

AMPS Response to Treasury paper: “Removing the requirement to annuitise by age 75”.

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Introduction

The Association of Member-Directed Pension Schemes (AMPS) welcomes this consultation and the commitment shown to re-design the rules after age 75.

The age 75 issue has probably been the most hotly debated issue of our member firms over the years, and the current rules provide a real cliff-edge for many of our clients, given the rules become so very restrictive after age 75.

The changes in April 2006, and over subsequent Finance Acts, have meant that the Alternatively Secured Pension ('ASP') rules introduced under Pensions Simplification do not present an attractive option to most, and is so restrictive as to effectively rule it out for the majority of people who have chosen income withdrawal over annuities (for whatever reason).

We are therefore delighted that the current Government has heeded the concerns expressed by the pensions industry about the current age 75 rules and is prepared to consider alternative approaches, and we welcome the opportunity to respond, via this paper, to the questions as set out in the Chapters of the consultation document.

We have focussed on the Questions in Chapters 3 and 4.

We very much accept there needs to be a fair balance between annuity business and income withdrawal options, and very much want to see a robust, innovative and flexible annuity market. Anything that can be done legislatively to encourage this is to be welcomed. However, we do not feel we are the best body to respond on the Chapter 5 questions, but would very much be interested in the ideas of the Association of British Insurers and other bodies involved with insurance business.

It is fair to say that we have a number of differing views in our industry on the proposals (and in particular the proposal surrounding the taxation of death benefits). However, the relaxation of the position post age 75 will be universally welcome by our members. It is important, however, that time is taken to ensure the system is fair and workable, and that providers and advisers are prepared for the changes.

We suggest that splitting out the key proposals may be helpful here. The manifesto pledge was to rectify the annuitisation issues at age 75. We believe that there is very strong support for the proposals being made to effectively replace the Alternatively Secured Pension with a continuation of Unsecured Pension rules. Debate around the rate at which income can be drawn from age 75 and frequency of reviews is, relatively speaking, just fine tuning, particularly if existing GAD mechanisms are used. Plus allowing any remaining funds following death after age 75 to be paid out as a lump sum less a tax recovery charge of 55% echoes consultation responses made years earlier in connection with the current Alternative Secured Pension regime proposals. In other words, this aspect of the proposals could be implemented relatively quickly.

The proposals for flexible drawdown, whilst in concept are very much welcomed, are much more radical and are a departure from current pensions practice. We believe more consultation time is needed to explore options and the practical and behavioural impact of introducing such a concept. Development of this concept may be better placed in further consultation around the Government's ideas of introducing greater accessibility to pension funds.

Likewise, we believe raising the tax charge on death benefit lump sums paid from crystallised funds from 35% to 55% is not justified particularly as the policy regarding the taxation of lump sum death benefits appears confused and inconsistent. Whilst we recognise that the primary aim of a pension is to provide income, consumers are concerned about what happens to their pension fund – their deferred, hard earned income – following death and the ability to pass that on to their dependants in a

fair and equitable way. We would therefore suggest further consultation is launched into exploring policy objectives regarding pension death benefits so that a fair, simple and consistent approach can be developed. This may require radical change but would hopefully result in a sustainable long term approach to death benefits.

As in our response to the recent Treasury consultation on 'Restriction of pension tax relief: a discussion document on the alternative approach', we accept that the economic situation probably requires a cost neutral position to any changes overall (Para 2.10). That said, it is important that a fair balance is found and that any changes to tax rates are based on strong evidence that the desired neutrality is achieved (rather than achieving an increased tax burden through the back door), and do not tilt the balance between the income withdrawal and annuity markets. Pension provision, and in particular privately financed ones like SIPP, must not be seen as something that can be squeezed for short term income needs. That would be disastrous for retirement provision of the future, and lead to an unworkable tax system long-term.

As a representative body we are committed to ensuring that any tax framework:

- Ø keeps an 'Exempt, Exempt Taxed' model;
- Ø provide a fair balance between the operation of the income withdrawal and annuity options and markets;
- Ø provides a fair balance between the different members who hold SIPP and SSASs through our member firms, whether small, medium and large fund holders;
- Ø provides flexibility, where it can; and
- Ø promotes good retirement outcomes (Para 2.9) and the principle that a pension fund should provide an income for life.

