

HMRC releases GMP equalisation tax guidance

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Introduction

On 20 February 2020, HMRC released long-awaited [guidance](#) (“the Guidance”) on some of the pensions tax issues arising when equalising benefits for the effect of GMPs. The Guidance focuses specifically on the so-called “dual record keeping methods” for achieving equalisation approved in the [Lloyds case](#), covering the impact of GMP equalisation benefit adjustments on both the annual allowance (“AA”) and the lifetime allowance (“LTA”).

Key points

- HMRC makes clear that the Guidance “relates to benefit adjustments where the reason for the adjustment is solely for GMP equalisation” and that it “does not cover other benefit adjustments”.
- Taking a pragmatic approach, HMRC confirms that increased entitlements resulting from GMP equalisation will not generally constitute new accrual of benefits (requiring a test against the AA) in respect of deferred members.
- Similarly, benefit adjustments solely for GMP equalisation purposes should not prejudice applicable LTA protections.
- However, an adjustment may trigger a retest against the LTA in certain circumstances (eg for pensions in payment).
- The Guidance stops short of looking at some of the trickier areas, such as lump sum and death benefit payments, as well as the pensions tax implications of reshaping benefits as part of a GMP conversion exercise.

Annual allowance

One area of uncertainty in relation to the AA is whether increased entitlements as a result of adjusting benefits for GMP equalisation would result in a “pension input amount” (pension savings for testing against the AA). In addition, concerns have been raised as to whether past AA testing needs to be revisited. Helpfully, the Guidance clarifies HMRC’s position here.

Pre-6 April 2006 (ie A-Day) deferred members: an individual who became a deferred member under an arrangement before 6 April 2006 (when the AA first came into force), and who has remained outside of the AA provisions since that date in relation to that arrangement, should continue to do so. In this case, any adjustment should simply reflect the benefit the member had accrued before A-Day.

Members covered by the “deferred member carve-out”: the carve-out applies to certain members including, for example, a member who is deferred for the whole of a “pension input period”, or is deferred and then becomes a pensioner. (The pension input period is the timeframe over which pension savings are measured for the purposes of testing against the AA.) An individual subject to the carve-out is treated as having no pension input amount for AA purposes, provided that benefits do not increase above a certain amount (intended to allow for scheme and statutory deferred pension increases).

The Guidance confirms that GMP equalisation will not affect individuals covered by the carve-out, as benefit adjustments “are attributable solely” to the application of legislation (namely, the equal treatment requirements under the Equality Act 2010), and therefore fall within the statutory increases permitted under the carve-out.

Other deferred and active members: the good news is that there is no need to revisit the past. However, calculations for the pension input amount in the tax year of implementing GMP equalisation, as well as tax years thereafter, will need to take into account the revised amount of benefit entitlement (in both the opening and closing benefit calculations).

Lifetime allowance

LTA protections

The Guidance confirms that:

- an individual with any type of fixed protection “should retain that protection”, as any increase solely for GMP equalisation will not be “benefit accrual” (which would otherwise cause the loss of protection)
- as regards primary and individual protections, if GMP equalisation results in the value of rights protected being higher than originally notified to HMRC, individuals will need to inform HMRC of the corrected figure “without undue delay”
- enhanced protection is lost where an individual has “relevant benefit accrual”. For members who became deferred before 6 April 2006, GMP equalisation adjustments should not be relevant benefit accrual. When carrying out relevant accrual calculations for individuals who were not deferred members by that date, the value of the member’s rights as at 5 April 2006 needs to include the adjustment for GMP equalisation valued at that date
- where increases in the value of a member’s benefits resulting from GMP equalisation mean that the individual would now qualify for protection from the LTA charge, they can approach HMRC with evidence to support their late notification.

LTA and benefit crystallisation events (“BCEs”)

A BCE is an event which prompts the testing of a member’s benefits against the LTA, for example, becoming entitled to a pension (BCE2) or reaching age 75 without becoming entitled to benefits (BCE5). Where GMP equalisation is implemented before such events, it will affect the amount to be tested.

For pensions in payment, where GMP equalisation results in an increase to what should have been the individual's starting pension, the original BCE2 amount should be corrected. The test for any LTA charge should then be assessed by reference to the individual's remaining LTA at the time of the original BCE2. Members will also need to consider the tax effects of a recalculated BCE2 on later BCEs (eg under different arrangements).

Whilst HMRC clearly regard any increase solely for GMP equalisation as a correction of an entitlement that has already arisen, if the reason for the increase is a mixture of GMP equalisation and other adjustments, this could give rise to a new entitlement for tax purposes.

Subject to some exceptions, a GMP equalisation benefit adjustment will not generally trigger a BCE2 in respect of pensions which started before 6 April 2006.

Some practical issues

Where a recalculated BCE results in a member exceeding their remaining LTA, an LTA charge will be due. Trustees will need to consider what process to adopt to identify whether this is likely to be the case for members in their scheme.

Members who became entitled to their scheme pension after 5 April 2006 will have been given an annual BCE statement showing the percentage of the LTA used up. This statement will need to be corrected going forward.

Scheme members may also need to correct a previous Self-Assessment tax return if an LTA charge has changed or now applies. Similarly, trustees may need to provide updated information to HMRC, for example, through the Accounting for Tax return.

Arrears of pension may be paid to members as a lump sum as part of a GMP equalisation exercise. A scheme is required to operate PAYE on the lump sum. However, if the amount of tax deducted under PAYE is more than the tax due under the accruals basis (the amount of pension a member is entitled to in the tax year), members can contact HMRC to claim the correct tax treatment.

Next steps

HMRC promises further guidance on some trickier points, such as lump sum and death benefit payments, "as soon as possible". Crucially, HMRC says that it will "continue to explore the tax implications for schemes choosing to use the conversion methodology".

Come April, it will be a year since the DWP published [guidance](#) on using the legislative facility for converting GMPs into ordinary scheme benefits as a means of achieving GMP equalisation. As GMP conversion is likely to be the preferred option for many schemes, hopefully HMRC will provide the clarity needed here sooner rather than later. Whilst further industry guidance (which we understand has been on hold pending HMRC's guidance) may now be released, it is perhaps unlikely to address some of the trickier issues in the circumstances.

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