

Updates as at 16 February 2016 regarding the letters to HMRC that the ACA pensions tax committee posted on ACA website

Relating to the operation of the Tapered Annual Allowance for 2016/17

**A) to letter dated 10 August 2015 from ACA to HMRC headed:
Finance Bill 2015/16 version date 14 July 2015
Tapered Annual Allowance and interaction with salary sacrifice**

For the avoidance of doubt:

- Finance (No 2) Act 2015 was given Royal Assent on 18 November 2015 and continued to include the provisions which we asked to be discarded
- As recently as 4 January 2016 (ie after enactment) HMRC confirmed to ACA that In relation to the material set out in Peter Seedhouse's letter of 31 March 2010 we can say to our members that:

in relation to the legislation for the Tapered Annual Allowance and how Threshold Income is impacted by salary sacrifice, HMRC have said "These principles [ie the principles in the letter referred to above] remain but it will of course depend on the facts of each case."

Certain ways to draw retirement cash lump sums, particularly (but not only) following the operation of Choice and Freedom from 2015/16

**A) to letter dated 7 May 2015 ACA to HMRC headed:
Pensions Tax Manual (PTM) - members with Scheme-specific protected lump sum limits:
1. Examples to clarify the impact of partial transfer
2. Examples to show a tool useful for full cash-out using PCLS and "7A TCLS"**

HMRC released a first draft of a new Pensions Tax Manual in March 2015 with invitation to the public to comment. This letter was written in response to that invite.

- To date (15.2.2016) we have not had a direct response from HMRC to the letter.
- HMRC produced their first final version of the PTM on 8 December 2015 on <https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual>, and it did not contain the examples we proposed.

However, we note that the PTM update has dealt with the point raised on page 3 of our letter re an incorrect statement in the draft PTM relating to partial transfer values – this has been corrected in the December PTM issue. (However this may be because HMRC read the same point later made in our letter of 5 June 2015).

**B) to letter of 5 June 2015 headed:
Pensions Tax Manual - inclusion of examples on the use of UFPLS and its interaction with PCLS
Letter 1 – standard member with NO protections (and in particular no scheme specific protected lump sum limit)**

HMRC released a first draft of a new Pensions Tax Manual in March 2015 with invitation to the public to comment. This letter was written in response to that invite.

- To date (15.2.2016) we have not had a response from HMRC to the letter.
- HMRC produced their first final version of the PTM on 8 December 2015 on <https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual>, and it did not contain the examples we proposed.

So we do not yet have any indication of HMRC's views on this matter.

**C) to letter of 5 June 2015 headed:
Pensions Tax Manual - inclusion of more examples on the use of UFPLS and its interaction with PCLS
Letter 2 – member with scheme specific protected lump sum limit**

HMRC released a first draft of a new Pensions Tax Manual in March 2015 with invitation to the public to comment. This letter was written in response to that invite.

- To date (15.2.2016) we have not had a direct response from HMRC to the letter.
- HMRC produced their first final version of the PTM on 8 December 2015 on <https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual>, and it did not contain the examples we proposed.

However, we note that the PTM update has dealt with the point raised on page 3 of our letter re an incorrect statement in the draft PTM relating to partial transfer values – this has been corrected in the December issue. (However this may be because HMRC read the same point made earlier in our letter of 7 May, see above.)

- **There is evidence that HMRC disagree with our reading in the last para of page 2 and first para of page 3 of our letter regarding timing of UFPLS when a SSLS is being paid.** We understand that HMRC have been in correspondence with a firm of actuaries and has given them the view that **if an UFPLS is paid on a date falling after the day on which entitlement to SSLS and pension arose, this would lead to paragraph 31(3) being contravened** (reminder 31(3) is *“the pension condition is that the individual becomes entitled to all the pensions payable to the individual under arrangements under the pension scheme on the same date”*.) And this is because (although the only pension involved in the transaction happened at the same time as the entitlement to the SSLS) the pension condition needs to be satisfied on the day when the first pension entitlement arises; at that time, if any fund in the scheme remained uncrystallised (with the intention of taking them in the form of an UFPLS) the funds will [at that time] still be available to be taken as a pension... the member has delayed converting the remaining funds into benefits, which could potentially take the form of pension ... **We understand that HMRC also gave the view that if however the UFPLS was paid when the pension entitlement arises... the requirement would not be contravened.** No discussion was held about the scenario where the UFPLS is paid before entitlement to pension and PCLS arises.

In relation to the easement in SI2005/572 regarding when a SSLS is paid in connection with two or more pensions (page 3 of our letter expressed a hope for change), we have seen no evidence of an intention to change the law such that designation into drawdown would count as “pension”.

THE COPY OF EACH OF THE LETTERS ABOVE ON THE ACA WEBSITE NOW
HAVE ADDED TO THEM A FLAG THAT THE READER SHOULD LOOK AT THIS
2016 UPDATE SHEET

Karen Goldschmidt
Chair of the Pensions Taxation Committee

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