We think this very much fits into the principles outlined in Box 2.A on page 8, and fully support these principles.

Directly below is a summary of our main points. We then answer the specific Questions.

AMPS would very much welcome the opportunity to provide further information and participate in ongoing consultation to develop the ideas and suggestions arising from this discussion paper. Whilst we note the very short timescales proposed, we think it vitally important the industry are fully consulted on the more detailed proposals to ensure the new regime is fit for purpose. We do not want a flawed regime because changes are rushed in. You also need to give providers adequate time to bed in the new rules and to ensure the processes involved are workable.

Summary

General:

- *We are not convinced that the 'flexible' drawdown proposals as they stand are particularly needed, or wanted by a significant number of scheme members. We think only those few with higher fund values would be potentially interested (and not in great numbers).*
- *Development of the concept of 'flexible' drawdown should be deferred and explored further under wider consultation regarding accessibility to pension fund money.*

- *We would be concerned if the 'flexible' drawdown proposal is seen as a balance for increasing the tax rates on death, and tighter restrictions on 'capped' drawdown. We very much feel that the rules should be fair across the board to all people in income withdrawal.*
- *The treatment of pension funds remaining on death, whether crystallised or uncrystallised funds, or whether death occurs before or after age 75, needs rationalisation and therefore further consultation is required rather than implement a blanket 55% charge on lump sum death benefits paid from crystallised funds.*

Age 75:

- *We very much welcome the proposed change in the rules past age 75.*
- *We do feel, however, that any changes should not be at the expense of those making use of the income withdrawal rules before age 75.*
- *We have no objection to the retention of the age 75 rule for contribution limits and Lifetime Allowance tests, and welcome the extension of the triviality and value-protection option beyond age 75.*
- *We welcome the extension in the interim rules introduced in Finance Act 2010 to ensure those hitting age 75 without vesting do not lose their Pension Commencement Lump Sum (PCLS) entitlement and that this is something that should be extended to the new rules. We are however unclear on what actually is being proposed with regards removing the age 75 limit for PCLS purposes. We do not think it unreasonable that people are required to take benefits by a certain age.*

Death – tax rate and options:

- *We are not convinced that a flat 55% charge is justifiable and consistent with a cost-neutrality principle, particularly for those with the relatively smaller funds (who are less likely to have benefitted from significant higher rate tax relief on build-up).*
- *Possible alternative suggestions are:*
 - Ø *A tiered rate or marginal rate is used (with a possible surcharge after age 75);*
 - Ø *Using a marginal tax rate;*
 - Ø *Uncrystallised funds are brought within the tax charge (with a 25% exemption), with a corresponding reduction of the overall rate;*
 - Ø *Keeping the tax rate at 35% or a rate lower than 55% before age 75, but counter-balancing this by bringing uncrystallised funds within the tax charge (with a 25% exemption); or*
 - Ø *Taxing any lump sum at IHT rate.*
- *IHT should be taken out of the equation altogether if the taxation method is primarily meant to be through a direct recovery tax.*
- *There is strong support to bring back the option of re-allocating funds on death to a nominated pension fund of a beneficiary, as originally introduced with ASP in Finance Act 2004.*

- *We agree that dependants' pensions should be outside any tax charge scope (other than income tax), and outside IHT.*
- *Any tax rate decided upon should be applied across the board, including value-protected annuities.*

Capped drawdown:

- *The fundamental concern is that the flexibility of varying income year-on-year is maintained (and in particular the ability to take 120% GAD, certainly as you can now up to age 75).*
- *We propose that the current 120% of 'basis amount' annual maximum calculation before age 75 is retained.*
- *We suggest that an appropriate maximum rate after age 75 for 'capped' drawdown would be to retain the flexibility of the 120% of 'basis amount' maximum as before age 75, but with the retention of the ASP rule that the post age 75 'basis amount' is calculated based on an age 75 rate (no matter the age).*
- *We are not in principle against a minimum income requirement after age 75 (or any later age).*
- *We have had a number of suggestions as to what the review structure should be. There is an argument for retaining the current 5 year and annual reviews pre and post age 75, as this means fewer changes to systems / processes. There is also an argument that there should be consistency before and after age 75, for example, 3 year reviews throughout. The concern about excessive fund depletion as the member gets further away from age 75 should be limited if the GAD tables continue to cease at 75. In truth, we think the main issue here is simplicity and costs (to providers, which of course are passed on to members)..*

