

### GMP Equalisation – Still a Taxing Issue

Most pension schemes have been waiting for HMRC to clarify the tax consequences of equalising GMPs before implementing any changes to members' benefits. HMRC has now issued the first tranche of its long awaited guidance on this issue. While this is helpful in resolving several issues, crucially it does not address the consequences of equalising GMPs through GMP conversion, a route potentially attractive to many schemes.

#### Background

The High Court Ruling on 26 October 2018 in the "Lloyds Bank" case confirmed that schemes whose liabilities include Guaranteed Minimum Pensions (GMPs) must take action to address GMP Equalisation. If a member's benefits would be higher by calculating their benefits accrued since 17 May 1990 using the GMP applicable to an individual of the opposite sex, then they must be increased accordingly, including paying arrears to members who have already retired.

The judgment in the Lloyds Bank case sets out four possible approaches to GMP Equalisation:

- Three "dual record" methods (Methods B, C1 and C2). Under these approaches, two records are maintained of a member's pension, one based on their actual GMP, and another based on the pension they would have if benefits accrued between 17 May 1990 and 5 April 1997 included the GMP they would have as a member of the opposite sex. There is then an annual comparison between the two records to determine the amount of pension to be paid to the member for the following year.
- A "single record" method (Method D2), known as GMP conversion. Under this approach, there is a one-off comparison of the value of a member's benefits using the true sex and opposite sex GMPs, and benefits are then converted into a revised form excluding a GMP. Going forwards only one member record has to be maintained, and there is no annual comparison.

Which of these approaches it will be most appropriate to take will depend on a scheme's benefit structure and membership profile. Many schemes will see GMP conversion as attractive by being simpler to administer in the long-term.

#### HMRC's Guidance

Published on 20 February 2020, HMRC's guidance only relates to benefit adjustments for GMP equalisation which uses a "dual record" approach, and specifically excludes GMP conversion. Although HMRC states that it continues to explore the tax issues around GMP conversion, there is no stated timescale for it to issue further guidance.

Nevertheless, the present guidance is helpful, since whatever is done for future benefit payments (which might include GMP conversion), past underpayments to existing pensioners need to be calculated using one of the "dual record" approaches.

#### Annual Allowance

HMRC confirm that there are no Annual Allowance issues for most deferred members. For active members (which includes deferred members with an ongoing salary link) there is no requirement to revisit past calculations of Pension Input Amounts. Instead, any adjustment for GMP equalisation will need to be taken into account in the calculation of the Pension Input Amount for the tax year in which the adjustment is made.



## Lifetime Allowance Protections

When the Lifetime Allowance was first introduced in 2006, and on subsequent occasions when the level of the Lifetime Allowance has been reduced, individuals with significant pension savings have had the opportunity to claim "Protection" to preserve an entitlement to a higher level of Lifetime Allowance, subject to certain restrictions.

HMRC confirm that Fixed Protection will not be lost if GMP equalisation is implemented using a dual record approach. Primary and Individual Protection will also not be lost, but the amounts previously certified to HMRC may need to be recalculated if the value of the rights protected has increased. Members with Enhanced Protection may need individual consideration if the member was an active member of the scheme after 5 April 2006.

## Lifetime Allowance and Current Pensioners

If a current pensioner's initial starting pension is increased as a result of GMP equalisation, then the amount crystallised at retirement for the purpose of testing against the member's available Lifetime Allowance has to be recalculated.

If this results in more tax being due (because the amount in excess of the Lifetime Allowance has increased) then this tax has to be paid.

Reworking historical Lifetime Allowance calculations creates another potentially significant administrative workload, although the number of individuals for whom this actually creates an additional tax charge will usually be low.

## Summary

Many tax issues are now resolved, and HMRC has indicated that it will soon issue further guidance on the treatment of lump sum and death benefit payments. However, the absence of any indication when HMRC will rule on the tax consequences of GMP conversion is unhelpful, and will leave many schemes in limbo.

Schemes can now address past underpayments to existing pensioners, and one approach may be to do this and then to use the "dual record" method for future benefit payments on an interim basis, reviewing the position again once the position on GMP conversion is resolved. This is perhaps the most complex approach to administer, and careful consideration will need to be given to the cost-effectiveness of the options available.

**If you would like to discuss this further, please get in touch with your usual contact at Cartwright.**

February 2020

Mill Pool House  
Mill Lane  
Godalming  
Surrey GU7 1EY

T: 01483 860201

E: [enquiries@cartwright.co.uk](mailto:enquiries@cartwright.co.uk)

250 Fowler Avenue  
Farnborough Business Park  
Farnborough  
Hampshire GU14 7JP

T: 01252 894883

E: [enquiries@cartwright.co.uk](mailto:enquiries@cartwright.co.uk)

Marlborough House  
Victoria Road South  
Chelmsford  
Essex CM1 1LN

T: 01245 293300

E: [enquiries@cartwright.co.uk](mailto:enquiries@cartwright.co.uk)

The Mansley Business Centre  
Timothys Bridge Road  
Stratford Enterprise Park  
Stratford-upon-Avon CV37 9NQ

T: 01245 293300

E: [enquiries@cartwright.co.uk](mailto:enquiries@cartwright.co.uk)

