

Pensions tax – getting ready for LTA-Day

Sackers

February 2024

The [Finance Act 2024](#) paves the way for the LTA's demise from 6 April 2024. But this brings with it a number of complications, the key one being where to draw the dividing line between tax-free lump sums and taxed lump sums. This Hot Topic summarises the key changes, but look out for more updates from us as things develop.

The main headlines

Although further legislation and HMRC guidance is expected, the main headlines are:

- ✓ the LTA regime will be removed, including LTA excess lump sums and most benefit crystallisation events (“BCEs”) that currently trigger LTA testing
- ✓ two new tax-free lump sum allowances will make their debut in the LTA's place, the “**lump sum allowance**” (“**LSA**”) and the “**lump sum and death benefit allowance**” (“**LSDBA**”), and there will be a new testing and reporting regime
- ✓ the new allowances apply per person across all registered pension schemes, not per scheme, with lump sums exceeding either taxed at an individual's marginal rate
- ✓ tax-free elements of trivial commutation and winding-up lump sums will not count towards the two new allowances, although an individual must have available headroom against them to take such lump sums, mirroring the current requirement to have available LTA
- ✓ the initial draft wording for the Act suggested that DB members could potentially cash out much of their benefits, subject to scheme rules and paying marginal rate tax above the LSA. Following consultation, tax-free cash from DB arrangements will continue to be limited. But a new authorised lump sum will be introduced: the “pension commencement excess lump sum” (“PCELS”).

LSA



- The standard LSA will be £268,275, being 25% of the current standard LTA.
- An individual's maximum tax-free PCLS will be limited by their available LSA, as will tax-free elements of an UFPLS.

LSDBA



- Matching the current standard LTA, the standard LSDBA will set at £1,073,100.
- In addition to the lump sums caught by the LSA, certain death benefits and other lump sums which are payable tax-free (eg a serious ill-health lump sum) will count towards the LSDBA.

What about LTA protections?

Individuals holding a valid LTA protection will retain their rights to higher tax-free lump sums, as well as to higher tax-free parts of other lump sums and lump sum death benefits:

Member	Maximum LSA ¹	Maximum LSDBA
Primary protection	£375,000 ²	£1,800,000 ³
FP 2012	£450,000	£1,800,000
FP 2014	£375,000	£1,500,000
FP 2016	£312,500	£1,250,000
Enhanced protection	It's complicated! ⁴	

- 1 Individuals may be entitled to a higher PCLS if they have certain protected lump sum rights
- 2 Subject to any protected sum
- 3 Subject to the individual's primary protection enhancement factor
- 4 The LSA will depend upon whether an EP member has a separate lump sum protection (in which case it is the maximum PCLS that could have been paid on 5 April 2023) or not (in which case the LSA will be £375,000). An EP member's LSDBA will equal the value of their uncrystallised pension rights on 5 April 2024

Can members with LTA protections rejoin schemes?



Since 6 April 2023, members holding valid EP or FP applied for before 15 March 2023 (Spring Budget Day 2023) can build up new pension benefits, join new arrangements or transfer benefits without risking losing protection. But if an individual makes a successful application for protection on or after 15 March 2023, all of the original restrictions will apply. Of course, scheme rules and employer auto-enrolment obligations should always be checked when considering readmitting members.

PCELS – the new authorised payment in town



- ✓ A PCELS will potentially be available when a “relevant pension” (such as a DB scheme pension) comes into payment, the policy being to ensure that members with benefits above £1,073,100 can continue to take a lump sum.
- ✓ The same timing will apply as for a PCLS, ie a PCELS must be paid up to six months before but no later than one year after the day on which an individual becomes entitled to a relevant pension.
- ✓ HMRC intends a PCELS to be payable where a member has exhausted their LSA, or has used up their LSDBA (eg through payment of a serious ill-health lump sum). This will require a change to the current legislation, and there are plans to do so via regulations ahead of LTA-Day.

Transitioning to the new regime

- The two new lump sum allowances will broadly be reduced by 25% of any LTA used up before 6 April 2024. Existing requirements to provide BCE statements should help show this information, and schemes will be required to send fresh statements to certain non-pensioner members before 6 April 2025.
- Where an individual has already used up 100% of their LTA, the starting assumption is that they will have exhausted the two new allowances.
- But if maximum 25% tax-free cash was not taken when accessing benefits before 6 April 2024, members (or their PRs) will be able to request an alternative calculation.
- HMT will have power to make other legislative changes to ease the LTA transition.

Sacker & Partners LLP
20 Gresham Street
London EC2V 7JE
T +44 20 7329 6699
E enquiries@sackers.com
www.sackers.com

Practical points



Admin processes

Scheme admin processes will need to be updated to cater for the new allowances, and the changeover to new “relevant BCEs” on payment of certain lump sums.



Scheme rules

Depending on their rules, the tax changes may inadvertently cut across some schemes’ benefit design (eg if benefits are limited by reference to the LTA). Although schemes will not necessarily be affected, a review of key provisions should be considered.



Will legislation help in making changes?

We hope that there will be transitional provisions, or a section 67 exemption, to help prevent unintended consequences for scheme rules. We await news of whether this might appear before LTA-Day and, if so, in what form.



Impact on unregistered arrangements?

Employers providing members restricted by the LTA with death benefits or other top-ups through an unregistered arrangement should seek legal advice on the implications for them of LTA-Day.



Member communications

Trustees should review current communications and forms, as members will be keen to know how the changes might affect them, particularly those in the retirement run-up or with LTA protections.



New deadline for certain LTA protections

Applications for fixed and individual protections 2016 will now need to be made by a deadline of 5 April 2025, as opposed to before benefits are taken, as currently.



For further information, please speak to your usual Sackers contact. You can also visit www.sackers.com