'Flexible' drawdown:

- *If taken forward, we think the rules should allow the MIR threshold to go into 'flexible' drawdown to be measured against retained pension fund values, as well as secured income (that cannot be touched through 'flexible' drawdown).*
- *If MIR is taken forward as an income rather than fund measure (see above), we agree with the inclusion of basic State Pension and additional State Pension counting towards MIR.*
- *We would suggest consideration be given to including other annuities within the MIR calculation, but subject perhaps to a % reduction. Similarly with 'Scheme pensions' provided through money purchase schemes (see below). .*
- *What the MIR is in specific circumstances and what counts towards it (through tables we would suggest) needs to be clear . Adequate time needs to be given for firms to change systems and processes for the new rules.*
- *Our member firms are used to operating complicated procedures and systems. However, it should not be underestimated the potential work, responsibility and system changes this could entail. We are concerned whether firms can reasonably be expected to be ready by April 2011*
- *Operation of the 'flexible' option should be optional.*
- *It must be made clear what the consequences are if a mistake is made in the MIR calculation (particularly with any 'scheme sanction charge').*

- *Consideration needs to be given as to how those members of money purchase schemes who are receiving their pension as a 'scheme pension' will be catered for under the new regime. This could be on a pro-rata basis (as suggested above for non-indexed annuities) or at face value where the funds backing the annual rate are above a prescribed multiple.*

Timescales and further consultation:

- *Whilst we note the very short timescales proposed, we think it vitally important the industry are fully consulted on the more detailed proposals to ensure the new regime is fit for purpose. We do not want a flawed regime because changes are rushed in. You also need to give providers adequate time to bed in the new rules and to ensure the processes involved are workable.*
- *Transition issues need to be considered.*

Responses to Chapter 2:

Developing a new tax framework for retirement

A1 (Para 2.17): "The Government welcomes views on the level of appropriate annual drawdown limit for capped drawdown".

AMPS comments:

We have had differing suggestions from our membership on the proposed limits of capped drawdown. Our preferred suggestion is below, but in truth the fundamental concern is that the flexibility of varying income year-on-year is maintained (and in particular the ability to take 120% GAD, certainly as you can now up to age 75).

Before Age 75:

We would propose that the current flexibility of being able to take 120% of the 'basis amount' (being the broad annuity purchasing power of the funds) is retained. We think the flexibility offered by the current rules to vary income over time is a crucial benefit of the income withdrawal rules, and part of that is being able to take slightly more one year due to a member's financial needs and circumstances (and to balance out earlier years where low income is taken).

We have no evidence that the current 120% rule is abused by members. If the Government wishes to add fund depletion protection by reverting to three year reviews before age 75 as a balance to retain this flexibility then we would accept that (although ideally we would not want a change here). But this must be weighted against the cost of administrators changing processes and systems. On balance, we therefore suggest the current 5 year review basis is retained.

If the 100% 'basis amount' calculations used in the current GAD Tables are out of kilter with current annuity rates we accept that an adjustment should be made, provided this is evidence based and an open and transparent exercise consulted upon.

After Age 75:

We would propose that an appropriate rate after age 75 for 'capped' drawdown would be:

- Ø to retain the flexibility of the 120% of 'basis amount' maximum as before age 75, but

- Ø with the retention of the ASP rule that the 'basis amount' is calculated based on an age 75 rate (no matter the rate).

Whilst clearly you will want to base any revisions on actuarial work and guidance, our initial view based on informal actuarial input is that 120% of the current age 75 GAD rate is broadly equivalent to 100% of an extrapolated age 80 GAD rate. This therefore fits with concerns about old people running out of fund as from age 80 onwards the annual cap will start to be restrictive (and even more restrictive if funds are performing more than underlying GAD yields).

This also has advantage of consistency with current regimes and so systems will not need adapting too much. It also means the GAD tables will not need to be extended.

Minimum income requirement:

We are not in principle against a minimum income requirement after age 75 (or any later age), although clearly it adds complexity and administrative work. We do not think it unreasonable that an income must be taken, given the purpose behind tax relief on pensions.

