Response by TISA to the HMRC consultation:

Technical consultation - Inheritance Tax on pensions: liability, reporting and payment

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About TISA

The Investing and Saving Alliance (TISA) is a unique, rapidly growing membership organisation for UK financial services.

Supporting the financial journey through life

Our ambition is to improve the financial wellbeing of all UK consumers by working collectively with the financial services industry to deliver solutions and champion innovation, for the benefit of people, our industry, and the nation.

We do this by working with our member firms to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

TISA is a **not-for-profit membership organisation** and a trusted partner of key industry stakeholders in helping shape the future of the UK financial services and the environment in which we operate. **We have over 270 member firms** involved in the supply and distribution of **savings, investment products and associated services**, including the UK's major investment managers, retail banks, online platforms, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, FinTechs, financial consultants, financial advisers, industry infrastructure providers and stockbrokers.

Our work, your influence

With a focus on three strategic pillars of work to best support the consumer and UK financial services, TISA has become a major industry delivery organisation for consumer focused and digital industry infrastructure initiatives. Our three pillars of work remain at the forefront of everything we do:

- **STRATEGIC**
  Build **Strategic policy initiatives that influence policy makers** regarding the financial wellbeing of UK consumers & thereby enhancing the environment within which the industry operates in the key areas of consumer guidance, retirement planning, later lifetime lending, vulnerable customers, financial education, savings and investments.

- **TECHNICAL**
  Provide **expert technical support to members** on a range of operational and regulatory issues targeted at improving infrastructure and processes, establishing standards of good practice and the interpretation and implementation of new rules and regulations covering ISAs, Consumer Duty, client assets, responsible & sustainable investing, operational resilience, vulnerable customers, governance, conduct & culture, plus a range of other areas.

- **DIGITAL**:
  To transform our industry architecture by building **digital transformation initiatives** that are driving ground-breaking innovation. TISA has become a major industry delivery organisation for consumer focused, digital industry infrastructure initiatives, with projects including **Digital ID** and **Open Savings, Investments & Pensions (OSIP)**. This reflects TISA's commitment to open standards and independent governance.

More here**:** **https://www.tisa.uk.com/about-tisa/**

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Executive Summary

TISA welcomes the opportunity to respond to the HMRC technical consultation - Inheritance Tax on pensions: liability, reporting and payment.

We strongly agree that the main purpose of saving into a private pension is to provide an income in retirement. However, the generous tax treatment on death does mean they are used by some as a vehicle through which wealth can be accrued with the benefit of marginal rate tax relief and tax-free investment growth, for the specific purpose of estate planning. As such, we agree with the policy intent of introducing a policy which reduces these benefits and incentivises pensions being used for their originally designated purpose.

The proposals seek to bring pensions into an existing IHT framework, without understanding the pension death claim process and the impact this will have on beneficiary outcomes. The recent and welcome industry sessions run by HMRC have clearly illustrated that the process is heavily reliant on an efficient LPR, the process will delay all death claims whilst IHT liability is being determined, the 6-month timeline from date of death is likely to be breached in most instances and without clarity on the scope, it is not possible to accurately identify the challenges in the proposed process or consider fully viable alternatives.

The potential inclusion of products such as Group Life Assurance (GLA), extends the scope beyond pensions and the original policy intent as well as creating the need for a different process. These benefits cannot be used to accrue wealth and use as wealth transfer vehicles and would also bring into scope individuals who have not even reached Normal Minimum Pension Age (NMPA). Additionally, the main purpose of GLA is to protect the immediate financial future of a family who loses a working age earner, providing quick access to funds without the need for probate or a lengthy process to determine the funds payable. These are crucial factors which need to be taken into consideration when deciding on the scope of these proposals.

Similarly, from a pension perspective, the proposals do not provide any concessions for scenarios where death occurs before NMPA is reached (and therefore there is no ability to drawdown any pension benefits) or where the death is a child (and therefore an extremely low likelihood of exceeding the IHT threshold).

Both Government and Industry acknowledge that most individuals are under-saving in their DC pots for retirement. The Auto-Enrolment minimum contribution rate is unlikely to help most savers achieve an adequate retirement outcome. People are encouraged to save more and many employers support this through matching contributions. Whilst adequacy is a personal measure and the pot size required to achieve it will vary based on circumstance, many savers will need to save hundreds of thousands of pounds to reach this outcome. Whilst, exemptions are in place when leaving everything above £325,000 to a spouse or civil partner, the census 2021 showed that the proportion of adults who have never married or been in a civil partnership has increased every decade from 26.3% in 1991 to 37.9% in 2021, whereas the proportion of adults who are married or in a civil partnership (including separated) has fallen from 58.4% in 1991 to 46.9% in 2021.

For those deceased individuals where there is no spouse of civil partner, or the estate is due to go elsewhere, pension savings alone could tip them into the scope of IHT without even considering other significant assets like property and other savings.

