NHS Pensions - Scheme Pays Election guidance notes

These notes are to help you when considering whether to make a Scheme Pays election for the 1995/2008 NHS Pension Scheme and/or 2015 NHS Pension Scheme to pay some or all of your Annual Allowance charge to HM Revenue & Customs (HMRC).

How to establish if you have any NHS pension growth in excess of the Annual Allowance?

You are responsible for establishing whether you have an Annual Allowance charge. If the growth in your NHS pension benefits exceeds the standard Annual Allowance, in the relevant tax year, there may be an Annual Allowance charge payable.

<table>
<thead>
<tr>
<th>Tax year</th>
<th>Annual Allowance</th>
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<tbody>
<tr>
<td>2013/2014</td>
<td>£50,000</td>
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<tr>
<td>2014/2015</td>
<td>£40,000</td>
</tr>
<tr>
<td>2015/2016</td>
<td>£80,000¹</td>
</tr>
<tr>
<td>2016/2017</td>
<td>£40,000²</td>
</tr>
<tr>
<td>2017/2018</td>
<td>£40,000</td>
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If you are a Scheme transition³ member you will need to add together the growth in NHS pension benefits from both the 1995/2008 Scheme and the 2015 Scheme.

If you have pension savings in another registered pension scheme then you need to add the growth in those schemes to the growth in your NHS pension benefits in order to calculate your total pension benefit growth.

The pension savings statement will notify you of the benefit growth in the previous three tax years in order for you to calculate any unused Annual Allowance from these years to carry forward and increase the Annual Allowance in the current tax year. This may offset, in part or in full, any total pension benefit growth in excess of the Annual Allowance.

¹ HMRC transitional rules apply for tax year 2015/2016 – see ‘The Annual Allowance Transitional Rules for 2015/16’ information on our website.

² HMRC introduced tapered Annual Allowance from 6 April 2016 – see the ‘Tapered Annual Allowance from 6 April 2016’ information on our website.

³ a member who moved to the 2015 Scheme from the 1995/2008 Scheme on or after 1 April 2015 and has pensionable membership in both NHS Pension Schemes
You may have to request a pension savings statement if you have not been provided with one automatically.

If you are subject to a reduced Annual Allowance, which is lower than the standard Annual Allowance, then any available unused Annual Allowance you have from the previous three tax years can be carried forward and added to your reduced Annual Allowance.

Therefore if you have a tapered Annual Allowance and unused AA from any of the previous three years then this is added to the reduced Annual Allowance and not to the unreduced standard Annual Allowance of £40,000.

HMRC has published two Annual Allowance calculators for you to use.

1. The standard pension savings annual allowance calculator
   Use this calculator if:
   - your pension input amount has been consistently below the Annual Allowance for the three tax years before the current tax year being tested, or
   - in the current tax year you have not needed to consider the use of carry forward for any of the three previous tax years.
   
   www.hmrc.gov.uk/tools/pension-allowance/standardcalculator.htm

2. The enhanced pension savings annual allowance calculator
   The enhanced calculator will work out whether you have any unused Annual Allowance to carry forward for the tax years from 2008/2009 to the tax year 2015/2016.

   If you were not a member of a registered pension scheme for all of the tax years in the enhanced calculator then you should not use it as the result will be inaccurate.
   
   www.hmrc.gov.uk/tools/pension-allowance/calculator.htm

When you do not need to notify HMRC

You do not need to tell HMRC about the growth (the total pension input amount) in your NHS pension benefits if this amount is:

- below the Annual Allowance, or
- above the Annual Allowance but you have enough unused Annual Allowance from the previous three tax years to carry forward and you no longer have a liability to an Annual Allowance charge.

If you are subject to the Money Purchase Annual Allowance (MPAA) for tax year 2015/2016, or later tax years, then you could be liable to an Annual Allowance charge.
charge despite your total pension input amount not exceeding the standard Annual Allowance. This would be the case where the only amount subject to the Annual Allowance charge is a ‘money-purchase’ input in excess of the £10,000 MPAA.

**How much is your Annual Allowance charge?**

Once you have established you are liable to an Annual Allowance charge then the next step is to calculate how much tax you have to pay to HMRC.

