STEPHENSON HARWOOD

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MAKING IHT ON PENSIONS WORK - INFORMATION SHARING

From April 2027 some pension death benefits will be within scope of inheritance tax (IHT). New Regulations were published on 15 July which will assist with the flow of information between pension scheme administrators (PSAs) and personal representatives (PRs).

Paying the right amount of IHT on the right pension benefits at the right time is going to require a beautifully choreographed dance between PRs and PSAs. These Regulations give us some of the steps required.

- *The PSA is the entity registered with HMRC as PSA. For many schemes this will not be the administrator of the scheme, but instead the trustee of the scheme.*
- *PRs are the people responsible for dealing with the deceased member's estate.*

WHAT THE NEW REGULATIONS SAY

The new Regulations make changes to the existing 2006 Provision of Information Regulations. They include requirements for:

- PSAs to tell PRs about the death benefits due from a pension scheme, the value of those benefits and who they will be paid to
- various pieces of information to be provided by PSAs to PRs or beneficiaries where a withholding notice has been issued and accepted, and
- PSAs to notify PRs and beneficiaries when IHT (and interest too if applicable) has been paid on their behalf.

CHANGES TO THE DRAFT REGULATIONS

The draft Regulations elicited extensive commentary from industry bodies.

We have a unique insight into the views and concerns raised by the pensions industry and the estate planning and probate industry because we had pensions advisory team members involved in both the Society of Trust and Estate Practitioners technical committee for IHT and pensions and the Society of Pension Professionals technical committee.

Helpfully, some points raised have been taken on board. For example, the proposed (unworkable) change to Event Reporting to HMRC has been removed, the provision of information has been clearly extended to prospective PRs as well as established PRs, some information provision time requirements have been increased from 14 to 28 days, and some reporting by PSAs to PRs (e.g. on initial disclosure of the death benefits payable) has been simplified by removing the immediate need to distinguish between death benefits in scope and out of scope of IHT.

Disappointingly, though, other issues raised by STEP and / or the SPP have not been addressed. It may be that guidance will provide some clarity, but regulatory requirements will constrain the role of guidance in a number of areas, leaving both industries in a frustrating position.

REMAINING CHALLENGES

It was clear from our insights into the responses provided from both the pensions industry and the probate industry that all parties are primarily concerned about getting the calculation and payment of IHT correct, in the most pain-free way possible (especially bearing in mind that most PRs are grieving relatives of the deceased with limited to no experience of estate administration), and without giving rise to avoidable interest charges on the late payment of IHT.

Unfortunately, the government hasn't taken the opportunity to address all of the apparent challenges. Remaining concerns about timing include:

+ mismatches between the time available to trustees under pensions legislation to determine death benefit beneficiaries, and the extremely tight timelines under the IHT regime,
+ the fact that the information clock starts ticking without space being made for scheme administrators to first verify the PR's identity, and
+ the view that there is still potential for back-and-forth communication, which could make it harder to meet the 6-month deadline for dealing with IHT.

There are fundamental process challenges too. The draft Regulations put the burden on PSAs of identifying whether a death benefit beneficiary is exempt from IHT or not. The application of the IHT exemptions rules is a technical area of law, even potentially for spouses, so putting this burden on PSAs was totally inappropriate. The final Regulations have gone some way to dealing with this, but not clearly and not in a way that PSAs or PRs are likely to find satisfactory.

There is very limited explicit provision for the recovery of IHT from beneficiaries by PRs and how this will operate in practice, or detail on where the liability for IHT and interest on IHT will sit. There is virtually no detail on how the requirements will apply in practice to overseas pension arrangements, how PRs will obtain information from those arrangements and how the enforcement of withholding notices and payment notices will work.

NEXT STEPS - GUIDANCE

Some of these remaining issues will apparently be addressed in guidance. HMRC plans[1] to share draft guidance with stakeholders in Autumn/Winter 2026/27 and to publish the guidance in Spring 2027.

Concerns have been raised about the timeline for issuing guidance, particularly since various measures will need to be taken by scheme administrators and trustees for the requirements to work in practice.

Scheme administrators will also be keen to see whether the guidance will deal meaningfully with other issues, such as the potential implications of sharing information with self-certified prospective PRs who do not go on to become PRs, and the possible overuse of withholding notices.

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[1] Technical note: Inheritance Tax on pensions - GOV.UK (29/05/26)
The Registered Pension Schemes (Provision of Information) (Miscellaneous Amendments) Regulations 2026 (SI 2026/818)

TIME TO START PREPARING!

For now, we are recommending to all clients that they start with a full audit of the death benefits payable from their schemes with a view to understanding which benefits will be excluded from IHT and which will be in scope. From that understanding, trustees can then update their governance and scheme administration processes, ensure trustees and administrators have received the necessary training to understand and comply with the new obligations, engage meaningfully with their administrators on changes required at an administration level, and review and amend their member communications.

Please reach out to Estella Bogira who leads our IHT and Pensions team, bringing together pensions, tax and probate expertise, if you'd like to have a conversation about how we can help you.

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