



# INHERITANCE TAX ON PENSIONS – LIABILITY, REPORTING AND PAYMENT

Issued 22 January 2025

ICAEW welcomes the opportunity to comment on the technical consultation on *Inheritance Tax on pensions: liability, reporting and payment* which was published by HMRC on 30 October 2024, a copy of which is available from this [link](#).

ICAEW is concerned that the need for personal representatives and pension scheme administrators to correspond will cause delays in payouts to beneficiaries of pension funds. It will be administratively burdensome and will result in late payments of inheritance tax and late payment interest being charged.

ICAEW considers that there will be a risk of non-compliance from overseas pensions schemes, such as QNUPS that are not currently required to be registered with HMRC.

This response of 22 January 2025 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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## KEY POINTS

1. ICAEW supports the measure to tax all pensions fairly.
2. However, ICAEW is extremely concerned that the protracted level of communications that will be needed between personal representatives (PRs) and pension scheme administrators (PSAs) to establish the PSA's nil rate band amount will be unworkable.
3. Many PRs are family members of the deceased who are grieving for their loved one and will have little knowledge of inheritance tax (IHT). PSAs will be keen to avoid late payment interest charges and will exert pressure on the PRs. The process, as proposed, along with the need for PSAs to comply with data protection laws and verify the identity of the PRs, will cause delays to the payouts to beneficiaries (who may be in desperate need of the money) and to the payment and reporting of IHT to HMRC. The process will be horrendously complex where multiple PSAs and/or non-UK PSAs are involved.
4. The IHT position of the estate may change more than once, as additional pensions come to light, or if there are any amendments to estate valuations. If an estate has multiple pensions, the PSA's share of the nil rate band will be affected every time a figure changes.
5. HMRC has estimated that around 80% of estates will not pay IHT. People may have multiple small pension pots. Requiring all PSAs to establish what share of the estate's nil rate band they are entitled to will be administratively burdensome, yet the process is unlikely to generate much in the way of IHT. Any delay by any one party will delay the process for the PRs and all PSAs. There are already delays where PRs and trustees of settled property need to liaise.
6. ICAEW would like to propose the following alternatives for consideration to the administrative process suggested in the consultation document:
  - There could be a de minimis value of the death benefits, similar to a nil rate band, under which pension funds are not required to account for IHT. Our members have suggested different de minimis figures, of between £10,000 and £300,000. We appreciate that this might require some sort of anti-fragmentation rule.
  - PSAs could make a flat deduction of IHT of somewhere up to 40% (there could be different percentages based on tiered bands) so that PSAs can pay out to beneficiaries as soon as possible. The PSAs then confirm the value of the pension death benefits and the tax they have deducted to the PRs. The PRs would then consider the overall value of the estate and claim refunds from HMRC if the IHT had been overpaid, as well as deal with any amendments.
  - The reintroduction of the 55% charge on death on unused defined contribution schemes, that was **abolished in 2015**.
  - A cut-off date, of say four years, after which HMRC would not seek to collect any additional IHT due on pension funds that were not previously known about. For example, a pension fund that the deceased was not drawing from, so there were no bank receipts that could have alerted the PRs to the existence of the pension.

## BACKGROUND AND SUMMARY OF THE PROPOSED MEASURES

7. ICAEW appreciates HMRC's explanations at paras 1.5 and 2.1 to 2.8, which note that there is a distortion in the current IHT treatment of UK pension schemes:
  - Non-discretionary UK pensions schemes are schemes where the pension trustees must comply with the member's nomination of the recipient(s) of their death benefits. Examples include the NHS and judicial schemes (as outlined at **IHTM17051**). Such schemes currently form part of the deceased's estate for IHT purposes. The spouse or civil partner exemption is available where appropriate.
  - Most UK pension schemes are discretionary, even if the member has made a statement of wishes as to who their beneficiaries should be. Unused funds in these schemes do not currently form part of the deceased's estate.
8. In terms of overseas connections that a pension might have, there are:

- Qualifying recognised overseas pension schemes (QROPS), which have advised HMRC that they meet conditions of being broadly similar to a UK registered pension scheme and agree to provide information to HMRC. QROPS allow an individual to transfer their UK pension savings to a non-UK pension scheme, often without incurring a tax charge;
- Qualifying non-UK pensions schemes (QNUPS), which is, per [IHTM17025](#), an overseas pension that is tax-registered in the country in which it is established and meets the requirements of the [2010 regulations](#). A QNUPS is entitled to the same IHT treatment as a UK registered pension scheme. QNUPS do not currently have to be registered with HMRC, but will need to be, if HMRC proceeds with the process outlined at section 8 below.

