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REFORMING INHERITANCE TAX — UNUSED PENSION FUNDS AND DEATH BENEFITS

Response by Association of Taxation Technicians

1 Introduction

- 1.1 The Association of Taxation Technicians (ATT) is pleased to have the opportunity to respond to the HMRC policy paper and draft legislation issued on 21 July 2025 regarding the proposals to bring unused pension funds and death benefits into scope of Inheritance Tax from 6 April 2027.¹
- 1.2 The primary charitable objective of the ATT is to promote education and the study of tax administration and practice. We place a strong emphasis on the practicalities of the tax system. Our work in this area draws heavily on the experience of our members who assist thousands of businesses and individuals to comply with their taxation obligations. This response is written with that background.
- 1.3 We have made some general comments about our concerns regarding the liability of Personal Representatives (PRs) in section 2, and on the draft legislation in sections 3 and 4. Contact details for any further discussions are in section 5.
- 1.4 Our primary concern is that, in the move to minimise the number inadvertently affected by the policy, too little consideration has been given to the increased risk placed on PRs. The current provisions for PRs to recover IHT on pension assets from pension beneficiaries are inadequate. More needs to be done to ensure that individuals and professionals can still confidently accept the role of PR, and that the policy does not have the unintended consequence of making it more challenging for individuals to find PRs willing to handle their estate and increasing the costs of estate administration.

2 General concerns about the updated policy

- 2.1 The current policy has shifted the liability for paying any Inheritance tax (IHT) on pension assets from the Pension Scheme Administrators (PSAs) to the PRs. The change has been made to address concerns that otherwise many pension beneficiaries would be affected by the need to confirm that no IHT was due before pension assets could be distributed. PSAs state they would have been obliged to hold onto – and potentially pay on account before the 6 month IHT payment deadline – a minimum of 40% of pension funds until such time as the IHT position for any given estate was finalised. This would include estates where no IHT was due,

¹ <https://www.gov.uk/government/publications/reforming-inheritance-tax-unused-pension-funds-and-death-benefits>

meaning that the policy had an impact beyond those actually required to pay any additional IHT. Under the current proposals, the PRs are now liable for IHT on any taxable pension fund assets. The PRs are now liable for IHT on assets which are not under their control.

- 2.2 We can appreciate that the previous proposal could lead to both more administration and potentially hardship for more pension beneficiaries - even though at least 60% of the pension fund could still be accessed – and affect more estates than the Government intended. However, we are now in a position where the new proposals are asking PRs to take personal liability for a tax on assets they cannot control. While the number of “hard cases” should now be smaller, where they occur – and they will occur - they are potentially more catastrophic for individual PRs, with insufficient mechanisms to recover funds from beneficiaries and a limited ability to protect themselves from additional IHT liabilities if pension funds are identified after the estate has been finalised.
- 2.3 The policy design appears to have been made on the assumption that in most cases pension assets are being left to the same beneficiaries as the free estate, that pension beneficiaries will be co-operative if IHT is due and that funds will be available in the free estate to settle IHT on assets including pension wealth without negative consequences for the beneficiaries of the free estate. We cannot assume this to be the case in every estate. While it is impossible to quantify how many people will be affected each year, there will be PRs faced with estates where the beneficiaries of the pension and free estate are different, where pension beneficiaries are uncooperative and unwilling to refund IHT on their pension interests, where pension beneficiaries act with animosity towards other beneficiaries or PRs, or are overseas so that enforcement of debts is practically impossible.
- 2.4 The new policy approach will increase the risk for both lay and professional PRs. PRs may not feel comfortable accepting appointments where the individual has pensions and any form of complexity in their estate beyond leaving assets equally between descendants. This simple division may not be appropriate for blended families, individuals with children from multiple relationships, or those where one family member is inheriting specific assets such as an interest in a business. We have already heard that some professional firms have stopped accepting appointments as PRs due to the increased risk this policy brings. This policy may have the unintended consequence of making it more challenging for individuals to find PRs willing to handle their estate. If insurance costs for professional PRs increase as a result, then increased costs could be passed on to all estates.
- 2.5 The current provisions for PRs to recover IHT on pension assets from pension beneficiaries are inadequate. We have seen the Chartered Institute of Taxation (CIOT) suggestions for a number of improvements to the right of recovery for PRs, including ensuring pension beneficiaries are liable jointly with the PRs, and giving PRs a specific power to raise tax from *any* assets of the pension beneficiary, not just their share of the pension fund. This should not require court proceedings which simply adds more cost and burden for PRs. We support these suggestions as a way of helping PRs to mitigate some (but not all) of the extra risk brought by the policy.
- 2.6 In respect of the risk of failing to identify all pension assets, some of the risk here for PRs could be mitigated if there was a national register of pensions to assist in identifying all relevant pension assets. It might be helpful too if PRs could have access to the long-awaited pensions dashboard. (Part of the rationale for the dashboard is to “reunite savers with lost or forgotten pensions” – showing that even in life people lose track of their pension assets. The challenge of identifying all of a person’s pension assets will be no easier for the PRs after the person has died.) The PRs could then be granted some protections from additional liability on late-identified pension assets if they can show that they have made relevant searches of any relevant registers. We appreciate this would require additional infrastructure and costs of administration to set up.

