

News on Pensions

DECEMBER 2014

Autumn Statement

Compared with [recent parliamentary speeches](#) by George Osborne, this year's [Autumn Statement](#) was relatively light on pensions-related content. The Chancellor of the Exchequer did however announce that:

- Where an individual with a joint-life or guaranteed term annuity product dies before reaching age 75, pension instalments continuing under the policy to a beneficiary would be free of income tax. This will align the treatment of joint-life and guaranteed annuity products with the changes [already announced](#) in relation to the 'death tax' on undrawn defined contribution (DC) pension pots.

Scheme pensions payable from defined benefit (DB) arrangements are not affected by this change, which comes into effect in relation to deaths after 5 April 2015. A consultation is due shortly regarding the extension of DC reforms to occupational DB schemes.

- The Government confirmed that it will retain the existing age limit of 75 after which tax relief cannot be claimed on pension contributions.
- The new £10,000 annual allowance for individuals who have flexibly accessed pension savings from April 2015 was confirmed, but not expanded upon, in the Chancellor's speech.

HMRC: VAT on scheme management fees

HM Revenue Customs (HMRC) has issued two further briefing notes in relation to reclaiming Value Added Tax (VAT) on management costs for pension schemes. Early analysis suggests that HMRC's revised position will, broadly speaking, be welcome news for trustees and sponsors of DC schemes, but not so good for DB schemes.

Trustees and sponsoring employers should therefore seek specialist tax advice ahead of changes coming into effect at the end of 2015.

Until now, HMRC has treated different services received by occupational pension schemes in different ways for the purposes of reclaiming VAT:

- VAT on 'administration services', such as actuarial and administration fees, was recoverable by the sponsoring employer
- VAT on 'investment management services' was generally not recoverable

Where invoices straddled both types of services, a 30/70 split could be assumed by way of a simplification agreed between HMRC and the pensions industry (with VAT recoverable on the 30% of the invoice assumed to relate to administration services). Many investment managers' invoices fell into this category as the managers provide some administration services in relation to the funds being managed.

DB schemes

The [first new brief](#) relates to HMRC's revised stance on the recovery of VAT on DB pension fund costs, as a result of the decision in the Dutch case of PPG Holdings in July 2013.

Although HMRC now says that there are no grounds to differentiate between administration and investment services, recovering VAT against invoices for either type of service is likely to prove tougher for sponsoring employers. In order for the sponsoring employer to reclaim the VAT, HMRC will require that:

- The employer must be the recipient of the services. Specifically, the employer will have to be a party to the contract and pay for the services provided.
- The employer must not re-charge the costs to the pension scheme trustees. It is not clear at this stage whether this will preclude the employer from off-setting service invoices against ongoing contributions.

This may be problematic for most UK pension schemes, where it is the trustees themselves that engages suppliers, not the employer. In particular, services provided in respect of a statutory appointment (for example Scheme Auditor or Scheme Actuary work) will necessarily be provided to the scheme trustees.

Transitional arrangements will apply until 31 December 2015. In the meantime, sponsoring employers should seek specialist tax and legal advice.

DC schemes

HMRC's [second brief](#) is in relation to VAT exemption for management services provided to DC schemes, resulting from the decision in the ATP PensionService case in the European Court of Justice.

The court had ruled that a DC pension scheme is a special investment fund for VAT purposes, and that therefore management services (including investment, administration and marketing) for these funds should be exempt from VAT. HMRC has accepted this ruling, and states that UK law will be amended to be brought in line with EU law in this respect.

HMRC says that, specifically, the management of pension funds with the following characteristics are (and always should have been) exempt from VAT:

- they are solely funded (whether directly or indirectly) by persons to whom the retirement benefit is to be paid (i.e. the pension customers)
- the pension customers bear the investment risk
- the fund contains the pooled contributions of several pension customers
- the risk borne by the pension customers is spread over a range of securities

The position is still not altogether clear – for example, HMRC has not been explicit about which services fall under the 'administration services' exemption. Nevertheless, sponsoring employers of DC schemes should seek specialist tax and legal advice, and should consider asking investment managers to reclaim historic VAT overpayments.

EIOPA stress testing

The Pensions Regulator (TPR) will shortly be contacting certain schemes in connection with a Europe-wide pensions stress test due in early 2015. The stress test will be conducted by the European Insurance and Occupational Pensions Authority (EIOPA). In order to inform the objectives and methodologies for this test, EIOPA are carrying out some preparatory work on pension schemes' investment behaviour. The main focus will be to look at how schemes reacted during the financial crisis and whether this cushioned or aggravated falls in asset prices.

TPR will be collating the required information for the UK. The intention is to achieve coverage of at least 40% of the pensions market and it is very likely that schemes will receive requests to participate. While participation is voluntary, it is important that TPR can provide accurate and representative information to EIOPA to support the UK's interests.

The survey is relevant to both defined benefit and defined contribution schemes and comprises two parts:

- a quantitative investment data template covering the years 2004-2014; and
- a qualitative investment survey on general investment policy and factors influencing investment behaviour.

The data collected will only be used for this study, will be considered confidential, and EIOPA will not make public any information which could be traced back to individual pension schemes.

Latest news on auto-enrolment

TPR consults on auto-enrolment schemes

TPR has launched a consultation on '[Helping small and micro employers identify a pension scheme for automatic enrolment](#)'.

TPR is proposing to publish a list of pension schemes which it believes are suitable for auto-enrolment. The list will be published on TPR's website and is intended to contain only qualifying pension schemes available to any employer, irrespective of the number of employees or level of remuneration. Some commentators have suggested that this restriction means the list will be comprised only of the National Employment Savings Trust (NEST).