The rate of tax is not a fixed rate but is calculated at the same marginal rate as your taxable income and is dependant on any other taxable income you had during the tax year in which the Annual Allowance charge occurs.

HMRC have provided guidance on how to calculate the Annual Allowance charge in their Pensions Tax Manual (PTM).

**What you need to do if you have an Annual Allowance charge**

If you have an Annual Allowance charge you will need to tell HMRC about this. If you normally complete a self-assessment tax return then you must tell HMRC about your pension savings and liability to the Annual Allowance charge as part of this return. You will need to complete the ‘Additional Information’ pages of the tax return to show the amount by which your pension growth (the total pension input amount) exceeds the Annual Allowance.

HMRC have published a help sheet - HS345 ‘Pensions - tax charges on any excess over the lifetime allowance, annual allowance and on unauthorised payments’ to assist you when completing your tax return.

You can find the help sheet by inserting ‘HS345’ into the ‘Search GOV.UK’ box at www.gov.uk.

If you do not normally complete a tax return or it has been some time since you last did so you will need to register for one by completing form SA1. It can take up to 20 working days to complete HMRC’s registration process at the end of which you will be given a Unique Taxpayer Reference (UTR).

You can register on line by inserting ‘SA1’ into the ‘Search GOV.UK’ box at www.gov.uk.

**What to do if you do not know the pension input amount until after the self-assessment filing date?**

The tax return should be completed as normal, completing the boxes in the ‘Pension savings tax charges’ section on the additional information pages (SA101) in the paper tax return. If you have not received a pension savings statement you should estimate whether your potential growth during the pension input period will be more than the Annual Allowance.

If this is the case then you should put the estimated excess figure in the appropriate box. You should then make a note in the ‘Any other information’ part of the tax return to explain that you have used an estimated figure when calculating the amount in excess of the annual allowance and when you expect the final figure to be available. You will also need to tick the box to show that they have used estimated figures on your tax return.

Once you receive a pension savings statement with the confirmed details needed to work out the Annual Allowance charge accurately and you must amend your tax return. More information about correcting a tax return can be found at: [www.gov.uk/self-assessment-tax-returns/corrections](http://www.gov.uk/self-assessment-tax-returns/corrections).

Where the estimate is less than the final figure, you will need to pay any additional tax due along with any interest on the late payment of the additional tax.

### Paying an Annual Allowance charge to HMRC

Ultimately you are responsible for paying your Annual Allowance charge to HMRC. You can either pay the charge directly to HMRC yourself or you can share that responsibility with NHS Pensions.

If you pay the charge yourself then it is payable as part of the normal tax bill by the deadline below.

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<th>Tax Year</th>
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<td>2019/2020</td>
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Make sure you pay your Annual Allowance charge to HMRC by the deadline. You will be charged interest and may have to pay a penalty if your payment is late.
What is a Scheme Pays election?

You may be able to elect for NHS Pensions to pay some or all of your Annual Allowance charge for you, from the 1995/2008 Scheme or the 2015 Scheme.

We will accept a Scheme Pays election notice on a mandatory basis provided the following conditions are met:

i. pension growth in the 1995/2008 Scheme or the 2015 Scheme must exceed the standard Annual Allowance, and

ii. your total Annual Allowance charge must be more than £2,000, and

iii. your election must be received by NHS Pensions by HMRC’s mandatory Scheme Pays deadline.

If you are a Scheme transition member we may accept a Scheme Pays election notice on a voluntary basis provided the following conditions are met:

i. pension growth when added together from both the 1995/2008 Scheme and the 2015 Scheme must exceed the standard Annual Allowance, and

ii. your total Annual Allowance charge liability must be more than £2,000, and

iii. your election form must be received by NHS Pensions by HMRC’s mandatory Scheme Pays deadline.

If you are a Scheme transition member please read the ‘Scheme Pays Facility for Transition Members’ information on our website for more information.

Annual Allowance

The standard Annual Allowance limit is currently £40,000, as confirmed in section 228(1) of the Finance Act 2004. Therefore your NHS pension growth must be more than £40,000 for a Scheme Pays to be considered.