9. HMRC's figures show that most estates do not currently pay IHT and the government forecasts are that fewer than 10% of estates will do so in the coming years (para 1.1). HMRC estimates (para 1.7), assuming no changes in behaviour such as drawing funds down at a faster rate or taking annuities, that the IHT changes to pensions will result in:

- Around 1.5% of total estates becoming liable to pay IHT who would not have previously been liable.
- Around 38,500 estates will pay more IHT than would previously have been the case, with their average IHT liability increasing by £34,000, to £169,000.

HMRC states at Part 4 of the consultation that one the expected behavioural changes could be that pension funds invest more in assets that qualify for business property relief (BPR). ICAEW is unclear if the above figures incorporate the additional IHT receipts the government is expecting if the £1m combined cap for agricultural property relief (APR) and BPR is implemented from 6 April 2026 as proposed.

10. Fairness and neutrality are widely recognised as fundamental principles of a well-designed tax system – see our ten tenets in Appendix 1. At para 1.2, HMRC states that tax should be effective in raising public revenue and minimising distortive incentives (also known as ‘tax arbitrage’). Tax reliefs should provide value for money and achieve their intended outcomes (para 1.3).
11. HMRC notes that tax relief is one of the most important reliefs for pension savers, but also one of the most expensive reliefs in the personal tax system with income tax and NIC reliefs costing £68.1bn in 2021/22 and £70.6bn in 2022/23 (para 1.3).
12. HMRC considers that tax reliefs on pensions should be used for their intended purpose, of encouraging saving for retirement and later life. However, pension schemes have been used and marketed as a tax planning tool for the wealthy to pass assets on without an IHT charge, rather than for funding their retirement. This has been exacerbated by pension freedoms in 2015 and the abolition in March 2023 of the lifetime allowance on tax-relievable pension savings that a person can accumulate (para 1.4).
13. The government is proposing that from 6 April 2027:
- i. Most unused pension funds and death benefits, including QNUPS (see section 8 below), will be included a person's estate for IHT purposes.
  - ii. The nil rate band will be apportioned between the free estate and the value of each pension fund. ICAEW notes that the nil rate band will also be apportioned to any interest in trusts that are included in a settlor's or beneficiary's estate for IHT purposes.
  - iii. PSAs will need to liaise with the PRs of the deceased's estate to ascertain how much of the nil rate band they are entitled to.
  - iv. PSAs will be liable for reporting and paying any IHT due on pensions to HMRC, which will be done through the existing Managing Pension Schemes service (MPS).
  - v. After 12 months, the pension's beneficiaries will become jointly liable with the PSAs for the IHT due on pension funds. As the pension fund is likely to have paid out the death

benefits soon after paying the IHT to HMRC, this enables any additional IHT resulting from amendments to be collected from the beneficiaries who have the funds

- vi. Income tax will continue to be charged on any drawdowns by beneficiaries.
14. This consultation consists of nine questions and states that:
- The changes will apply equally to UK registered pension schemes and QNUPS, although references in the consultation document to pensions schemes are referring to UK registered pension schemes.
  - HMRC is seeking views on the process for PSAs, including on any new powers or processes that may be required to ensure that the necessary information is exchanged between HMRC, the PSAs, the PRs and beneficiaries.
  - HMRC is also seeking input on any scenarios that do not fit into the process outlined and on any viable alternatives to placing the reporting and payment obligations on to PSAs.
15. It appears from the penultimate paragraph of Appendix B that it is HMRC's intention that death in service benefits will not form part of the deceased's estate. ICAEW would welcome HMRC's confirmation of this point.