In many ways, if the tax rate on death (before and after age 75) is set at the right level, and a fair level, this will be reflected in the behaviour of the individual. Set the tax rate too high, and people are more likely to want to draw off income as quickly as possible to ensure they get best value. Set too low, and people are more likely to leave funds to roll-up. If a fair rate is set, people are more likely to draw income subject to their needs, but to manage the funds to ensure the funds cover their lifetime.

Review of maximum:

Again, we have mixed views here. In principle it is not unreasonable for the maximum to be reviewed more regularly the older the recipient gets, given the increased risk of fund depletion.

There is an argument to keep annual reviews (as under current ASP rules), and this will mean changes to systems and processes are minimised. Or perhaps less frequent reviews to start, with more regular reviews once certain age thresholds are reached.

However, we think there is also merit in keeping the rules simple, and maybe reverting to a standard 3 year review, before and after age 75. Whilst this would mean system changes, it would get away from the age 75 differing regimes (which is simpler) and we feel the threat of fund depletion as the member gets older is minimal if the GAD tables continue to stop at 75.

Transition:

If the maximum and review mechanism are significantly changed, consideration needs to be given to transition issues (particularly given the suggested start date is less than a year away).

A2 (Para 2.25): "The Government welcomes views on its intended approach to reforming the pensions tax framework, in line with its commitment to end the effective requirement to purchase an annuity by age 75".

AMPS comments:

'Flexible drawdown model':

We are not convinced this is an option that is particularly needed, or wanted by a significant number of scheme members.

We do not feel that the proposal to introduce a mechanism for members to take all of the excess funds in one go and only pay income tax at their marginal rate necessarily sits with the stated Government policy that the purpose behind a pension scheme is to provide an income in retirement. Whilst we are all for flexibility, we do not think that this will really be an option considered by many, except for those with very large funds, and we wonder if the potential for tax avoidance opportunities has been considered (given the suggestion that tax rates on returned funds on death will be increased).

Generally people in drawdown have chosen not to buy an annuity for a reason. They are unlikely therefore to want to buy an annuity with part of their fund to access the residue, particularly a very specific indexed and inflexible annuity, unless it represents a relatively small amount of their funds.

Looking at quotes on the FSA comparative tables (www.moneymadeclear.org.uk/tables/bespoke/Annuities), it is clear that even taking the lowest suggested MIR in the consultation document of £132.60 a week for a single person under Guarantee Credit, it would take a sizeable fund to secure (after tax-free cash) an indexed annuity to meet that MIR. The comparative tables do not provide for annuity quotes where indexed by LPI, but the nearest equivalent of 3% per annum show that a 60 year old man would need a gross fund of over £200,000 to secure an indexed annuity of around £6,900 per annum. We accept that, at a later age, when state benefits kick in, the funds needed to secure a sufficient indexed annuity will fall significantly, but this is only the funds required to secure the lowest MIR figure quoted.

We think it reasonable to say that people would need to have combined fund values of at least £300,000 to seriously make the 'flexible' drawdown option a consideration. To be attractive, there needs to be a critical mass of 'excess' funds to drawdown upon.

The Impact Assessment quotes 7 million people with personal pension or stakeholders schemes (Para 28). We think it reasonable to say that the majority of people possessing sufficiently sized pension funds to consider this option will be members of Self Invested Personal Pensions (SIPP) or Small Self Administered Schemes (SSAS). The Impact Assessment (Para 27) estimates that providers in total will have to carry out tests against the MIR for 8,000 people a year. We think it highly unlikely that number of people will take up the option.

- Ø We estimate that there are around 440,000 SIPPs in existence (conservatively), based on the June 2010 Pensions Management SIPP Survey. The figures provided here by SIPP Providers give an estimated £49.8bn under management within these SIPPs. This equates to an average SIPP value of around £110,000.
- Ø The full survey can be accessed from the PM website:
http://www.pensions-management.co.uk/cp/19/Sippsurvey_0609_online.pdf
- Ø Only some SIPP Providers provided a breakdown of the spread of their SIPP values, but we have figures for about 2/3rds of the number (see Table 5). From the figures provided, only 9.34% of SIPPs had values between £250,000 and £500,000, with 6.15% of SIPPs having values of over £500,000. Extrapolating the figures to the 440,000 figure, we get around 68,000 SIPPs over £250,000 in value, with roughly 27,000 being worth over £500,000.
- Ø Clearly SSAS members need to be added into the figures, and they are likely to have larger funds than the SIPP average, and even within the SIPP figures, there will be people with multiple SIPPs, but even so we do not think the figure of 8,000 a year is realistic based on these figures. We think the likely numbers (after any surge due to initial interest) would be well below this

figure. The assumption seems to be that all those with sufficient pension funds to make the option viable will use the option.

