Roliscon
Management and Investment Resources
Roliscon
PO Box 62
Chislehurst
Kent, BR7 5YB, UK
Tel: 020-8295-0378
Int: +44-20-8295-0378
Web: www.roliscon.com

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

Via Email: ihtonpensions@hmrc.gov.uk

12 November 2024

Response to Consultation on IHT Tax on Pensions

Dear Sirs,

I am responding to the consultation on the application of IHT to pensions which it is proposed should commence in 2027. As someone who holds a SIPP which would be affected by this proposal, I have the following comments:

1. I took extensive legal and financial advice, at considerable cost, on my IHT position a few years ago after the taxation of pensions was last changed. I changed my financial commitments accordingly. I have no doubt that there are many people in the same position as me. I am aged 78 but have a limited lifespan as I suffer from serious kidney disease. It is exceedingly annoying that I will have to revise my inheritance plans at this late date which effectively leaves little time to rearrange my financial plans.

2. My current SIPP contains considerable assets and is in drawdown but I have not been taking any cash from it for some time as I have other assets outside the SIPP including an ISA which can provide income to cover my relatively small living expenses.

3. The SIPP is also written in trust, as they often are, with my two sons nominated as the beneficiaries. Until this latest proposal my pension fund would pass to them on death. You are now proposing that this would in future incur 40% tax (the normal IHT rate) whereas previously no tax would have been payable.

4. This clearly makes a very substantial change to my financial plans. I consider it totally unreasonable to make such changes to tax law without very considerable prior notice and widespread political support.

5. One legal principle that seems to be ignored in this proposal is trusts are not owned by the nominated beneficiaries but are independent legal entities. Neither are the settlors who fund the trusts the owners of the assets. So it is a corruption of trust law to make me liable for IHT on the trust assets on death. This will undoubtedly create legal challenges.

6. The practicality of making pension fund trust administrators liable for collection of IHT, or the beneficiaries, seems to have been ignored. Many people have multiple pension schemes which would all need to be traced and valuations obtained. But according to recent research by the Pensions Policy Institute (PPI) there is £31.1bn lying in unclaimed, inactive, or lost pension pot – some 3.1 million funds. Unfortunately many people do not keep good records of their assets including pension entitlements.

7. There are already considerable difficulties in obtaining probate after a death for a number of reasons. The extra problem of identifying IHT liabilities on pensions would complicate matters further and cause additional delays and extra costs. The only beneficiaries of these complications would be lawyers and accountants. The executors of the deceased would certainly not welcome the extra burden placed on them by new rules on IHT when they already might be going through a stressful period when dealing with the affairs of the deceased. The proposals to bring pensions into IHT liabilities seem to have totally ignored the practical problems faced by executors, beneficiaries and pension administrators. Making beneficiaries jointly and severally liable for the claimed IHT tax is also likely to lead to challenges.

8. The HMRC consultation document suggests that one reason for the proposed change is that pension schemes "have been increasingly used and marketed as a tax planning tool to transfer wealth without an Inheritance Tax Charge….. (para 1.4). This is an exaggeration of the reality of the situation. Pension schemes are created for the purpose of providing for the old age of the pensioner. If the funds so held are in practice not used for that purpose to provide cash income in old age but can be retained because the pensioner has other sources of income, or lives longer than expected or has wisely invested their SIPPs, then that is pure luck to a large extent. The income used to invest in pension funds has already been subject to tax so it is unfair that it should be taxed again via IHT. This is double taxation on the same assets.

9. It is incorrect to assume that because a person's pension funds might have grown to be more than they need to cover their income needs in retirement that this was a deliberate IHT tax planning tool. In my personal case when I had to retire from a full-time job at the age of 50 on health grounds I took advice on how long I was likely to live and set up financial plans accordingly. In reality my doctors were too pessimistic (as they often are) as they forecast death in my sixties when I am now 78. This meant that my pension fund in my SIPP had longer to increase in value than expected – mainly from the wonder of compound interest but also from wise stock market investment. This has meant that the fund has become larger than expected helped by reducing expenditure and no expensive medical costs as might have been forecast. It is wrong to assume that this was deliberate IHT planning and there is clearly an incentive to retain assets in the fund rather than pay them out as that incurs income tax on those payments.

10. The investment in a pension scheme is subject to tax relief which was designed to encourage people to make their own provision for retirement as the state pension scheme is totally inadequate to support most pensioners in retirement at an acceptable living standard. Discouraging pension scheme investment by making the funds subject to IHT is a gross mistake and will undermine the long-standing principle of encouraging pension provision. In my case, it will encourage me to spend the pension

funds and minimise any future provision. Leaving any money in a pension fund such as a SIPP will clearly be a mistake in future. The possible purchase of an annuity instead which would leave no assets on death seems to have been ignored.

11. The consultation document says "Making the PRs liable for payment of Inheritance Tax due on a pension can create liquidity challenges if the PRs themselves do not have access to the relevant pension funds (see Para 2.9). This potentially creates large problems for the executors which is minimised in the consultation. Paras 2.14 to 2.16 explains some of the problems that will arise. Instead of tax simplification we have tax complication. Just reading that section of the consultation document somewhat horrifies me (and I think I am a financially sophisticated investor).

12. The desire to raise more tax via IHT or other taxes could surely be done in a way that does not complicate the administration of estates further.

13. I have not responded to the specific questions posed in Part 5 of the Consultation as these seem more aimed at pension administrators rather than pensioners or the beneficiaries of trusts. But some of the questions seem unanswerable.

14. For other readers the IHT consultation to which you can respond is here: https://www.gov.uk/government/consultations/inheritance-tax-on-pensions-liability-reporting-and-payment/technical-consultation-inheritance-tax-on-pensions-liability-reporting-and-payment

Yours sincerely

Roger W. Lawson
Director

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