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Dear Karen

**RPSM Guidance: Pension Commencement Lump Sums: Scheme Specific Protection**

Thank you for your letter of 29 November 2011, concerning the operation after 5 April 2012 of scheme specific protection for lump sums under paragraphs 31-34 Schedule 36 Finance Act 2006, in which you suggested some corrections which are needed to the current RPSM pages issued in September 2011.

I confirm that the edits suggested in your letter reflect our views, and am grateful to you for pointing out that, in some areas, the current guidance does not accurately reflect those views. We will be amending RPSM to reflect the true position as soon as possible but this cannot be done until early next year. HMRC accept that your suggested examples illustrate the correct position. I am grateful for the work you have done in putting these together and we have used them as the basis for the RPSM examples.

I also confirm that this confirmation letter may be shared with interested parties alongside your letter and attachment.

Yours sincerely

**Tom Young**  
Technical Adviser

**Direct line** 0115 974 1899

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29 November 2011

REF *ACAtoHMRC\_PCSL25\_vn3*

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**Dear Tom**

## *RPSM guidance: Pension Commencement Lump Sums “scheme specific protection” and its operation after 5 April 2012*

I am writing regarding the calculation of a Pension Commencement Lump Sum under the transitional protections set out in Schedule 36, paragraph 34 of the Finance Act 2004 (ie for those who, as at 5 April 2006, had lump sum rights exceeding 25% of their pension rights but who are not registered, in connection with Primary or Enhanced Protection, for lump sums rights exceeding £375,000).

From 6 April 2012 (when the standard lifetime allowance will drop from £1.8m to £1.5m, except for those with Fixed Protection) the operation of these provisions will be modified. This letter notes some corrections we think need to be made to RPSM pages issued in September in relation to this.

### **The change in the legislation**

From 6 April 2012 Schedule 36, paragraph 34 of Finance Act 2004 will be modified by Finance Act 2011 so that (7) will refer to ULA rather than CSLA (in line with a policy announcement of HMT when the drop in LTA was first announced) but (7A) will still refer to CSLA rather than ULA.

CSLA is the current Lifetime allowance (2012/13 tax year: £1.5m) and ULA is the higher of £1.8m and the current Lifetime allowance (2012/13 tax year: £1.8m).

In our recent correspondence you confirmed our reading set out above, and that there is no intention to change this differential adjustment.

This is duly reflected in the September issuance of [RPSM03105580](#).

### **The RPSM examples**

While RPSM 03105580 reflects the change correctly, the consequent examples do not - they seem to assume that (7A) was changed to refer to ULA.

We have focused particularly on [RPSM03105590](#) and I reproduced the examples in the Appendix along with a tracked change version amendments that we think will show correctly how the revised law operates.

### **Next Action**

- I would be grateful if you could confirm that you agree our application of Finance Act 2004 in the examples and, if so, for you to update the RPSM.
- Since members may currently be making plans that need to understand this - possibly for retirement before or after 6 April 2012 or whether to register for Fixed Protection - I would also be grateful if you could so confirm in writing with a view to my copying this letter and your response to our members, for their reliance.
- We notice that the new examples simply overwrite examples that were there before. This means that there are no longer any examples to show how these provisions operate before 6 April 2012. We think the old cases should be reinstated as extra pages as they are needed currently - and in fact preserved past 6 April 2012 because some calculations will still be being completed then (potentially with a BCE date before 6 April 2012 so under the old operation - and in any case for good audit purposes). Obviously they will need to be clearly marked that they reflect the provisions as they apply for PCLS calculations under these provisions with BCE date up to 5 April 2012.

There are other examples in the September RPSM pages that need correcting for this issue. We have not been able to comprehensively go through all of these but hope that the attached will give you a template for your own reviews – and write separately about other changes in the near future if we have time.

Karen Goldschmidt FIA  
[Chair of the ACA Pensions Taxation Committee](#)

## **RPSM03105590 - Technical Pages: Protecting pension rights from tax charges: Lump sums: Scheme specific protection: Examples of payments**

### **How to pay protected lump sum benefits exceeding 25%: examples for money purchase arrangements where the member has not been an active member of the scheme after 5 April 2006 [Para 34 Sch 36]**

#### **Example 1**

Ruth had a protected lump sum right of £50,000 in a **retirement benefit scheme** on 5 April 2006. The value of her total rights under the scheme (the fund from which her benefits, including lump sum, will be provided) was £100,000 on 5 April 2006. She left the employment relating to the scheme in 2005.