And this is another perspective where the proposals come somewhat unstuck. We are encouraging people to do the right thing and save for their retirement but they will be doing so without an understanding of what this will mean from an IHT perspective on death. The uncertainty of whether current or increased pension saving levels might lead to an IHT charge in the future may result in individuals reducing or delaying planned contribution increases, to ensure they remain well below the threshold. This would clearly be a very poor outcome and creates a direct conflict between these proposals and wider government objectives to boost personal saving and financial resilience in later life.

The proposals do not discriminate between those more-wealthy individuals who are deliberately using pensions as a wealth transfer vehicle and those who are simply doing the right thing and saving for later life. It is challenging to achieve the distinction between these groups if pension entitlements are bundled into the total estate value, however if pensions retained their existing IHT status and an additional charge was instead levied as a standalone inheritance charge, this could be mitigated to an extent through the introduction of a nil rate band or de minimis.

Whilst there are options to adapt the existing process to make this more workable from a beneficiary and PSA perspective which we have outlined throughout this consultation response, our primary recommendation is to change the fundamental approach and instead, create a new tax charge on death akin to pre-pension freedoms and the LTA excess.

Proposed alternative approach

Introduce a flat rate 'inheritance tax charge' on death after NMPA, set at a % that generates the same revenue as the IHT proposal.

Process

- To protect lower total pension entitlements and in keeping with the policy intent, a nil rate band (de minimis) should be set at an appropriate level, where no tax charge is due.
- Pension schemes would pay out the claim in full. The LPR would notify HMRC of any inheritance tax charge and HMRC would assesses the details and write to the beneficiaries to collect the charge.
- No change to the existing tax treatment of pension death benefits (tax free pre-75 / marginal rate post-75).

Benefits

- Discourages the use of pensions as wealth transfer vehicles whilst protecting smaller entitlements
- It removes the need for the complicated LSDBA regime and replaces it with a simpler pension death tax framework which consumers can understand.
- It can continue to be framed as an inheritance tax
- It leverages an existing process for how LSDBA (and previously LTA excess) charges are assessed and collected
- The nil rate band (de minimis) and tax charge can be set at a level which generates the same expected tax revenue as the existing proposals
- It provides certainty for scheme members of their pension tax position on death
- Beneficiaries, who are likely to be in a vulnerable state will receive their pension entitlements much quicker and not face the possibility of losing some of the benefit through deduction of late IHT payment tax charges

We would be pleased to discuss any aspect of our response with you, in particular the merits of the alternative approach outlined above.

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Question responses:

Question 1: Do you agree that PSAs should only be required to report unused pension funds or death benefits of scheme members to HMRC when there is an Inheritance Tax liability on those funds or death benefits?

Yes, we agree with this approach.

Question 2: How are PSAs likely to respond if they have not received all the relevant information from the PR to pay any Inheritance Tax due on a pension by the 6-month payment deadline?

The 6-month deadline from date of death does not provide an appropriate period of time to complete a claim, given the complicated nature of claims and the delays often experienced in receiving death notifications. As such, we would expect a high volume of claims to remain incomplete at the point the deadline is reached. PSAs could:

1. Allow the fund to be eroded through interest payments.
2. Make a payment on account upfront, which covers the IHT charge if it is determined one is due at a later date. However, this makes for a clunky process where overpayments will need to be reclaimed and paid to the beneficiaries, who have already been waiting an extended period of time due to the IHT process.
3. Make a payment on account just before the 6-month deadline is reached.

In order that all beneficiaries receive equal treatment, you may wish to consider prescribing an approach that schemes must follow.

Question 3: What action, if any, could government take to ensure that PSAs can fulfil their Inheritance Tax liabilities before the Inheritance Tax payment deadline while also meeting their separate obligations to beneficiaries?

The 6-month deadline from date of death does not provide an appropriate period of time to complete a claim, given the complicated nature of claims and the delays often experienced in receiving death notifications. It is inappropriate to expect the pension death claim process to be shoehorned into existing IHT timelines, with no changes made to reflect the challenges.

A logical and pragmatic approach would be to simply exempt pension schemes from the 6-month deadline and create a new 12-month deadline. This is easy to justify given the timeframes involved with typical death claims and the heavy reliance placed on the efficiency of the Legal Personal Representative(s) (LPR).

A focus should be placed on protecting the death benefits from tax charges arising due to pensions being subject to inappropriate process.

Question 4: Do you have any views on PSAs reporting and paying Inheritance Tax and late payment interest charges via the Accounting for Tax return?

We do not have any objections to the AfT being the reporting framework used for IHT reporting. However, changes will be required as it could not currently encompass this reporting in its current state. We recommend a structured approach whereby IHT reporting is made on a monthly basis, with a strict rule stating this cannot include additional items that firms may wish to include to avoid other deadlines.

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Question 5: Do you agree that 12 months after end of the month in which the member died is the appropriate point for their beneficiaries to become jointly and severally liable for the payment of Inheritance Tax?

