

## Limits on tax-free retirement benefits factsheet

Her Majesty's Revenue and Customs (HMRC) has announced the standard Lifetime Allowance (LTA) as follows:

Tax Year LTA:

- 2011-2012 £1.8m
- 2012-2013 £1.5m

The standard LTA values for subsequent years will be set by HMRC on an ongoing basis and this factsheet will be updated as necessary. Please note, Transitional Protection measures are available in certain circumstances and if you have claimed and received Enhanced Protection from HMRC, we will complete the test for Relevant Benefit Accrual (RBA) when we calculate your benefits (and for any subsequent revisions) and let you know if you have retained or lost your Enhanced Protection.

We will tell you the percentage of the standard LTA used by the benefits from the NHS Pension Scheme when you retire. You may need this information in the future so please keep it in a safe place. You can also record this on page 3 of the Retirement Booklet along with your personal details.

If you have accrued a very small amount of benefits with the NHS Scheme and any other providers where the Capital Value from the Scheme is less than 0.35% of the standard LTA, then you may be able to have your pension and lump sum from us paid as a one off payment. If this is possible we will write to you again to explain the amounts payable and confirm the details needed to be able to do this.

If you believe that the value of your NHS Scheme benefits and any other pension benefits you have accrued with any other providers is greater than 0.35% but less than 1% of the standard LTA, you may also be able to have your pension and lump sum from us paid as a one-off payment.

If your benefits are between 0.35% and 1% of the standard LTA and you would like your benefits to be paid as a one off payment then attach a letter confirming your request to the retirement application form.

#### How benefits are tested against the standard LTA

Any benefits crystallised on or after 6 April 2006 and any benefits that were in payment before 6 April 2006 must be tested against the standard LTA limit. This limit applies to all pension rights you have built up including your NHS pension, money purchase AVC funds, personal pensions,



pension credits and other occupational pensions. Your State pension benefits and any dependant benefits you are receiving are not included within this limit.

Any revision to your NHS benefits, due to any increase in those benefits, will be a new Benefit Crystallisation Event (BCE) and those NHS benefits originally paid must be tested against the standard LTA limit in order to calculate your available standard LTA.

### **Pension benefits taken on or after 6 April 2006**

If you have taken benefits from another registered pension provider(s) on or after 6 April 2006 then the percentage of the standard LTA used by those benefits must be included when testing against the LTA. Your other registered pension provider(s) must provide you with the percentage of standard LTA used.

### **Pension benefits taken before 6 April 2006**

If you have taken benefits from another pension provider(s) before 6 April 2006, then the pension you are receiving when your NHS pension benefits crystallises must also be included when testing against the standard LTA. To do this we use the formula:

(Gross current annual rate of pension x 25) = Capital Value

### **Lifetime Allowance Charge (LTAC)**

If we pay you a lump sum, which will be calculated in accordance with the Scheme Regulations, we will check that it is within HMRC's lump sum rule or if there is a LTAC applicable. HMRC's lump sum rule permits up to 25% of the capital value of your benefits or your available standard LTA, whichever is the lower, to be taken as a tax-free pension commencement lump sum (PCLS). Any lump sum or additional lump sum paid in accordance with the Scheme regulations, which exceeds this rule, will be subject to a taxation charge.

Without valid Transitional Protection any excess lump sum is known as a Lifetime Allowance Excess Lump Sum (LTAELS) and will be subject to a LTAC of 55%. If you have Transitional Protection we will also check to see if the payment of your lump sum takes you over HMRC's lump sum rule. If it does then any excess lump sum will be subject to either a LTAC of 55% or an unauthorised payments charge of 40%.

In addition, without valid Transitional Protection if the capital value of your pension is in excess of your available LTA any excess will be a chargeable amount and subject to a LTAC of 25%.

NHS Pensions will pay any LTAC directly to the HMRC and recoup the cost by reducing your



pension and/or lump sum accordingly. We will inform you of:

- the chargeable amount of your retirement benefits
- how the chargeable amount was calculated
- the tax due and that we have accounted for the tax to HMRC.

Where there is an unauthorised payment NHS Pensions will notify the recipient (of the payment) with the options available for paying their 40% unauthorised payments charge. The recipient can either:

- instruct NHS Pensions to pay the unauthorised payments charge directly to HMRC and recoup the cost by reducing the lump sum to be paid or
- they can pay the unauthorised payments charge to HMRC themselves.

If they choose the latter option the person liable to the unauthorised payments charge must declare the payment on their Self-Assessment Tax Return. Where someone does not receive a Self-Assessment Tax Return they should report their liability to a tax charge directly to HMRC.

**Important:** If you do not complete the relevant questions on the retirement application form AW8/AW8P then the recovery charge will be automatically applied to all of your benefits, unless you instruct NHS Pensions to defer payment of your benefits until you have gathered the necessary information.