Ruth took her lump sum under the scheme in April 2016 when the **standard lifetime allowance** was £1.5 million. At this point the value of her rights under the scheme had risen to £118,000.

Ruth's lump sum rights in April 2016 are in principle made up of two elements, the revalorised amount of the lump sum rights as at 5 April 2006 and the ALSA lump sum. In her case the value of the ALSA lump sum is zero as the 18% increase in her rights under the scheme (from £100,000 to £118,000) is less than the 20% increase that applies since the standard lifetime allowance in 2016 was less than £1.8 million - see [RPSM03105580](#).

So Ruth could be paid a lump sum from the scheme of £60,000, calculated as

$$£50,000 \times (£1.8 \text{ million} / £1.5 \text{ million}) + £0 = £60,000.$$

#### **Example 2**

The facts are the same as those for Example 1 above except that the value of Ruth's rights under the scheme in April 2016 is £160,000.

Now the ALSA lump sum has an actual value as scheme rights have increased by 60% compared to the 20% increase in the standard lifetime allowance. The amount of the ALSA lump sum will be £15,000 calculated as

$$(£75,000 + £85,000 - £100,000) / 4$$

using the ALSA formula in [RPSM03105580](#).

So in example 2 Ruth can be paid a lump sum from the scheme of £75,000, being £60,000 (the revalorised 5 April 2006 lump sum rights) plus £15,000 (the ALSA lump sum).

## RPSM03105590 - Technical Pages: Protecting pension rights from tax charges: Lump sums: Scheme specific protection: Examples of payments

How to pay protected lump sum benefits exceeding 25%: examples for money purchase arrangements if entitlement arises after 5 April 2012 where the member has not been an active member of the scheme after 5 April 2006 [Para 34 Sch 36 as edited by Finance Act 2011] [NOTE TO DRAFTERS: We think the status is irrelevant to the case – the same calcs apply whether or not an active member. The structure of the old example reflected some legislation about “RBA” that was removed with backdated effect to 6.4.2006.

In all the following assume as part of the data of the case that the member has some remaining available (personal) lifetime allowance.

### Example 1

Ruth had a protected lump sum right of £50,000 in a **retirement benefit scheme** on 5 April 2006. The value of her total rights under the scheme (the fund from which her benefits, including lump sum, will be provided) was £100,000 on 5 April 2006. ~~She left the employment relating to the scheme in 2005.~~

Ruth took her lump sum under the scheme in April 2016 when the **standard lifetime allowance** was £1.5 million, and she did not have Fixed Protection at the time. At this point the value of her rights under the scheme had risen-fallen to £118,000 90,000 –because of poor investment returns, possibly but not necessarily even with additional contributions).

This falls under the formula applying following the tax rule changes as at 6 April 2012.

Ruth's maximum allowable figure for pension commencement lump sum (under para 34 Sch 36) -lump sum rights in April 2016 are in principle made up of two elements, the revalorised amount of the lump sum rights as at 5 April 2006 and the ALSA lump sum.

The revalorised amount of the lump sum rights as at 5 April 2006 is equal to:

$$\text{£50,000} \times (\text{£1.8 million}/\text{£1.5 million}) = \text{£60,000}.$$

The amount of the ALSA lump sum will be nil calculated as

$$(\text{£90,000} - \text{£100,000} \times \text{£1.5m}/\text{£1.5m})/4 \text{ with a minimum of zero .}$$

In other words, as the value of her rights under the scheme has increased by less than the increase (if any) in her Standard Lifetime Allowance between 6 April 2006 and the date of her retirement (in fact, in this case her Standard Lifetime Allowance is the same as at 6 April 2006 and the value of her rights in the scheme has actually reduced)has fallen since 5 April 2006, her ALSA lump sum will be zero. as ALSA can not be negative. In her case the value of the ALSA lump sum is zero as the 18%increase in her rights under the scheme (from £100,000 to £118,000) is less than the 20%increase that applies since the standard lifetime allowance in 2016 was less than £1.8 million – see RPSM03105580).

So Ruth could be paid a lump sum from the scheme of £60,000, calculated as

$$\text{£60,000} \times (\text{£1.8 million}/\text{£1.5 million}) + \text{£0} = \text{£60,000}.$$

### Example 2

The facts are the same as those for Example 1 above except that the value of Ruth's rights under the scheme in April 2016 is £160,000 (with investment growth and possibly but not necessarily with additional contributions).