The consultation follows [research by the Department for Work and Pensions \(DWP\)](#) which showed that 48% of small and 79% of micro employers currently have no pension scheme and will have to choose a new one as they prepare for auto-enrolment. TPR's own research found that:

- around one in five small and micro employers say they are not intending to seek advice (approximately 290,000 employers); and
- around one in ten employers are not intending to seek advice and don't know how to select a scheme, or think it will be difficult to select a scheme (approximately 130,000 employers).

The list will only contain basic contact details for each pension scheme and will sit alongside generic educational material aimed at helping employers become better informed. Employers will still need to ensure that the scheme they choose is suitable for them and their particular workforce and TPR will emphasise that there may be more suitable schemes available in the wider market.

Other auto-enrolment news

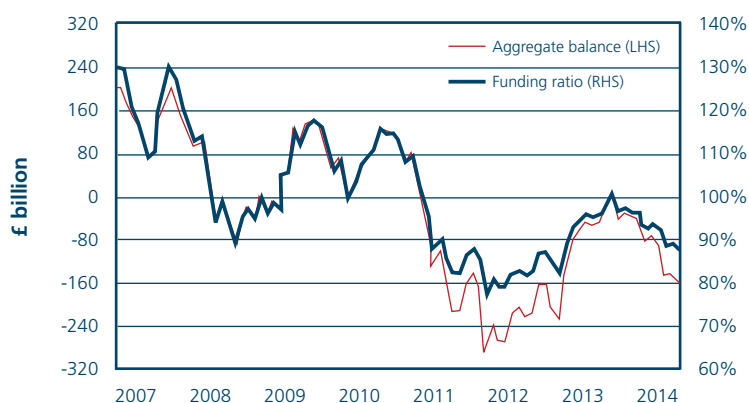
- The DWP has published [research](#) which it says shows that auto-enrolment is reversing the decline in private pension provision. Nationwide, 6.7 million people are now participating in a private sector pension, compared to 5.9 million in 2012. Separate ONS [Pension Trends](#) analysis suggests that most of the increase may have been in personal pensions including group and stakeholder schemes, whose total active membership rose to 2.8 million in 2013 from 2.7 million in 2012.
- The DWP has [published](#) its Automatic Enrolment evaluation report for 2014. It finds that more than 4.7 million workers have been auto-enrolled by around 34,000 employers as at the end of September 2014. The overall level of opt out has remained fairly consistent since 2012, at around 10%.
- TPR has published its latest [automatic enrolment compliance and enforcement bulletin](#). TPR has issued its first fines to three employers for failing to meet their duties and has launched an advertising campaign targeting small and medium sized employers.

PPF News

PPF 7800 Index

The latest update of the PPF's 7800 Index of schemes' funding (on the s179 basis) has been published. The aggregate deficit of the 6,057 schemes in the index is estimated to have increased over the month to £164.9 billion at the end of October 2014, (there was an aggregate deficit of £144.3 billion at the end of September 2014).

Estimated aggregate balance (assets less s179 liabilities) and funding ratio of schemes in the PPF universe



Source: The Pension Protection Fund

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The s179 funding ratio at September 2014 has been restated to 89.2% from 87.8%, following a move to more up-to-date data. The funding ratio then decreased from 89.2% in September to 87.9% as at October 2014. There were 4,570 schemes in deficit and 1,487 schemes in surplus.

2014 Purple Book

TPR and the PPF have jointly published the 2014 [Purple Book](#). The Purple Book gives detailed analysis of the risks faced by PPF-eligible schemes. Some of the main findings include:

- The aggregate section 179 deficit of PPF-eligible schemes dropped from £210.8 billion at 31 March 2013 to £39.3 billion at 31 March 2014.
- The insolvency rate among sponsoring employers of eligible schemes fell sharply over the three quarters to June 2014, and by more than the national insolvency rate.
- Asset allocations remain largely unchanged from previous years, suggesting the pace of schemes' de-risking has slowed.
- The total allocation to overseas equities is now more than double that of UK equities.
- In 2013/14, the PPF made compensation payments of £445.1 million compared with £331.8 million in 2012/13.
- The total number of contingent assets in place for the 2014/15 levy year was about 780, somewhat lower than in the previous year. This reflected a fall in the number of Type A contingent assets (company guarantees) due to increased requirements for validation.

Other News in Brief

2014 Budget update

The Government has [amended](#) its Taxation of Pensions Bill to remove a £300 fine that would have applied if individuals failed to notify all of their pension schemes that they had used new flexibilities to withdraw cash from one of their pension pots.

Instead, savers will now only be required to notify those schemes that they contribute (or plan to contribute) to. The previously proposed 31 day deadline for notification has been extended to 91 days.

Definition of money purchase

The DWP has published guidance for trustees on changes to the definition of [money purchase benefits in occupational pension schemes](#). This is intended to be a practical guide to the legislation, focusing on where the treatment of benefits has changed.

TPR: Restructurings

TPR has [issued two reports](#) in relation to recent restructurings.

One report explains how TPR has helped to facilitate a rescue plan for members of the Kodak Pension Plan, in a deal in which the trustees acquired Kodak's cash generative 'personalised imaging' and 'document imaging' businesses. The other relates to TPR's role in the July 2013 restructuring of UK Coal's operations, following a major fire which saw the closure of one of the company's major mines. The PPF has also reported agreeing a [restructuring deal](#) with airline Monarch.

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively contact us via the following:

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