We do not agree with the proposal. If the benefits are paid as a lump sum and the arrangement has been extinguished, this effectively terminates the relationship between the deceased member, beneficiary(ies) and the scheme. It would not make sense for schemes to remain severally liable when there are no associated benefits held in respect of the deceased member or their beneficiary(ies). Where the death benefits are taken in the form of pension income, amendments could be complicated, particularly if this needs to be repaid to the scheme in order to make the payment. To minimise complication to all parties, we recommend schemes are jointly and severally liable up to the earlier of the point at which benefits are extinguished or 6 months from date of death.

Question 6: What is the most appropriate means of identifying or contacting beneficiaries if either the PR or HMRC realises that an amendment is needed after Inheritance Tax has been paid? Should PSAs be required to retain the details of beneficiaries for a certain period?

As stated in our response to Q5, we do not believe it is appropriate for PSA involvement once benefits have been paid out full by the scheme. HMRC should be in receipt of all the relevant information and individuals are more likely to act on a request from HMRC than they are from a PR or a PSA.

There is a general record keeping requirement placed on schemes to retain various documents for at least 6 years including payments out. We do not believe the inclusion of pensions within IHT should create a need to extend this period, however it should be clearly defined what beneficiary information is expected to be held, should this exceed existing data capture levels.

Question 7: What are your views on the process and information sharing requirements set out above?

The process needs to be robust enough to withstand the ever-present threat of pension scams. The required information sharing process between the PR and PSA creates the opportunity for scammers to impersonate a PR in order to obtain confidential information about a deceased persons affairs.

Upon notification of a death, a registrar will explain the 'Tell Us Once' service and offer to complete the service with the notifier or provide a unique reference which enables this to be completed online or by phone at another time. Consideration needs to be given as to how this service could be enhanced and incorporated into the process to increase efficiencies and add protection against scammers. If this became a mandated centralised point of death notification, this could be used to notify all pension schemes. There is the potential to link this service to Pension Dashboards once they are operational, which could provide an automated method of notification and could be used to date stamp the point at which the claim process starts and potentially the IHT timeline begins.

Question 8: Are there any scenarios which would not fit neatly into the typical process outlined above? How might we address these?

This is a difficult question to answer without knowing the exact scope i.e. what products and benefits will be caught by these proposals. Parts of the process may appear broadly workable for some products, however a shift in scope may completely change this view.

The intention behind these proposals is to stop people deliberately using pensions as a wealth transfer vehicle whilst also benefitting from tax relief. However, the existing proposals mean that people who die before Normal Minimum Pension Age (NMPA) would also be caught, despite them not having the opportunity to draw down from their pension savings. This group should be out of scope and similarly, those who have only recently passed NMPA should be given an opportunity to access their cash before potentially losing 40% of it through an IHT charge due to an unexpected early death.

Children who die should be exempted from these requirements due to the extreme unlikelihood they will have amassed an estate in excess of the IHT threshold.

Question 9: Do you have any other views on the proposal to make PSAs liable for reporting details of unused pension funds and death benefits directly to HMRC and paying any Inheritance Tax due on those benefits? Are there any feasible alternatives to this model?

Alternatives can be split into two categories – those which place pensions within scope of IHT and those that retain their exempt status but propose an alternative approach that raises the same tax revenue whilst retaining the policy intent of removing the incentives of using pension funds as a tax efficient way of transferring wealth on death.
Whilst there are variations on both, our favoured approach for each is below:

Placing pensions within the scope of IHT

Adopt the same process for all pension lump sum death benefits regardless of whether they currently form part of the deceased member's estate or not and leave liability for any IHT with the PRs to ascertain and pay. It might be more useful to report all lump sum death benefits in both the name of the deceased and that of the recipient beneficiary, which should not be a complicated change and would enable HMRC to carry out compliance checks based on the reporting.

Retaining the IHT exempt approach

Introduce a flat rate 'inheritance tax charge' on death after NMPA, set at a % that generates the same revenue as the IHT proposal.

Process

- To protect lower total pension entitlements and in keeping with the policy intent, a nil rate band (de minimis) should be set at an appropriate level, where no tax charge is due.
- Pension schemes would pay out the claim in full. The LPR would notify HMRC of any inheritance tax charge and HMRC would assesses the details and write to the beneficiaries to collect the charge.
- No change to the existing tax treatment of pension death benefits (tax free pre-75 / marginal rate post-75).

Benefits

- Discourages the use of pensions as wealth transfer vehicles whilst protecting smaller entitlements
- It removes the need for the complicated LSDBA regime and replaces it with a simpler pension death tax framework which consumers can understand.
- It can continue to be framed as an inheritance tax
- It leverages an existing process for how LSDBA (and previously LTA excess) charges are assessed and collected
- The nil rate band (de minimis) and tax charge can be set at a level which generates the same expected tax revenue as the existing proposals
- It provides certainty for scheme members of their pension tax position on death
- Beneficiaries, who are likely to be in a vulnerable state will receive their pension entitlements much quicker and will be notified by the PSA that a potential inheritance tax charge may be collected by HMRC