The value of the revalorised amount of the lump sum rights as at 5 April 2006 is unchanged from example 1 and is equal to £60,000.

In addition, ~~Now~~ the ALSA lump sum ~~now~~ has an actual value (because ~~as~~ scheme rights have increased by more than the increase in her Standard Lifetime Allowance between 6 April 2006 and the date of her retirement), ~~by 60% compared to the 20% increase in the standard lifetime allowance.~~ The amount of the ALSA lump sum will be £15,000, calculated as

$$(\del{£75,000} + \del{£85,000} \del{160,000} - £100,000 \times £1.5m/£1.5m)/4$$

using the ALSA formula in [RPSM03105580](#).

So in example 2 Ruth can be paid a pension ~~commencement~~ commencement lump sum from the scheme of £75,000, being £60,000 (the revalorised 5 April 2006 lump sum rights) plus £15,000 (the ALSA lump sum).

### Example 3

The facts are the same as those for Example 1 above except the value of Ruth's rights under the scheme in April 2016 has risen to £118,000; and Ruth had elected for Fixed Protection at 5 April 2012 and this was still valid (note this could be true only if she has made no DC contributions since 6 April 2012).

The value of the revalorised amount of the lump sum rights as at 5 April 2006 is unchanged from example 1 and is equal to £60,000.

Ruth has fixed protection, which means that at the date of her retirement her Standard Lifetime is £1.8m.

In this case the ALSA lump sum is calculated as  
 $(£118,000 - £100,000 \times £1.8m/£1.5m)/4$  which is less than zero, but set to a minimum of zero.

(In other words, ~~a~~As the value of her rights under the scheme has increased by less than the increase in her Standard Lifetime Allowance between 6 April 2006 and the date of her retirement (with these increases being 18% and 20% respectively allowing for the impact of her Fixed Protection), her ALSA lump sum will be zero.

So Ruth could be paid a lump sum from the scheme of £60,000, calculated as

$$£60,000 + £0 = £60,000.$$

In this case the ALSA lump sum is calculated as  
 $(£118,000 - £100,000 \times £1.8m/£1.5m)/4$

ALSA lump sum has no value because the fund growth has not exceeded 20%, which for a member with Fixed Protection is a threshold before any ALSA arises.

### Example 4

The facts are the same as those for Example 2 above except that Ruth had elected for Fixed Protection at 5 April 2012 and this was still valid (note this could be true only if she has made no DC contributions since 6 April 2012).

The value of the revalorised amount of the lump sum rights as at 5 April 2006 is unchanged from example 2 and is equal to £60,000.

In addition, the ALSA lump sum now has an actual value as scheme rights have increased by more than the increase in her Standard Lifetime Allowance between 6 April 2006 and the date of her retirement.

The amount of the ALSA lump sum will be £10,000, calculated as

$$(\del{£75,000} + \del{£85,000} \del{160,000} - £100,000 \times £1.8m/£1.5m)/4$$

In this case the ALSA lump sum is calculated as  
 $(£160,000 - £100,000 \times £1.8m/£1.5m)/4$

Now the ALSA lump sum has an actual value as (with the member having Fixed Protection) scheme rights have increased by more than 20%. The amount of the ALSA lump sum will be £10,000 calculated as

$$\frac{£160,000 - £100,000 \times £1.8m/£1.5m}{4}$$

using the ALSA formula in RPSM03105580.

So in example 423 Ruth can be paid a pension commencement lump sum from the scheme of £70,000, being £60,000 (the revalorised 5 April 2006 lump sum rights) plus £10,000 (the ALSA lump sum). This compares to £75,000 if all the circumstances were the same but she had not taken up Fixed Protection.

## **RPSM03105590 - Technical Pages: Protecting pension rights from tax charges: Lump sums: Scheme specific protection: Examples of payments**

### **How to pay protected lump sum benefits exceeding 25%: examples for money purchase arrangements if entitlement arises after 5 April 2012 [Para 34 Sch 36 as edited by Finance Act 2011]**

In all the following assume as part of the data of the case that the member has some remaining available (personal) lifetime allowance

#### **Example 1**

Ruth had a protected lump sum right of £50,000 in a **retirement benefit scheme** on 5 April 2006. The value of her total rights under the scheme (the fund from which her benefits, including lump sum, will be provided) was £100,000 on 5 April 2006.

