



Committee and Date Pensions Committee	Item
24 November 2017	
10.00am	Public

ANNUAL ALLOWANCE – VOLUNTARY SCHEME PAYS

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1. Summary

- 1.1 To inform the Committee of the availability of 'Voluntary Scheme Pays,' for members of the Local Government Pension Scheme, who breach HMRC's Annual Allowance limit for pension saving growth in a financial year. Each Local Government Pension Fund has the discretion to offer 'Voluntary Scheme Pays' to its members. Members of this Fund are now asking to use this and it is recommended that the Committee agree to offer this option to the members of the Shropshire Fund in the circumstances mentioned in this report.

2. Recommendations

- 2.1 Members to approve the use of 'Voluntary Scheme Pays' (VSP) where;
- a member's pension savings within the Shropshire County Pension Fund are subject to the tapered annual allowance, **and**
 - the tax breach stems only from the member's Shropshire County Pension Fund LGPS benefits rather than via growth in multiple pension schemes, and
 - The application is received in writing by Shropshire County Pension Fund by 30 November in the tax year following the year to which the tax charge relates to, should the member wish the tax to be paid by 31 January to ensure no late payment penalties become due, if not then no later than the Mandatory scheme pays deadline. But extend the deadline this year to 31 December 2017.

REPORT

3. Risk Assessment and Opportunities Appraisal

3.1 Risk Management

By ensuring the guidance and legislation mentioned in this report is followed and adhered to minimises risks to the Fund

3.2 Human Rights Act Appraisal

The recommendations contained in this report are compatible with the provisions of the Human Rights Act 1998.

3.3 Environmental Appraisal

There are no direct environmental, equalities or climate change consequences of this proposal.

3.4 Financial Implications

Guidance on the calculation of the reduction in pension benefits following a Scheme Pays election has been issued by the Secretary of State for Communities and Local Government in conjunction with the Government Actuaries Department (GAD) in order to ensure the Scheme Pays offset is cost neutral to the scheme.

5. Background

- 5.1 The Annual Allowance (AA) is the annual limit on pension savings that a member can make in each tax year which will receive tax relief. If the value of pension benefits grow by more than this allowance, the excess amount may be subject to a tax charge. The annual allowance limit is currently £40,000.
- 5.2 The Fund has a statutory duty to write to any scheme member, who breaches the annual allowance, by the 6 October following the end of the tax year (i.e. 6 October 2017 for charges arising from tax year 2016/17)
- 5.3 The AA reduced in April 2014 from £50,000 to £40,000. This together with the recent introduction by HMRC of a tapered annual allowance from 2016/17 (for higher earners) has meant the Fund, since sending out the 2016/17 pension saving statement, has had several requests from active member to use the Voluntary Scheme Pays option.

6. Annual Allowance – Scheme Pays

- 6.1 Scheme Pays is a mechanism by which a Scheme Member can request their excess annual allowance tax charge is met by the Pension Fund. They then repay the Fund by having a reduction applied to their pension once it comes into payment.
- 6.2 Mandatory Scheme Pays has been available for many years and Voluntary Scheme Pay has recently been identified, by the Local Government Association (following legal advice), as being available to LGPS members. The legal advice confirmed that administering authorities, that are local authorities, have the vires to agree to a Voluntary Scheme Pays request.

7 Annual Allowance (AA) – ‘Mandatory’ Scheme Pays

- 7.1 Scheme members who breach the standard AA have the following options to pay their tax charge;
- Make payment of the tax directly to HMRC, or
 - Use Mandatory Scheme Pay if the following qualifying conditions are met;
 - The AA limit has been exceeded in the pension scheme that the Scheme Pays election is made; and
 - The AA tax charge exceeds £2,000 and
 - The relevant time limit for making an election have been met
- 7.2 If the Scheme Member meets the qualifying condition and elects for Mandatory Scheme Pay’s the Fund must agree to the request as the member has a mandatory right under section 237B of the Finance Act 2004.
- 7.3 When a member makes an election requiring the pension fund to pay the AA charge, the scheme and the member will become jointly liable for the tax charge. The Scheme must pay the tax but the member will have to report the amount of tax that the scheme will pay on their Self-Assessment Tax return.

