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Changes to Scheme Pays

Scheme Pays provisions are to be changed from April 2022. Where members are provided with revised pension savings statements due to a retrospective change of facts, they can now access mandatory Scheme Pays for up to six tax years after the revision.

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Background

Scheme Pays allows members to elect that a pension scheme pay part or all of an annual allowance charge in return for an appropriate reduction to their pension benefits. If prescribed conditions are met the scheme becomes jointly and severally liable (with the member) for the annual allowance charge and must pay this to HMRC within a given timescale. This is known as 'mandatory Scheme Pays'.

If the conditions for mandatory Scheme Pays are not met a pension scheme may decide to pay the member's annual allowance charge on a voluntary basis. If a scheme does not allow voluntary Scheme Pays then the charge will fall to the member to pay themselves through their Self Assessment return.

Current reporting and payment deadlines

Where a member has an annual allowance charge, they must report it on their Self Assessment return and, where they want the pension scheme to pay the charge, report that they want to use Scheme Pays. The member currently has to inform the scheme by 31 July in the year after the one in which the tax year ends. For example, if the charge relates to the tax year ending on 5 April 2020, the member must notify the scheme no later than 31 July 2021.

The pension scheme must report the annual allowance charge to HMRC in their Accounting for Tax return (AFT) for the quarter ending 31 December following the end of the tax year and deliver the AFT to HMRC within 45 days of that quarter ending (i.e. 14 February). In the above example, the AFT would need to be delivered to HMRC before 14 February 2022.

Members may have the ability to vary a previous scheme pays election, provided the pension scheme receives the member's request no later than the 31 July that follows the end of the period of four years from the end of the tax year to which the member's liability for the charge relates. For example, if the

charge relates to the tax year ending 5 April 2017, the member must notify the scheme that they want to change the amount they have already asked the pension scheme to pay by no later than 31 July 2021. However, this option may not be available for members where new annual allowance charges arise due to retrospective changes in pension savings.

Proposed changes to the process

The process will change from 6 April 2022 but will be retrospective from 6 April 2016. The change will mean that any member who receives a retrospective amendment to their pension input amount (i.e. pension accrual or pension savings) in the previous six tax years which results in them being liable for an annual allowance tax charge, they will have access to mandatory Scheme Pays (provided that the other conditions are met).

This change has been introduced due to the [changes needed to public sector pensions](#) to remedy age discrimination issues following the McCloud and Sargeant judgments, which can result in additional annual allowance charges for past tax years.

The revised process would apply where a pension scheme has to give the member a new pension savings statement with a revised pension input amount for a past tax year.

The member then has a period in which to give notice to the pension scheme that they wish to use Scheme Pays. Where the revised statement is given before 2 May in the year after the end of the tax year (so for 2021/22 tax year, by 2 May 2023), the original Scheme Pays deadline of 31 July applies. Where it is received after this date, the member would have a deadline of three months.

The scheme then has to report and pay the charge within a deadline relating to when the scheme is notified of the charge, rather than the 31 July deadline which currently applies.

Comment

Whilst this change has been driven by developments in the public sector, it is a welcome easement for all. Although many schemes will see no day to day impact from this change, it will be especially helpful for members where annual allowance charges arise from a retrospective change of facts.

What's next?

The draft legislation is part of a joint HMRC and HM Treasury [technical consultation](#) about next year's Finance Bill. The consultation ends on 14 September 2021 and covers a number of areas of tax policy (including the increase in the normal minimum pension age from 55 to 57 in April 2028).

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