Ireland has a similar option to personal pension holders as proposed, and our understanding (from anecdotal evidence) is that this option is not generally used by holders. It might be nice to think you've got the option, but in reality would many people take up the option?

Whilst there is in many ways not a real issue with introducing such a relaxation (apart from the issue of a further move away from simplification), even if not used by many, our concern is that the:

- Ø facility be clear, workable and as simple to administer as possible; and
- Ø introduction of this proposal will be seen as justification for increasing the tax rates on death, and tighter restrictions on 'capped' drawdown.

The rules should be fair across the board to all people in income withdrawal, and not be skewed towards a relative few high fund holders who might, or might not, want to use the option, or as a balance against an option we do not think many will take up anyhow.

We are also concerned that the proposed increase in tax rate on death (55% being suggested) is not justified, and combined with suggestions that 'capped' drawdown maximums will be reduced, will detract from the introduction of more reasonable rules after age 75, which will be welcomed by the majority of people in income withdrawal.

Position past Age 75:

We very much welcome the proposed relaxation of the rules past age 75. We have commented in the answer to the previous question on our suggestions for calculating 'capped' annual maximum after age 75.

We do feel, however, that any changes should not be at the expense of those making use of the income withdrawal rules before age 75, who probably will buy an annuity before then. They currently are the majority of those in income withdrawal.

Tax rate on death:

We recognise there should be a reasonable tax rate to ensure people use their funds in their lifetime to provide them with a pension income.

We are, however, unclear as to why a flat 55% charge is being suggested as necessary, when the object is cost-neutrality. We would suggest this is too high and a blunt rate for those with relatively smaller pension funds (who have not had the benefit of significant higher rate tax relief on build-up). As shown by the 2010 Pension Management survey referred to above, only around 15% of SIPP holders are over £250,000 in value.

Whatever tax rate or system is decided upon, it must be fair to all. We also doubt whether a flat 55% tax rate across the board is consistent with the cost-neutrality principle stated in Paragraph 2.10. This would in effect be a 57% increase for those under age 75 in drawdown, who are currently the majority.

Psychologically, the prospect of losing more than half of your pension fund in tax on death makes income withdrawal very unattractive at outset, even if in reality most funds at outset will hopefully be used to provide an income over life either by drawdown payments or through securing an income via an annuity.

It seems very unfair that a basic rate taxpayer dying with a £100,000 fund pays tax at 55%, the same rate as a high net worth individual with a much larger fund.

A 55% rate could also encourage the use of the proposed flexible drawdown model within tax planning schemes, as the tax take through income tax would always be less (assuming the scheme manages to avoid extra IHT liabilities).

We have had a number of suggestions within our membership. These include:

- Ø Using a tiered rate (with a possible surcharge after age 75);
- Ø Using a marginal tax rate;
- Ø Keeping the tax rate at 35% or a rate lower than 55% before age 75, but counter-balancing this by bringing uncrystallised funds within the tax charge (with a 25% exemption); and
- Ø Taxing any lump sum at IHT rate.

We can see merits to each suggestion, although there are clearly complications to consider with some.

One suggestion which we have had strong support for is that consideration is given to bringing back the option of re-allocating funds on death to a nominated pension fund of a beneficiary, as originally introduced with ASP in Finance Act 2004.

We also would welcome full clarity over pensions and IHT; we suggest that if lump sums are going to continue to be taxed direct that pensions are taken entirely out of IHT (no matter the circumstances). Currently the position is unclear and complicated.

These suggestions and some of the issues are explored below.

Tiered rates or marginal tax rates:

We do wonder whether a tiered tax rate could be applied, although we recognise the problem of multiple scheme membership adding complexity.

