

# planning your approach

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**Adrian Walker** offers some practical pension considerations for clients approaching age 75.



6 April 2006 saw the introduction to registered pension schemes of the Alternatively Secured Pension (ASP). ASP provides clients with an alternative retirement choice to having to secure a lifetime annuity at age 75 with their pension savings.

The rules for ASP broadly follow those available for pre-75 income withdrawal arrangements, but with certain significant differentials. A summary of the key rules for continuing income beyond 75 in ASP are:

- A maximum annual income based on 90% of the basis income, calculated using the HMRC income factor (applying to a 75 year old). These factors will apply when the individual reaches 75 and on each subsequent birthday.
- A client must take a minimum income of 55% of the basis amount each scheme income year.
- There is an annual review of the maximum income on the client's birthday, based on the capital value of the ASP fund and the gilt yields applicable in the month of the birthday.

Using ASP beyond age 75 as a retirement planning tool is a complex area of advice. An area of particular focus is the potential tax charges that may arise on the residual fund if paid as a capital lump sum on the death of the member who has no surviving spouse or financial dependants.

There are other significant advice issues for clients approaching this age where unintended consequences could arise if the client, on reaching their 75th birthday, has not decided whether to buy a lifetime annuity or use ASP.

## payment of uncrystallised benefits

Individuals nearing 75 may have pension funds that have not yet been crystallised. If they do not crystallise these benefits before their 75th birthday they will lose any pension commencement lump sum (PCLS) from those funds.

It is, therefore, important these clients crystallise such funds with enough time before their 75th birthday. This will allow payment of the PCLS rights and ensure the balance of the fund can move into an unsecured pension before clients reach age 75. This will enable the funds to transition into ASP on the client's 75th birthday.

## can you access ASP?

This is a key planning question for clients to consider as they get nearer to their 75th birthday. Their retirement funds may currently be in registered pension schemes that do not offer ASP as a retirement choice.

Legislation stipulates that funds held within a registered pension scheme at 75 which have not bought a lifetime annuity will default the client into the ASP

legislation. If the scheme holding the funds does not offer ASP under its rules the possible outcomes are:

- a. Disinvestment of the pension fund at 75. Registered pension schemes that do not offer ASP may not allow continued investment beyond age 75.
- b. The client's fund will default into ASP requiring a maximum and minimum annual ASP income to be calculated. The scheme cannot pay the minimum annual income legislation stipulates within a scheme year as it does not offer ASP. If the fund remains within the scheme for a 12-month period, the scheme administrator becomes subject to a tax charge of 40% of the minimum annual ASP income. Invariably the scheme administrator will deduct this charge from the client's assets even though the client does not receive the income from the existing scheme.
- c. While other registered pension schemes offer ASP, it may only be as an extension of pre 75 income withdrawal arrangements, rather than allowing a transfer in of existing ASP funds. This will limit the external choices available to the client of where existing funds can be transferred to continue with ASP.

For clients approaching this crucial time, it is essential to ensure that funds are in a registered pension scheme which provides ASP. It will allow clients to remain fully invested while reviewing the retirement



solution best suited to their circumstances and provide the ability to take income each year from the fund, thus avoiding unnecessary tax charges.

### additional considerations

Summarised below are the key planning issues for clients to consider when approaching age 75 – many of which will require decisions to be taken well before the client's 75th birthday to take advantage of specific planning opportunities:

- Ensure there is enough time to crystallise any uncrystallised funds before the client's 75th birthday so the client can secure their maximum PCLS.
- If ASP is potentially suitable for continued retirement planning beyond age 75, the uncrystallised fund will need to be in a registered pension scheme that offers pre 75 income withdrawal and access to ASP beyond age 75. This may require the transfer of funds before any crystallisation takes place.
- Clients also need enough time to maximise the pre 75 income withdrawal they can receive in the scheme income year before reaching their 75th birthday.

It is likely that the maximum income from income withdrawal will be greater than that available from ASP. Under drawdown income is identified by reference to income years, not tax years. The income year for income withdrawal prior to the client reaching age 75 is unlikely to be a 12 month period, and in some cases the period between the start of the last income year for income withdrawal and age 75 may be very limited.

Clients can still take a full year's income under pre 75 limits before being subject to revised income rules at age 75. Awareness of the time periods that apply will allow clients to increase the overall income available in the 12-month period in which a client passes their 75th birthday. Clients may wish to take advantage of increased income to allow gifting of surplus income for the purpose of inheritance tax planning or to ensure they maximise the income available before the annual limits alter at age 75.

These issues demonstrate the importance of reviewing this situation well before a client's 75th birthday. Ensuring that funds are in a registered scheme that provides the client with the necessary retirement planning options to meet their needs at

that key age may prove critical. More and more clients, for various reasons, are delaying crystallising at least some of their registered scheme benefits until near their 75th birthday. Acting with enough time to maximise the client's pre 75 pension rights is an essential part of future retirement planning. ●

This article is based on Skandia's interpretation of the law and HM Revenue & Customs practice as at March 2009. We believe this interpretation to be correct but cannot guarantee it.

Skandia's updated ASP factsheet, including details of how the Collective Retirement Account can meet the needs of clients looking for alternative retirement solutions beyond age 75, will be available via the Skandia literature library and **informer** e-newsletter in early May 2009.



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