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HMRC publish guidance on GMP equalisation but more detail is needed

HMRC has published guidance in the form of a newsletter on the tax treatment for the “dual record” approach to equalising schemes for the effect of Guaranteed Minimum Pensions (GMPs). The guidance is as pragmatic as could be expected and gives reassurance in several key areas. However, whilst welcome, it does not go nearly far enough for the majority of trustees and sponsors, who will need to understand the full tax picture before proceeding with GMP equalisation implementation.

The dual record approach to equalisation

The judgment in the Lloyds case considered several methods by which pension scheme benefits could be equalised for the effect of GMP.

The guidance only covers the tax treatment for the dual record approach to implementing GMP equalisation, where members’ GMPs are retained and compared against benefits for opposite sex members on an ongoing basis. The guidance is pragmatic and provides key reassurances in several areas, in particular:

- The pension uplift alone is not a new benefit entitlement and will **not lead to the loss of Fixed Protection.**
- Many members will **not have their uplift tested against the Annual Allowance.**

Schemes that need to equalise quickly (for example schemes which are winding up), or favour the dual record approach, may now feel that they have enough information to start implementing their GMP equalisation process in earnest. However, as with much HMRC guidance, there are complexities and grey areas, which the industry will need to work through over the coming months. An essential part of this will be practical guidance for trustees and administrators that is being drafted by the Pensions Administration Standards Association (PASA).

Most schemes will require more guidance

The guidance does not cover the tax implications of the conversion method, where GMPs are converted into other scheme benefits. Whilst this was not expected in the current tranche of guidance, there is no deadline, or even a statement of intent, for providing it.

A Buck survey revealed that a majority of trustees and sponsors favoured the conversion approach. Trustees and sponsors will need to carefully consider the risks involved in proceeding with conversion in the absence of clear tax guidance. For this reason, many schemes are delaying their equalisation projects in the hope that further guidance is published. This delay is increasing the time it takes for members to receive additional benefits which are due as a result of the Lloyds judgment and extending what is already expected to be a long project.

As expected, the guidance does also not cover equalisation issues connected with the payment of lump sum benefits, which HMRC is still considering.

The administrative issue

Whilst the guidance is pragmatic, and has eliminated some of the possible administrative complexity, there remains a large additional burden on schemes undertaking GMP equalisation. In some cases, the cost of additional administration could exceed the additional benefits provided to members. For example:

- Impacted members already in receipt of their pensions will need a revised statement of the Lifetime Allowance they had used at retirement.
- Where an individual is a member of more than one scheme, and additional Lifetime Allowance is used in one scheme, the knock-on impact needs to be considered on all subsequent retirements in the member’s other schemes.
- Each post-retirement event that was considered against the Lifetime Allowance must be revisited.
- Members wishing to update their Lifetime Allowance protection with HMRC will need to request an updated valuation statement.

An additional burden is also placed on some members, who will need to restate their tax returns in the years where Lifetime Allowance tax charges were submitted. They will also potentially have to correspond with HMRC to spread their back payments where an arrears payment moves them into a higher tax band.

Impact on administrators

Administrators, who are already dealing with GMP rectification, could now find GMP equalisation projects a challenge.

This additional work is not straightforward and involves the investigation of historic calculations. This can be a time consuming and difficult process.

Where next?

HMRC has said it will “continue to explore” the tax treatment of GMP conversation but it has not, committed to producing further guidance or, given a timescale as to when any such guidance will be available.

The dual record guidance published is to be welcomed as a step in the right direction. However, HMRC needs to now produce similar pragmatic guidance on GMP conversion to remove uncertainty and enable GMP equalisation to become a reality for many schemes.

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