This could work by bands. For example, 35% tax on first £200,000, 40% on next £200,000 and 45% on anything above. Clearly the thresholds and rates would need to balance with the cost-neutrality objective and a process developed to administer this to cater for multiple schemes. (One way suggested could be for a flat 35% charge to be deducted by the administrator, with HMRC applying a surcharge on any recipient where the thresholds are breached in total, in a similar way as any Lifetime Allowance charge on death is administered currently, in a proportional manner where there are multiple recipients). Or it could possibly be done through the Legal Personal Representative. Clearly there would need to be work done on this option and further consultation. But we add this as an option to consider.

Alternatively, the lump sum could be taxed at the marginal income tax rates of the member at death, or possibly the recipients.

We have discussed whether with this option we would see it as reasonable that a small surcharge is applied after age 75 (say 10%). This is on the basis that those going beyond age 75 are more likely to be the ones benefiting from higher tax reliefs over their lifetime, and to ensure the spread of tax take over the whole spectrum of pension fund holders is fair this may be something that is needed as a

balance. However, this has the disadvantage of perpetuating the arbitrary nature of an age cut off point (i.e. age 75), which many be opposed on the grounds of age discrimination. This would need to be considered by Government.

Uncrystallised funds:

A number of members have suggested that there is a strong argument for taxing uncrystallised funds paid as a lump sum on death, in a similar manner to crystallised drawdown funds.

Whilst not taxing such lump sums has been a long standing principle of pension tax rules, there is in many ways little to warrant this exemption on policy grounds; it works against the principle that pension funds are there to provide a pension income, as any dependant is strongly encouraged by the tax treatment to take the tax-free death benefit lump sum, rather than secure a lifelong income (that will be taxed), even though their circumstances may better warrant the income route.

We suggest therefore that consideration is given to reducing the overall tax rate on remaining funds on death by including uncrystallised funds in the scope of the tax, but perhaps allowing for a 25% of fund to be paid as a lump sum tax-free (to reflect the fact that the member has not taken a tax-free lump sum in their lifetime from the funds). **But** only on the basis that this counterbalances a lower rate than the 55% proposed, certainly before 55.

Consideration would need to be given as to how this impacted with occupational pension scheme provision. Clearly this goes wider than our membership.

A hybrid option would be to only tax where death occurs after minimum pension age.

Inheritance Tax (IHT):

We think this is a good opportunity to take pensions outside of IHT altogether.

A lot of confusion and uncertainty was created by the recent Fryer & Others vs HMRC case, and the existing rules on the interaction of IHT and the ASP rules after age 75 are horrifically penal and complicated.

We think either death lump sum benefits are taxed through (and only by) the IHT system, or not at all, with tax rates within the pensions' framework working instead.

Re-allocation to other members:

We think the Government should look to re-introduce the option of passing on unused funds on death to an arrangement of another scheme member, as nominated by the member, as originally permitted through the ASP rules coming into force in April 2006 (the 'transfer lump sum death benefit' covered in Paragraph 19 of Part 2 of Schedule 29, Finance Act 2004, repealed by Finance Act 2007).

This would be an alternative to payment as a lump sum.

Members choosing ASP generally accepted this option, even though more restrictive than the rules before age 75, and is an option there is genuine support to re-introduce.

We think this has many benefits:

- Ø It helps boost recipient's retirement income without the Government having to give further contribution tax relief.

- Ø It would not count as a contribution for Annual Allowance purposes, so someone with no or low earnings could still receive a significant boost to their pension fund.
- Ø If utilised more people would be less reliant on the state.
- Ø It overcomes the major perceived disincentive to make pension provision for consumers that their pension savings cannot be passed on.

If the Government had concerns about a further 25% being drawn by the recipient from funds received from a deceased crystallised fund then the industry could cope with segmenting the fund in this respect.

This is something our members are used to, as there are a number of occasions where we already have to segregate funds (Protected and Non-Protected Rights, crystallised drawdown funds and uncrystallised funds in phased drawdown, Pre and Post 6th April 2006 drawdown funds etc), and have systems already in place to cope with this. Ultimately of course there is still the Lifetime Allowance to control recipients not getting excessive benefits from inheriting a pension fund.

We see no reason why this should:

- Ø not be possible on death before age 75 also if introduced (with perhaps future credit for 25% tax-free cash if derived from uncrystallised funds); or
- Ø be limited to members of the same pension scheme only (as with the short-lived 'transfer lump sum death benefit rules'); we do not see why it should not go to any existing money purchase scheme of the nominated beneficiary (provided the scheme is prepared to accept it).

