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# time to take action



**Adrian Walker** explains the importance of identifying clients that need to register for Primary or Enhanced Protection before it is too late.

When the new pension regime was introduced on 6 April 2006, there were clients with pension rights that either at A-Day, or at some time in the future, would exceed the Lifetime Allowance. For such clients, HM Revenue & Customs (HMRC) introduced two forms of transitional protection – Enhanced and Primary.

These were intended to restrict or negate the potential tax charges that could arise at a future benefit crystallisation event when the total value of their registered pension scheme assets exceeds the Lifetime Allowance.

Clients were given a three-year period in which to register the value of their pre A-Day entitlements for one or both types of protection. Failure to do so could subject the funds to taxation at an effective rate of 55% on the value of benefits crystallised above the Lifetime Allowance.

## act now

We are now over halfway through the three year period. It is important to reassess the likely value of clients' pension rights where no accrual has occurred in their registered pension scheme beyond A-Day. Some key considerations for this are detailed in the panel to the right.

With less than 18 months remaining, urgent activity in this area may still be required. The tax consequences of failing to review certain clients' pre A-Day circumstances could significantly impact future retirement planning.

This article is based on Skandia's interpretation of the law and HM Revenue & Customs practice as at 31 October 2007. We believe this interpretation to be correct but cannot guarantee it. Tax relief and the tax treatment of investment funds may change.

## Primary/Enhanced Protection – key considerations

### Taking benefits

The minimum age at which benefits can be crystallised will change from age 50 to age 55 from April 2010. Funds will have a further five years of investment growth before benefits can be crystallised.

### Future Lifetime Allowance

Legislation projects the Lifetime Allowance to be £1.8 million for the 2010/11 tax year. Beyond that date the only current guarantee is that the lifetime allowance will not fall in value. This is a significant difference from the original proposal which assumed an automatic increase by price inflation with an additional rounding increase on top.

## practical issues

Registering for Enhanced or Primary Protection can be complicated for some clients depending on the source of pre A-Day funds. Some of these issues are outlined here and can take time to resolve – which is fast receding against the April 2009 deadline.

### Occupational scheme benefits – maximum permitted pension test

Clients in occupational pension schemes need to obtain the value of benefits as at 5 April 2006. Before any form of protection can be registered, the schemes need to have carried out a 'maximum permitted pension test' to ensure that benefits did not exceed the pre A-Day HMRC limits applying to occupational schemes. This could involve the need to obtain historical

salary data and values of retained benefits as at A-Day.

If Enhanced Protection is being applied for and an excess value is identified, it must be returned to the sponsoring employer or to the trustees for redistribution to other members before the client can register for protection.

### Protecting pre A-Day pension commencement lump sums

Protection of pre A-Day uncrystallised tax-free cash entitlement can be registered provided the total pre A-Day cash rights exceeded £375,000. However, to register this protection it is necessary to obtain the calculation of the pre A-Day tax-free cash entitlement under all registered schemes through which funds were accrued.

This will be simple for contracts such as retirement annuities and contributory personal pensions where uncrystallised cash will be 25% of the pre A-Day fund.

Benefits held under occupational schemes, and personal pensions holding transfers where pre A-Day certified tax-free cash applied, will need to provide more specific detail. This may require the underlying schemes to undertake detailed calculations to ascertain the pre A-Day tax-free cash rights that can be registered.

For pre A-Day benefit rights in payment tax-free cash of 25% of notional value of the pension benefits will be included.

This notional capital value is determined by calculating 25 times the annual annuity or maximum income withdrawal payable at A-Day.

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