that IP14 will bring and will continue to work together with the industry to minimise administrative burdens where possible. Clear and comprehensive guidance to help individuals, employers and pension scheme administrators has been published alongside draft legislation.

Question 2: Do you agree that individuals with enhanced protection should be excluded from applying for individual protection? If not, please give the reasons why you think there is a case for allowing individuals with enhanced protection to apply for IP14 and set out any difficulties or issues this might create.

There were 32 responses to this question

2.8 Two thirds of respondents felt that individuals who already had enhanced protection ('EP') should be allowed to apply for IP14. A number of those respondents who agreed that individuals should be excluded from applying commented that whilst EP was clearly more beneficial than IP14, it would be useful for individuals to also have IP14 to fall back on if EP was lost.

2.9 Individuals who have EP and then lose this on or after 6 April 2014 would, if they can't apply for IP14, revert to the standard LTA of £1.25 million. The majority of respondents felt that the additional complexity in allowing them to apply for IP14 as well as their existing EP is outweighed by the benefit to individuals who could have the additional security of IP14 to fall back on.

2.10 A number of respondents were not sure whether individuals who had previously had EP and subsequently lost it prior to 6 April 2014 would be eligible to apply for IP14. The Government can confirm that individuals who have lost EP will be eligible to apply for IP14, providing they don't have primary protection on 6 April 2014.

Government response

The Government recognises the additional security that individuals who already have EP would gain from being able to rely on IP14 and therefore agrees that IP14 will be available to individuals who have EP, providing they don't have primary protection on 6 April 2014.

Question 3: Would monitoring an individual's personalised LTA for the purposes of the tax free lump sum limit be likely to create difficulties for scheme administrators?

There were 30 responses to this question

2.11 The majority of respondents didn't see any specific difficulties with monitoring an individual's personalised LTA, but there were a number of comments about the

general complexity of record keeping required in relation to the various protection regimes.

2.12 A few respondents commented on the issue of recording an individual's personalised LTA as an amount rather than as a percentage of the standard LTA. They advised that their IT systems were set up to use a single LTA with each individual having a percentage of this amount. It will take considerable work for IT systems to be changed or manual processes to be introduced.

Government response

The Government has carefully considered the issues raised around expressing the individual's protected LTA as an absolute amount compared to expressing this as a percentage of the standard LTA. It recognises that whichever solution is implemented there are potentially burdens. On balance the Government's view is that the protected LTA should be expressed as an amount as this protected LTA will not normally change, and using a factor would still lead to issues should the standard LTA change in the future. The Government will continue to work with the pensions industry to identify ways to minimise any burdens associated with the use of an absolute amount.

Question 4: Are these valuation methods fair and appropriate?

There were 29 responses to this question

2.13 Over 90 per cent of respondents agreed that the valuation methods suggested in the consultation document for valuing savings, uncrystallised rights, post A-day benefit crystallisation events, pre A-day pensions in payment and uncrystallised UK tax relieved savings in non-UK pension schemes were broadly fair.

2.14 One respondent commented that the valuation of pre A-day pensions in payment by a single factor assuming that a tax free lump sum was taken was unfair.

2.15 There were a number of suggestions of improvements to the drafting of the legislation which would lead to further clarity and ensure the legislation worked as intended.

Government response

The Government believes that using a single factor to value pre A-day pensions in payment is the most appropriate method. Scheme administrators will not always know whether an individual with a pension in payment took a tax free lump sum. Requiring scheme administrators to keep records of when a tax free lump sum had been taken would add significant burdens; using the single factor is simple and straightforward.

The Government is grateful for the drafting suggestions and changes will be made to the draft legislation as appropriate.

Question 5: Are there any issues or additional burdens associated with these valuation methods?

There were 28 responses to this question

2.16 Almost half of respondents did not think that any additional burdens would be associated with the valuation methods proposed. However, the majority of respondents felt that the valuation methods for benefit crystallisation events were complex and that scheme administrators would require detailed guidance from HMRC with examples used for clarity.

2.17 Some respondents felt that there should be a statutory requirement for scheme administrators to provide members with benefit valuations.