Whilst we do not think this is necessary, if this option was being ruled out purely on lost tax take, we do not think a small tax surcharge being applied after age 75 (say 10%) would be unreasonable..

We think the ability to pay to charity should be retained.

Dependants' pensions:

We agree that dependants' pensions should be outside any tax charge scope (other than income tax), and outside IHT (Para 2.22).

Consistency with annuities:

Any tax rate decided upon should be applied across the board, including value-protected annuities.

Age 75 Rule for PCLS and LTA:

We have no objection to the retention of the age 75 rule for contribution limits and Lifetime Allowance tests (Para 2.25).

We welcome the extension of the triviality and value-protection option beyond age 75 (Para 2.25 again). However, it is important that the tax charge on value-protected annuities is consistent with any change to the tax rate on death in drawdown etc, to make the system fair.

We welcome the extension in the interim rules introduced in Finance Act 2010 to ensure those hitting age 75 without vesting (and are automatically put into unsecured pension under the current legislation) do not lose their Pension Commencement Lump Sum (PCLS) entitlement (effectively now having a year to take that entitlement from age 75). We think this is something that should be extended to the

new rules, but are not so sure what actually is being proposed in Paragraph 2.25 with the comment about removing the age 75 limit for PCLS purposes?

We do not think it unreasonable that people are required to take benefits by a certain age; pension schemes are all about providing a pension benefit after all. Whilst not everyone's working life will be over by age 75, surely most people's will.

We would not be adverse to an increase to a slightly higher age, but are not convinced an open relaxation is warranted. However, this is not something we feel that strongly about, provided such an extension does not come at the expense of higher tax rates elsewhere (if, for example, it is felt to be a cost, say if this extension is coupled with a requirement not to have to take a minimum – taxed – income from any age).

Scheme pensions:

Consideration needs to be given as to how those members of money purchase schemes who are receiving their pension as a 'scheme pension' (within Paragraphs 2 or 16 of Schedule 28, Finance Act 2004) will be catered for in the new regime.

Specifically whether:

- Ø they can transfer into the new capped (or flexible) drawdown; or
- Ø if not, how they fit into the new death taxation regime.

To sum up, taken as a whole, we welcome the intended proposals. However, we think:

- Ø Further consideration should be given to the tax rate, and the way applied in differing circumstances.
- Ø The flexibility and maximum income levels embedded in the ethos of income withdrawal should not be eroded in the new 'capped' drawdown rules.
- Ø The 'flexible' income withdrawal proposal is likely to be largely irrelevant for the majority; if introduced, the rules need to be clear and fair to those who do not choose this route (or, more likely, do not have the fund size to make this viable). We also think it unlikely the industry will be ready in time for next year.

Responses to Chapter 3: Minimum Income Requirement

Our general comments on the proposed 'flexible' drawdown option have been made previously in relation to the previous Chapter. As mentioned there, we do not think the proposal is really something significant numbers really want or will be used much.

We have therefore kept our comments here to a minimum, with more practical comments / suggestions.

If taken forward, we think the rules should allow the MIR threshold to go into 'flexible' drawdown to be measured as well on the basis of retained pension fund values (that cannot be touched through 'flexible' drawdown). This is something the Irish rules incorporate (as pointed out in Appendix B).

Clearly this would need to be set at a relatively high level to give the protection needed of the member not falling back on the state (as not representative of a guaranteed income that, for example, an

indexed annuity would be and that fund clearly could go up and down with investment performance). We would accept whatever level thought prudent and appropriate.

This would have the benefit of opening up flexible drawdown to those with principled objections to annuities, the driver for the ASP reforms in April 2006, and being easier to administer.

There could be different fund levels depending on the member's age.

A.3. (Para 3.9): “The Government welcomes views on what income should be considered ‘secure’ for the purposes of the MIR and whether proposals for the life annuity income that can be considered for the MIR are practical and appropriate”.

AMPS comments:

If MIR is taken forward as an income rather than fund measure (see above), we agree with the inclusion of basic State Pension and additional State Pension counting towards MIR.