- 2.7 We remain concerned about the tight timescales for payment of IHT after death, and the increased risk of interest costs for estates.
- 2.8 We are also concerned about the requirement for PSAs to tell the PRs the IHT value of pension assets within four weeks of receiving the member's death notification. There will be practical consequences for esoteric investments, e.g. illiquid funds, commercial property, funds held in external custody and unquoted shares which could make it hard for PSAs to hit this deadline.

3 Clause 1: Certain pension property treated as part of estate

- 3.1 The proposed s150A allows for exemptions where pension benefits are left to charity. How will the application of the reduced rate of IHT (36%) apply to pension assets? We presume that pension assets will form part of the *general component* of the estate when assessing if 10% of that component has been left to charity but wonder if pension assets should form a component of their own?
- 3.2 New s150A (5) excludes *dependants' scheme pensions* from the definition of *relevant death benefit*, which is taxable. According to [PTM072110 - Death benefits: types of pension: dependants' scheme pension: conditions - HMRC internal manual - GOV.UK](#) it is possible to have *dependants scheme pensions* in three types of pension - money purchase, defined benefit and collective money purchase schemes. In the [Policy Paper](#) published 21 July, under the general description of the measure, it says that only "dependant's scheme pensions from a defined benefit arrangement, or from a collective money purchase arrangement, are excluded from these changes". We think it may be possible to read the legislation as inferring that *any* dependants scheme pension, regardless of the nature of the scheme should be exempt but we are unclear if this is the Government's intention. Could the position be clarified please?

4 Clause 3: Direct payment by pension scheme administrator of beneficiary's tax

- 4.1 Under paragraph 2 of s226A of the draft legislation, the pension beneficiary is able to give notice to the PSAs that they should pay an amount of tax to HMRC. What happens if the beneficiary is a minor or lacks capacity on other grounds and is unable to give such notice? Could provisions be made to allow for an alternative notice from, for example, the PRs in these situations?
- 4.2 Paragraphs 3 and 4 of s226A allow the beneficiary to give notice to the PSA and for the PSA to make payment of tax if the amount is £4,000 or more, and by discretion if amounts are under £4,000. We have concerns about how this limit is intended to operate both generally, and in the event of an amendment where additional tax becomes payable.
- 4.3 For example, say the initial sum of IHT on pension assets calculated as due is £15,000. The beneficiary instructs the PSA to pay this. A few months later, the total IHT liability for the estate is amended following identification of a previously unknown asset, and the amount attributable to the pension is subsequently found to be £18,000. The PSA would be *required* to pay the first amount as it is over the £4,000 limit, but is the additional £3,000 only at the PSA's discretion, or should they still be required to pay it (assuming they still hold funds) because the overall liability exceeds £4,000? It would be helpful if the application of the £4,000 limit could be clarified.
- 4.4 Given the issues with amendments, where additional sums may be small, we think that the inclusion of a de minimis figure is unhelpful as it potentially leaves the PRs having to fund the extra sum, or the beneficiary

having to request sufficient benefits from the PSA to pay the sum and then having to recover any income tax from HMRC afterwards. In general, we do not see that it is reasonable to have a limit on the amount of IHT that PSAs can be asked to pay out, as it just increases the difficulties for PRs and beneficiaries. PSAs will need to build systems and processes to support the new policy regardless of the amount of tax due, so we are not clear why a de minimis is necessary.

- 4.5 In the event that too much tax is paid out of the pension scheme (either a subsequent amendment reduces the amount due, or the beneficiary makes a mistake) will it be the PRs who are required to notify HMRC or the beneficiary?
- 4.6 Finally, will any pension fund scheme rules need to be amended to allow the scheme to accept refunds of IHT payments without other tax consequences? We also wonder how valuations are to be prepared? Is the intention to value on market value basis at the date of death, or should the PSAs be applying the special rules for valuing stocks and shares for probate purposes where the fund comprises investments?²

5 Contact details

- 5.1 We would be pleased to join in any discussion relating to this consultation. Any queries should be sent to atttechnical@att.org.uk.

The Association of Taxation Technicians

6 Note

- 6.1 The Association is a charity and the leading professional body for those providing UK tax compliance services. Our primary charitable objective is to promote education and the study of tax administration and practice. One of our key aims is to provide an appropriate qualification for individuals who undertake tax compliance work. Drawing on our members' practical experience and knowledge, we contribute to consultations on the development of the UK tax system and seek to ensure that, for the general public, it is workable and as fair as possible.

Our members are qualified by examination and practical experience. They commit to the highest standards of professional conduct and ensure that their tax knowledge is constantly kept up to date. Members may be found in private practice, commerce and industry, government and academia.

The Association has more than 10,000 members and Fellows together with over 7,000 students. Members and Fellows use the practising title of 'Taxation Technician' or 'Taxation Technician (Fellow)' and the designatory letters 'ATT' and 'ATT (Fellow)' respectively.

² <https://www.gov.uk/guidance/valuing-stocks-and-shares-for-inheritance-tax>