Government response

The Government has no plans to introduce a statutory requirement to require scheme administrators to provide valuations to members as it expects them to provide this information as part of their normal role. However this will be kept under review.

The guidance published alongside the draft legislation will include examples to help scheme administrators.

Question 6: Should there be some form of revaluation of the pension debit for IP14 to take into account the change in value of the individual's pension rights since 5 April 2014 and, if so, on what basis this should be done?

There were 32 responses to this question

2.18 Over 70 per cent of respondents felt that pension debits should be revalued and that the method of revaluation should be kept as simple as possible. There was no clear consensus on how this should be done, however, a number of respondents suggested that the revaluation should be done by a fixed percentage.

Government response

On balance the Government agrees that it would be appropriate to revalue pension debits. Whilst there was no clear consensus on the best approach, the pension debit will be revalued by 5% for each full tax year between 5 April 2014 and the date of the pension debit. So for example where an individual has a pension debit of £200k on 1 June 2016 (that is two full tax years after 5 April 2014, - 2014-15, and 2015-16) the value of the pension debit is reduced by $2 \times 5\% = 10\%$, and the pension debit is worth £200k - £20k = £180k for the purposes of IP14.

Question 7: Are there any particular reasons why a scheme pays adjustment should not be deducted from an individual's personalised LTA, and in particular are there any specific administrative burdens this might lead to?

There were 31 responses to this question

2.19 Nearly all respondents felt that scheme pays deductions should not be taken into account when calculating an individual's personalised LTA. The view of most respondents was that this would be administratively burdensome as this was not envisaged when systems and processes were set up.

2.20 A number of respondents felt that making an adjustment to an individual's personalised LTA could result in some individuals being effectively taxed twice on the same pension savings, via the Annual Allowance charge and then subsequently the LTA charge.

2.21 One respondent also felt that the impacts would be greater on long serving members of defined benefit schemes as these individuals would find it more difficult to alter their pension savings than those in defined contribution schemes.

Government response

The Government agrees with the points made in the responses and taking into consideration the additional burdens this would introduce, will not be including scheme pays adjustments in the IP14 legislation.

Question 8: What would be the impact if a deduction was also applied to individuals with primary protection whose pension savings are subject to a scheme pays adjustment?

There were 31 responses to this question

2.22 Again the overwhelming majority of respondents felt that it would not be appropriate to adjust the individual's personal LTA for the same reasons as stated in Question 7 above, except that with primary protection it would affect an even larger number of individuals.

Government response

The Government agrees that no further changes are required here.

Question 9: Are there any other circumstances when an individual's personalised LTA under IP14 should be adjusted?

There were 27 responses to this question

2.23 Over 70 per cent of respondents felt that it would be better to keep IP14 as simple as possible and not introduce additional complexities even though this might seem logical.

2.24 A few respondents thought that adjustments should be made under IP14 in the same circumstances as are required for primary protection, such as pension credits.

Government response

The Government can confirm that no special provision is needed. Under the existing legislation, an individual with IP14 will, where applicable, also be able to apply for one or more of the available LTA enhancement factors (apart from for primary protection) in the normal way - including where a pension credit is given. For such an LTA enhancement factor on or after 6 April 2014, the factor will be calculated by reference to the individual's personalised LTA under IP14 where this is higher than the standard LTA.

Question 10: Is a three year window for IP14 applications about the right timeframe, and are there any issues associated with this?

There were 30 responses to this question

2.25 Only 20 per cent of respondents did not agree with the three year window for IP14 applications. Of those that did not agree, three felt that too much time had been allowed and one felt that three years was not long enough.

2.26 A few respondents felt that applications for IP14 and Fixed Protection 2014 should be synchronised with the same deadlines.

Government response

The Government can confirm that individuals will be able to apply for IP14 up to the 5 April 2017.

It would however not be feasible to combine the FP14 and IP14 applications, as FP14 normally requires individuals to cease actively saving in a registered pension scheme before 6 April 2014. Therefore applications need to be made before this date to ensure compliance with the conditions for FP14. IP14 however requires rights to be valued at 5 April 2014 and therefore it would not be possible to allow applications before this date.