## ANSWERS TO SPECIFIC QUESTIONS

### ***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?***

16. The PSA is the trustee of the pension, but in many cases the required processes are carried out by third party administrators (TPAs). Therefore, TPAs needed to be factored into the information sharing process and should be able to access and submit IHT reports and payments to HMRC.
17. ICAEW welcomed the opportunity to attend HMRC's pensions industry stakeholder forum (PISF) presentation in November 2024 and a separate meeting on 21 January 2025. HMRC provided figures indicating that it estimates that over 80% of estates will not have an IHT liability on the deceased's pension funds. Requiring the PSAs of those funds to report to HMRC would be a pointless administrative exercise – the cost of which may well lead to higher pension charges.
18. There is already concern that the need for the PRs and PSAs to exchange information about the IHT position, and for the PSAs to report this to HMRC, will delay payments to beneficiaries. Attendees at the PISF reported that delays in making payments to beneficiaries were the second largest area of complaints that they received. It is important to ensure that the extension of IHT to pension funds should not exacerbate delays.
19. A lot of people have multiple pension pots due to job changes. Over time, small pension pots do get forgotten about. HMRC acknowledges at para 2.33 that the PSAs are likely to have paid out death benefits to beneficiaries shortly after they have paid any IHT due on the pension fund and so would not have further funds available. Beneficiaries and PSAs want certainty that their position is final. There are options that HMRC could consider, such as:
- A de minimis value of a pension fund, say £10,000, below which the PSAs do not need to consider whether there is an IHT liability.
  - Small value schemes could be allowed to apply a flat rate of IHT.
  - A cut-off date for small value pension pots that the PRs only became aware of some years after the death, for example more than four years after the date of death, after which time HMRC would not seek to collect any IHT.

### ***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?***

20. Many PRs are bereaved family members dealing with their loved one's estate, who have no legal or tax backgrounds, who are already having to get to grips with probate and who will then have the added complication of dealing with PSAs. Older relatives may struggle with technology. Equally, many PSAs, as indicated by HMRC's own [research](#) in 2023, may be similarly inexperienced. The forms and supporting guidance will need to be simple to understand and easy to use. ICAEW has commented further on the process at Question 7 below.
21. PSAs may be charged late payment interest (currently 7.25%) in cases beyond their control where they are waiting on the PRs to reply, or vice versa. Where the deceased had multiple pensions, the PRs may themselves be waiting on other PSAs, or on trustees of settled property, to provide them with information, before they can confirm to the other PSAs how much nil rate band they have to use in their IHT calculations. ICAEW recommends that reasonable deadlines for PRs and PSAs to respond to each other are put into legislation.
22. ICAEW has considered whether there should be provisions for HMRC's penalties for late payment of IHT (eg, interest charged on the PSAs) to be recharged to another party (eg, the PRs) who failed to provide information on a timely basis. ICAEW considers that it is not fair if the beneficiaries of the pension fund, who may be different to the beneficiaries of the free estate, are worse off as a result of penalties charged because of the PRs' failure to respond. Equally it is not fair for the pension trustees to bear the cost of late payment penalties, as the liabilities of one member are effectively being underwritten by the broader membership of a pension scheme. However, as noted above, PRs are often family members mourning the loss of their loved one and may have a 'reasonable excuse' for not responding on time. Recharging penalties between the parties would only create a blame game which we do not think would be in the public interest.
23. In cases where the PRs have not provided information to PSAs, one option would be for PSAs to be permitted to assume that there is no nil rate band to use against the pension fund they administer and deduct IHT on the entire fund value. However, this may adversely affect the pension's beneficiaries and would need consideration of pension law and the scheme's rules. Where IHT is found to have been overpaid, HMRC should ensure that its systems enable refunds to be paid promptly.

***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?***

24. ICAEW welcomes the government's recognition that PRs currently struggle to pay IHT on time because the funds may not be available. ICAEW agrees that having the PSAs pay their share of the IHT is a sensible idea, although ICAEW is concerned that this will inevitably delay payouts and the effect that this will have on beneficiaries who may be dependent on the funds, for example to pay for funeral costs
25. We received this comment from the trustee of a large retail scheme:
 

"We are a retail DB scheme of many thousands of members where the vast majority have very small discretionary death benefits as the pension themselves are very small as they relate to female short service and part time staff in the most part. Any delay and/or withholding at a flat rate would however be extremely punitive for members' beneficiaries where such funds may be needed to cover funeral costs. It is unlikely that a liability to IHT would exist for many members at all, but all will be subject to the same deadlines, and the scheme no doubt to a significant uplift in costs and an additional admin burden for very small exchequer returns."
26. IHT is currently payable six months from the end of the month of death. One option would be to extend the payment deadline to nine months where there is a pension fund involved, even if only as a temporary measure from 6 April 2027.
27. Our members have commented that late payments of IHT are in part due to the delays in obtaining probate and ICAEW urges the government to ensure that the probate system is properly resourced to process applications as quickly as possible.

