

Protecting Pension Benefits from the Taxman – Yes or No?

In previous articles, we have sought to explain the way that the NHS Pension is calculated in respect of the Lifetime Allowance. As we have discussed before, the Lifetime Allowance for your total pension pot is set to fall from the current £1.8m back to £1.5m on 6th April 2012. Due to the way that the NHS Pension is calculated, this is likely to catch out many senior doctors. As a concession, the Government has allowed you to protect your own Lifetime Allowance at £1.8m subject to some additional rules as explained below. Whilst applying for protection will undoubtedly be good for some doctors, it will not apply to all of you and the rules are complex.

The form to apply for Fixed Protection is now available and can be downloaded by clicking on the following link. Once protection is received, your personal Lifetime Allowance will remain at £1.8m and any pension pot that you have accrued between £1.5m and £1.8m will avoid the potential 55% tax bill that it may otherwise attract. That could save you up to a possible £165,000 in tax (£300,000 x 55%) that would have been deducted from your lump sum if you had an unprotected £1.8m pension pot.

If you would like to download and complete the form, please feel free to do so by visiting the following webpages. Before doing so, please read the warnings below.

Form APSS227 - <http://www.hmrc.gov.uk/pensionschemes/apss227.pdf>

Completion notes - <http://www.hmrc.gov.uk/pensionschemes/apss227-notes.pdf>

NHS Pension members should be extremely wary before submitting the form, because in order to be effective, it absolutely requires that no further ‘benefit accrual’ takes place after April 2012. Benefit accrual means any increase in benefits over and above CPI inflation, which means that any year that you receive inflationary pay rises, incremental points or promotions, as well as an additional year of membership, will break the Fixed Protection rules. Similarly, there can be no further contribution to any other form of pension including Personal, Stakeholder and AVC Pensions as well as Added Years or Additional Pension.

So, Hospital Doctors could get Fixed Protection and remain in the NHS Scheme, but only while there continues to be a pay freeze and not if they are due an incremental point or a promotion. In effect, some Hospital Doctors can apply for Fixed Protection and then have a 2 year window in which to hope that the rules are changed again. If the rules haven't changed, they would either automatically lose the protection or they would need to consider the drastic step of deliberately opting out of the NHS Pension Scheme.

GPs' pensions, on the other hand, are calculated by revaluing all previous earnings by RPI plus 1.5% every year, which means that they will automatically break the protection rules and can only apply for and retain Fixed Protection by opting out of the NHS Pension.

In general terms, our advice would be that no member should voluntarily leave the NHS Pension Scheme unless they are absolutely certain that they would be financially better off by doing so. For this to be the case, you would need to be at a stage in your career where the tax due on overfunding your pension, exceeded the additional benefits accruing within the scheme. In short, you would need to be close to or over the £1.5m limit by April 2012 and with relatively little time remaining in the NHS.

If you require a full analysis of your pension benefits and our advice as to whether or not Fixed Protection and the consequent opting out of the NHS Pension could be beneficial to you, we can do so at **a charge dependant upon the complexity of your case**. However, due to the amount of information that needs to be gathered from a number of sources, you **must** let us know in plenty of time. If you require this service, please contact Hampton Dean Ltd, by email at info@hamptondean.co.uk or in writing at , 5 Lawrence Way, Castle Bridge Office Village, Castle Marina, Nottingham, NG7 1GE, or telephone us on 0115 9886997 by 31st December 2011.