Question 11: Are there any difficulties and issues that may arise if individuals cannot apply for IP14 until summer 2014?

There were 31 responses to this question

2.27 The majority of respondents acknowledged that the timetable for making IP14 applications could cause some issues, in particular where individuals have to decide whether or not to apply for FP14, IP14 or both. There will not be a great deal of time for individuals to get advice so that they can decide whether or not to stop accruing benefits at 5 April 2014.

2.28 There will also be issues where benefit crystallisation events occur between 6 April 2014 and the date that individuals apply for IP14. The individual won't have a protection certificate to provide to the scheme administrator and could have LTA charges deducted which would not be due if the certificate was available. There would be considerable complexity in unravelling arrangements if a certificate was produced after the event.

2.29 All respondents emphasised the need for prompt and clear guidance from HMRC including examples for how to handle the various possible benefit crystallisation scenarios that could arise between 6 April 2014 and an IP14 certificate being available.

Government response

The Government acknowledges the need for clear and comprehensive guidance to help individuals and scheme administrators and will be publishing draft guidance alongside the revised draft legislation.

Question 12: If you have any comments on the draft legislation at Annex B, please include these as part of your response.

There were 10 responses to this question

2.30 Most respondents did not comment on this question, whilst a few made minor drafting suggestions on ways that the draft legislation could be improved. A number of respondents also suggested changes to fit in with their responses to the earlier questions.

Government response

The draft legislation has been amended to take account of the changes as outlined in the Government's responses above. In addition a number of technical improvements have been made to the draft legislation as a result of comments received as part of the consultation to ensure the legislation works as intended.

If there are any further comments on the revised draft legislation these should be sent to pensions.policy@hmrc.gsi.gov.uk by 4 February 2014.

Question 13: Does the Tax Information and Impact Note at Annexe C capture correctly the impacts and burdens associated with the introduction of IP14?

There were 19 responses to this question

2.31 Half of respondents to this question agreed that the Tax Information and Impact Note did correctly reflect the impacts and burdens associated with the introduction of IP14.

2.32 Of the respondents who did not agree many felt that the burdens on individuals were not sufficiently reflected. They felt that the numbers of individuals who would be affected by IP14 would be greater than 120,000. In particular they felt that many more people would have to pay for financial advice before deciding whether or not they should apply for protection.

2.33 Many respondents also felt that the burdens on industry had been understated. One gave the reason for this as the increasing complexity of the LTA protections requiring senior staff to be involved in many more cases than ever before.

Government response

The Government has considered the respondents' comments and updated the Tax Information and Impact Note to include anticipated one-off costs across pension schemes of around £4 million.

3. Next steps

3.1 To provide the clarity that employers and pension schemes need to be able to manage the changes required for IP14, and to enable individuals to make informed decisions about their pension savings, the Government has published amended draft IP14 legislation along with draft guidance for comment.

3.2 If you have any comments on the draft legislation or guidance please send these to pensions.policy@hmrc.gsi.gov.uk by 4 February 2014.

3.3 The Government will continue to work with the pensions industry to ensure that the IP14 regime works in accordance with the policy intent and with the minimum of administrative burdens.

Annex A: List of respondents

A.1 The following is a list of all the organisations that responded to the consultation (individual respondents have not been listed):

A J Bell
AON Hewitt
Armed Forces Pension Scheme
Association of British Insurers
Association of Consulting Actuaries
Association of Member-Directed Pension Schemes
Association of Pension Lawyers
Association of School & College Leaders
Association of Taxation Technicians
Aquilaheywood
Aviva plc
Barnett Waddingham LLP
BP Pensions Limited
Capita Employee Benefits Limited
Chartered Institute of Taxation
Chief Police Officers Staff Association
Deloitte LLP
Hargreaves Lansdown
Institute of Chartered Accountants of England and Wales
Law Society of Scotland
Mercer Limited
National Association of Pension Funds
NHS Pensions
Partnership
Sacker & Partners LLP
Scottish Widows
Society of Pension Consultants
Standard Life plc
St James's Place Wealth Management
Tax Incentivised Savings Association
Towers Watson
Universities & Colleges Employers Association
Xafinity Consulting
Zurich