We would suggest consideration be given to including other annuities within the MIR calculation, but subject perhaps to a percentage reduction. So allow a percentage of the annual rate of level or with-profits or variable annuities to count (i.e. 70%, or whatever rate is deemed appropriate – clearly again age is a factor, but presumably a table could be drawn up). Requiring a very specific indexed annuity to be secured to qualify for MIR purposes is going to severely limit a member's option in wanting to take up flexible drawdown, and if as successful as you propose, is likely to work against innovation in the annuity market.

Many providers market pension provision to money purchase fund holders through ‘scheme pension’. These tend to be taken up by those with the larger pension funds. We think people who have already chosen the scheme pension route (or do so in the future) should be catered for in the MIR calculation. This could be in a similar pro-rata way as discussed above, or be included at full value provided the supporting funds are at least a certain minimum multiple of that annual rate being included (x 20, or whatever is accepted by your actuarial advice and on consultation).

A.4. (Para 3.15): “The Government welcomes views on what an appropriate level for the MIR should be and how the MIR should be adjusted for different ages”

AMPS comments:

We have no strong views on this.

Clearly the higher the MIR level, the less people will be able to make use of the flexibility.

The important issue is that it is clear and the process of checking is not onerous on providers.

A.5. (Para 3.17): “The Government welcomes views on whether a different MIR should be set for individuals and couples”.

AMPS comments:

We have no strong views on this. See our answer to the last question.

If a higher MIR was used for couples, it would seem reasonable that the income of the other party be considered too, although clearly that adds complications.

A.6. (Para 3.18): “The Government welcomes views on how often the MIR level should be reviewed”.

AMPS comments:

This is not something we feel qualified to give a view on..

This is more of an actuarial consideration.

A.7. (Para 3.20): “The Government welcomes views on how to minimise unnecessary burdens for individuals and industry in the assessment of MIR”.

AMPS comments:

What the MIR is and what counts must be clear as must what evidence will be required and who is responsible for certifying MIR has been met..

Our member firms are used to operating complicated procedures and systems. However, it should not be underestimated the potential work, responsibility and system changes this could entail. We are concerned whether firms can reasonably be expected to be ready by April 2011.

The respective balance of responsibility between member and administrator needs to be carefully considered and made clear.

Firms will presumably not be forced to provide the ‘flexible’ option; it is a business decision for them as to whether they want to go to the expense of changing their procedures and systems to offer it to their members.

What also must be made clear is what the consequences are if a mistake is made in the MIR calculation.

We assume if the MIR had not been secured as thought, that the payment (over and above the ‘capped’ annual maximum) would be treated as an ‘unauthorised member payment’.

If this is the case:

- Ø Presumably any member unauthorised payment charge would be offset by the income tax deducted on the original payment.
- Ø This clearly opens up the scheme administrator to a potential ‘scheme sanction charge’ (within Section 239, Finance Act 2004) of up to 40% of the excess payment where no funds are retained in the scheme; whilst the ‘good faith’ provisions of Section 268, Finance Act 2004 will be available where the scheme administrator has made a genuine mistake, this is still a potential big (and expensive) risk to be considered by providers operating the new flexible drawdown option.

It is vital the rules and process are clear and as simple as possible.

About AMPS

The Association is a combination of two former associations from the self administered industry, the Association of Pensioner Trustees (APT) and the SIPP Providers Group (SPG).

It was agreed to combine the two associations following the introduction of the Simplification and Taxation of Pension Schemes in order for the industry involved in the administration of, provision of and establishment of self administered arrangements to have a single cohesive voice rather than the possible fragmentation of a very professional group of pension specialists.

The Committee is drawn from all walks of the self administered industry and includes pension consultants, actuaries, lawyers and insurance company representatives

AMPS represent approximately 200 member organisations operating or providing services to Small Self Administered Schemes (SSAS) and Self Invested Personal Pensions (SIPP).

It is estimated that in excess of half a million individuals have pension provision in a member-directed pension scheme. SIPP products are suitable for a wide spectrum of the population and the SIPP market continues to experience growth of 20% each year based on data taken from industry publication surveys. Estimates for funds under management in these products are in excess of £50bn.

Employers sponsoring SSAS and SIPP membership are typically family-run businesses, employing up to 100 people, although the membership of these schemes is generally limited to the directors or owners of the businesses and their families.

Distribution:

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Dated:

9th September 2010