28. Consideration should be given as to whether the IHT due on illiquid assets held by a pension fund, such as commercial property, could be payable in instalments.
29. Please also see our response to Question 1 in relation to small schemes.

**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?**

30. ICAEW considers that it is sensible to use an existing system that PSAs are already registered to use, rather than creating an entirely separate system that PSAs would need to register for separately.
31. As HMRC acknowledged towards the end of Part 4, PSAs (to which ICAEW would add TPAs) will incur one-off costs on training their staff and amending their systems to deal with IHT reporting and payment, as well as the ongoing costs of obtaining information and sharing this with the PRs.
32. In an ideal world, there would be an option for all communications between the PSAs and PRs to be done through the MPS service, or another online system. This could be considered as part of the wider digitalisation of IHT.
33. It is worth considering whether PRs could be given access to the **pensions dashboards** facility so they can view all of the deceased's pensions and whether PSAs could be given access to HMRC's **tell us once** service.
34. As most new systems experience teething problems, ICAEW believes there should be a grace period where no penalties are imposed for late filing and/or late payment of IHT where there is a pension involved.

**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?**

35. Yes, joint and several liability seems to be a sensible measure because in many cases, the beneficiaries will have received some of the funds from the pension by that stage.
36. Please also see our response to Question 1.

**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?**

37. As the pension beneficiaries may be different to the beneficiaries of the free estate, the PRs may not know who the pension beneficiaries are. So practically, it has to be either HMRC or the PSAs who contact the pension beneficiaries should any adjustments be needed.
38. As the proposal is for the pension beneficiaries to be jointly liable for the IHT on the pension after 12 months, ICAEW considers that it should be for HMRC to contact the beneficiaries and not the PSAs. It could be a requirement of the MPS IHT report for the PSAs to provide details of the beneficiaries to HMRC.
39. Under Data Protection requirements, PSAs can only hold data for as long as is necessary. A pension fund may cease when death benefits are paid out, in which case it would be unreasonable to expect the PSAs to hold records for the amendment periods of up to 20 years as set out at **CH56800**.

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

40. The process outlined by HMRC at para 3.1 for PRs and PSAs to correspond with each other will inevitably lead to delays in the IHT payable by pension schemes being reported and paid to HMRC – particularly if multiple pension providers are involved.
41. As we stated in our response to Question 1 above, it is important that TPAs are also included in the process.

42. It is important that any forms that PRs and PSAs will use:
- Are clear on what information is being requested.
  - Are clear on the format required for the response.
  - Include a checklist of attachments that need to be sent to the other party.
  - Show the statutory deadlines for one party to respond to the other (eg, one month from receipt), as suggested by HMRC at para 3.2.
  - Are easy to complete.
  - Are clear on what needs to be done and by whom if any amendments are needed.
43. The new HMRC calculator that PRs will be able to use to apportion the nil rate band (as outlined at para 2.26) should allow for the nil rate band to also be apportioned to settled property. The calculator should be fully tested before it is introduced.

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

44. HMRC notes at paras 1.13 and 3.3 that QNUPS will have different administrative structures. QNUPS may also provide different benefits, while still complying with the **2010 regulations**. As ICAEW noted at section 2, the main problem with QNUPS is that they do not currently have to be registered with HMRC and so will not currently be using the MPS system (outlined at para 2.31 of the consultation). This will cause a number of major problems:
- PRs will need to correspond with the administrators of a QNUPS about the nil rate band apportionment. Different systems and even languages could make that a protracted process and result in late filings of IHT returns and late payments of tax.
  - QNUPS administrators will need to value their fund in pounds sterling and using UK valuation rules.
  - ICAEW assumes that the QNUPS administrators will be expected to register to use the MPS system, unless HMRC intends to provide a separate reporting and payment system for them to use.
  - ICAEW is concerned that HMRC will not have sufficient resources to register QNUPS promptly to enable the IHT to be paid on time.
  - QNUPS administrators will also be expected to understand how IHT is charged and how to deal with any amendments. Many jurisdictions do not have an equivalent tax to IHT.
  - The beneficiaries of the QNUPS may not be UK resident, so joint liability with the QNUPS PSAs after 12 months may not resolve the issue of collecting the IHT.

**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?**

45. Please see our answers to Questions 4 to 8.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).