Ruth took her lump sum under the scheme in April 2016 when the **standard lifetime allowance** was £1.5 million, and she did not have Fixed Protection at the time. At this point the value of her rights under the scheme had fallen to £ 90,000 because of poor investment returns, possibly but not necessarily even with additional contributions).

*This falls under the formula applying following the tax rule changes as at 6 April 2012.*

Ruth's maximum allowable figure for pension commencement lump sum under para 34 Sch 36 in April 2016 are in principle made up of two elements, the revalorised amount of the lump sum rights as at 5 April 2006 and the ALSA lump sum.

The revalorised amount of the lump sum rights as at 5 April 2006 is equal to:

$$£50,000 \times (£1.8 \text{ million}/£1.5 \text{ million}) = £60,000.$$

The amount of the ALSA lump sum will be nil calculated as

$$(£90,000 - £100,000 \times £1.5\text{m}/£1.5\text{m})/4 \text{ with a minimum of zero.}$$

In other words, as the value of her rights under the scheme has increased by less than the increase (if any) in her Standard Lifetime Allowance between 6 April 2006 and the date of her retirement (in fact, in this case her Standard Lifetime Allowance is the same as at 6 April 2006 and the value of her rights in the scheme has actually reduced), her ALSA lump sum will be zero.

So Ruth could be paid a lump sum from the scheme of £60,000, calculated as

$$£60,000 + £0 = £60,000.$$

#### **Example 2**

The facts are the same as those for Example 1 above except that the value of Ruth's rights under the scheme in April 2016 is £160,000 (with investment growth and possibly but not necessarily with additional contributions).

The value of the revalorised amount of the lump sum rights as at 5 April 2006 is unchanged from example 1 and is equal to £60,000.

In addition, the ALSA lump sum now has an actual value (because scheme rights have increased by more than the increase in her Standard Lifetime Allowance between 6 April 2006 and the date of her retirement).. The amount of the ALSA lump sum will be £15,000, calculated as

$$(\pounds160,000 - \pounds100,000 \times \pounds1.5\text{m}/\pounds1.5\text{m})/4$$

using the ALSA formula in [RPSM03105580](#).

So in example 2 Ruth can be paid a pension commencement lump sum from the scheme of £75,000, being £60,000 plus £15,000 (the ALSA lump sum).

### Example 3

The facts are the same as those for Example 1 above except the value of Ruth's rights under the scheme in April 2016 has risen to £118,000; and Ruth had elected for Fixed Protection at 5 April 2012 and this was still valid (note this could be true only if she has made no DC contributions since 6 April 2012).

The value of the revalorised amount of the lump sum rights as at 5 April 2006 is unchanged from example 1 and is equal to £60,000.

Ruth has fixed protection, which means that at the date of her retirement her Standard Lifetime is £1.8m.

In this case the ALSA lump sum is calculated as  
 $(\pounds118,000 - \pounds100,000 \times \pounds1.8\text{m}/\pounds1.5\text{m})/4$  which is less than zero, but set to a minimum of zero.

(In other words, as the value of her rights under the scheme has increased by less than the increase in her Standard Lifetime Allowance between 6 April 2006 and the date of her retirement (with these increases being 18% and 20% respectively allowing for the impact of her Fixed Protection), her ALSA lump sum will be zero.

So Ruth could be paid a lump sum from the scheme of £60,000, calculated as

$$\pounds60,000 + \pounds0 = \pounds60,000.$$

### Example 4

The facts are the same as those for Example 2 above except that Ruth had elected for Fixed Protection at 5 April 2012 and this was still valid (note this could be true only if she has made no DC contributions since 6 April 2012).

The value of the revalorised amount of the lump sum rights as at 5 April 2006 is unchanged from example 2 and is equal to £60,000.

In addition, the ALSA lump sum now has an actual value as scheme rights have increased by more than the increase in her Standard Lifetime Allowance between 6 April 2006 and the date of her retirement.

The amount of the ALSA lump sum will be £10,000, calculated as

$$(\pounds160,000 - \pounds100,000 \times \pounds1.8\text{m}/\pounds1.5\text{m})/4$$

using the ALSA formula in [RPSM03105580](#).

So in example 4 Ruth can be paid a pension commencement lump sum from the scheme of £70,000, being £60,000 (the revalorised 5 April 2006 lump sum rights) plus £10,000 (the ALSA lump sum). This compares to £75,000 if all the circumstances were the same but she had not taken up Fixed Protection.