8. Annual Allowance (AA) – ‘Voluntary’ Scheme Pays

- 8.1 Where a member does not meet the conditions for Mandatory Scheme Pays to apply or they do not make their nomination in time, they may ask the Fund to pay the AA tax charge on a voluntary basis. This, however, is subject to the administering authority’s approval which is discretionary.
- 8.2 An important consideration is that from the 2016/17 tax year, changes to the tax rules now mean that some high earning members with income of more than £150,000 per annum are now subject to a **Tapered Annual Allowance (‘tapered AA’)** which reduces their AA from £40,000 to £10,000 incrementally for those earning between £150,000 and £210,000 per annum. The income limit includes, amongst other things, pension growth in that tax year.
- 8.3 As it currently stands, Scheme members who breach the tapered annual allowance have only the following options;
- Pay the whole of the tax charge directly to HMRC
 - Opt for Mandatory Scheme Pays option for the breach over the £40,000 allowance and pay the rest directly to HMRC.

Therefore if a member’s annual allowance had been reduced to £10,000, they would have no option other than to pay a potentially

significant tax charge directly to HMRC on the amount between £40,000 and their tapered annual allowance, i.e. tax on potentially £30,000.

- 8.4 The Voluntary Scheme Pays option can be utilised to the benefit of Shropshire County Pension Fund members in such circumstance by enabling the tax charge on the £30,000 tapered annual allowance to be paid by the Pension Fund and recouped from future benefits; cost neutral to the Fund.
- 8.5 If the Pension Fund allows members, caught by the taper, to use Voluntary Scheme Pays, there does not seem any reason to not allow this option for those members who have a tax charge of under £2,000.
- 8.6 However, if a member exceeds the annual allowance by virtue of savings across multiple pension scheme, without exceeding the annual allowance in any one scheme and a tax charge were to arise, it would not be appropriate for Shropshire County Pension Fund to offer the Voluntary Scheme Pays option.
- 8.7 When a member's pension fund agrees to pay their annual allowance charge on a voluntary basis, the liability for the annual allowance charge will remain with the member until the charge is paid. This means that if, for any reason, the scheme does not pay this within the required time limits, the member will still be liable for the payment of the charge and may incur interest and penalties.

9. Timeline

- 9.1 HMRC have introduced different timelines for payment of the two tax charges.
- 9.2 **Mandatory Scheme Pays** – The deadline for members, who incur a tax charge and wish to apply to the pension fund to utilise Mandatory Scheme Pays, is 31 July following the relevant self-assessment filing deadline in the subsequent tax year (i.e. tax charge in 2016/17 deadline for application 31 July 2018). The subsequent deadline for administering authorities to make the payment to HMRC is the following 14 February (i.e. 14 February 2019)

Voluntary Scheme Pays – There is technically no deadline for member to request to use the Voluntary Scheme Pays option. However, the tax charge payment to HMRC must be made before 31 January in the following tax year to ensure additional interest charges are not incurred by the member.

If a tax charge being dealt with through Voluntary Scheme Pays is not paid by 31 January (i.e. 31 January 2018 for charges arising from tax year 2016/17) the following HMRC late penalties may become due by the member:

Penalty for late filing of tax return to HMRC - £1,000

Penalty for late payment of tax charge	-	5% of tax charge
Interest for late payment of tax charge	-	2.75% p.a.

- 9.3 It is not felt that the 2 different deadlines will be an issue to administer. The Voluntary Scheme Pays application deadline will remain the same as Mandatory Scheme pays (as explained in point 9.2). However if the member wishes the Fund to meet the January deadline to pay the tax over to HMRC without any additional charges, the application must be received in writing, by the Fund, by 30 November. However, for this year of introduction we will extend the deadline to 31 December 2017.
- 9.4 The Fund may wish to review using different deadlines at a later date, should the proposal cause any administrative problems.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) N/A
Cabinet Member N/A
Local Member N/A
Appendices None