### Ordering Retirements

If you have accrued benefits with more than one pension arrangement and their total Capital Value is close to or in excess of your available LTA, then you need to carefully decide the order in which you take your benefits. This is important, because the order in which you take your benefits could determine which pension provider has to make a LTAC against some or all of your benefits.

If this applies to you, you should seek professional financial advice before deciding the order in which you take your benefits.

### Recycling of Pension Commencement Lump Sum (PCLS)

The Finance Act 2006 prevents an individual investing a tax-free lump sum back into a registered pension scheme, automatically generating further tax relief on the amount reinvested. This is known as “recycling lump sums”.



If recycling of lump sums does occur an individual's Pension Commencement Lump Sum (PCLS) will be treated as an unauthorised payment. This means the individual will be liable to an unauthorised payments charge of 40% and possibly an unauthorised payments surcharge of 15%.

Recycling of a lump sum is considered to have occurred where:

- the individual receives a PCLS; and
- because of the PCLS the amount of contributions paid into another registered pension scheme in respect of the individual is significantly greater than it would otherwise be; and
- the additional contributions are made by the individual or by someone else, such as an employer, and
- the recycling was pre-planned; and
- the amount of the PCLS, taken together with any other such lump sums taken in the previous 12 month period, exceeds 1% of the standard LTA, and
- the cumulative amount of the additional contributions exceeds 30% of the PCLS.

If you recycle your PCLS then you or your representative must notify the NHS Pension Scheme Administrator, via NHS Pensions.

### Death Lump Sum

A death lump sum payment may be paid when you die. Whether a death lump sum can be paid, and how much it may be, depends on how much retirement benefit you had from the Scheme up to the date of your death.

A death lump sum is not normally included in an Inheritance Tax assessment if you are married or have a registered civil partner. If you are single a death lump sum paid to a nominated person or persons may be included in an Inheritance Tax assessment. A death lump sum paid into a deceased person's estate will normally be included in any Inheritance Tax assessment. If you nominate a person or persons they should check their own tax position.

However, if the payment of the death lump sum partly or wholly causes you to exceed HMRCs' standard LTA, then the excess payment above the LTA will be subject to a LTAC.

This death lump sum can be treated for LTA purposes in one of two ways. These are:

- a "Defined Benefits Lump Sum Death Benefit". In this case all the lump sum paid in these circumstances in excess of the LTA will be taxed at 55%. As most members will not exceed the LTA, death lump sums will be treated on this basis, unless you notify us differently in writing



that you wish the death lump sum to be treated as a Pension Protection Lump Sum Death Benefit;

- a “Pension Protection Lump Sum Death Benefit”. In this case all the lump sum paid will be taxed at 55% regardless of whether you actually exceed the LTA. If your benefits are already over or close to the LTA then you should consider this option. Before you take this decision you should take appropriate financial advice.

If you decide to have your potential death lump sum paid as a “Pension Protection Lump Sum Death Benefit”, then you must write to NHS Pensions confirming your decision. You can take this option at anytime prior to your death.

Irrespective of which of the two ways you decide to treat your death lump sum, if a death lump sum becomes payable then we will inform your legal personal representative (LPR) of the amount and percentage of the standard LTA represented by the payment. Your LPR is responsible for notifying this figure to HMRC. The beneficiary of the death lump sum is legally responsible for paying any LTAC that may become due.

HMRC have imposed a two year time limit upon making these payments. If the death lump sum is not paid within two years of the Scheme being notified of your death, then the payment will become unauthorised and will be subject to a tax charge of 40%. It is very important that you keep your LPR up to date with your circumstances.

If you are legally married, have formed a civil partnership, or have nominated a qualifying partner your surviving spouse or partner will automatically get the lump sum unless you have nominated someone else on form DB2. You can get this form from our website [www.nhsbsa.nhs.uk/pensions](http://www.nhsbsa.nhs.uk/pensions) or you can ask your Pension Officer to download one for you. The lump sum will then be paid to your nominees.

If you later decide to change your nominee, you can tell us on a new form DB2. A new form DB2 replaces any earlier form DB2.

If you are single, divorced or have terminated a civil partnership, the lump sum will automatically be paid to your estate unless you have a nominated qualifying partner or nominated someone on form DB2.

If you have nominated a person (or persons) or organisation to receive the lump sum then it will be paid automatically to this nominee, without waiting for Grant of Probate or Letters of Administration.

If your Scheme membership extended to or beyond 1 April 2008 then you can change your instructions and complete a new form DB2 at any time.

If your Scheme membership ended before 1 April 2008 then you can cancel an earlier nomination or a request not to pay your legal spouse or civil partner on form DB1, but **you cannot make a new nomination** unless you rejoin the Scheme.