2015/2016 Tax Year

For Annual Allowance purposes only, tax year 2015/2016 was split into two ‘mini’ tax years; the pre-alignment tax year (6 April 2015 to 8 July 2015) and the post-alignment tax year (9 July 2015 to 5 April 2016). For an election to be considered the combined NHS pension growth for both the pre- and post-alignment tax years had to be more than the standard Annual Allowance of £40,000.

Tapered Annual Allowance

The tapered Annual Allowance applying for a tax year does not alter the Scheme Pays mandatory conditions. In particular, it remains a requirement that the total
pension input amount in the 1995/2008 Scheme and the 2015 Scheme has to exceed the standard Annual Allowance before any taper is applied.

Currently this means that your NHS pension growth must be more than £40,000.

**What is the maximum amount the NHS Pensions will pay under Scheme Pays?**

The maximum Annual Allowance charge that NHS Pensions will pay to HMRC is based on the pension input amount in either the 1995/2008 Scheme or the 2015 Scheme, or both NHS Pension Schemes if you are a Scheme transition member, which is more than the standard Annual Allowance. This means the Annual Allowance charge on the amount of NHS pension growth above £40,000.

There is no minimum amount but if this is less than £2,000 then you will need to confirm to NHS Pensions that your Annual Allowance charge liability for the year is more than £2,000.

You do not have to ask NHS Pensions to pay the maximum amount, you could ask us to pay part of the Annual Allowance charge and you would pay the difference direct to HMRC.

**Scheme Pays Election Notice**

If you decide that you want NHS Pensions to pay your Annual Allowance charge in respect of the growth in your 1995/2008 Scheme and/or 2015 Scheme benefits, then you will need to complete a Scheme Pays election notice.

Form SPE2, together with these guidance notes, is available on our website.

**Deadline for a Scheme Pays Election**

If you meet the mandatory and/or voluntary conditions and you would like us to pay some or all of your Annual Allowance charge then we must receive your completed Scheme Pays election notice on or before 31 July, following the January in which the Annual Allowance charge must be declared on your tax return.

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<td>2016/2017</td>
<td>31 July 2018</td>
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</table>
NHS Pensions must receive an election by the above dates. It is not enough just to send your election by the deadline.

You must send an election earlier if one of the following events occurs before the deadline:

- you expect to retire - the election must be completed and sent to us before your NHS benefits crystallise, or

- you reach age 75 - the election must be completed and received by us before your 75th birthday.

**Completing the Scheme Pays Election notice**

**Part A: Personal details**

You must complete every question in this part.

If your address is different to the one NHS Pensions hold then please make sure your employer updates your pension record.

Your email address and telephone number are required in case we need to contact you in connection to the information you have provided on the election notice.

Your National Insurance number is a mandatory requirement in order for NHS Pensions to report your Annual Allowance charge to HMRC. If you do not qualify for a National Insurance number then you must attach a letter with your election notice setting out the reasons for this – this is a requirement of HMRC.

**Part B: 1995/2008 NHS Pension Scheme – Annual Allowance charge details**

If you have an Annual Allowance charge because the growth in your 1995/2008 Scheme benefits exceed the standard Annual Allowance and have resulted in an Annual Allowance charge you should complete part B.

It is important that you complete this part carefully as NHS Pensions will be applying only a cursory check to make sure you have sufficient 1995/2008 Scheme benefits from which to recover the charge.

i. **The relevant tax year:**

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<tbody>
<tr>
<td>2017/2018</td>
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<td>2018/2019</td>
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<tr>
<td>2019/2020</td>
<td>31 July 2021</td>
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The relevant tax year is the tax year during which the Annual Allowance charge occurred. For example, for the pension input period of 1 April 2015 to 5 April 2016
the relevant tax year is 2015/2016. The relevant tax year is confirmed on the pension savings statement.

ii. A change to a previous election:

| Is this a change to a previous election for this tax year? | Yes [ ] | No [ ] |

If this is the first election for the relevant tax year then you must tick ‘No’.

If this is the second election notice for the relevant tax year, because you are changing your previous election, then you must tick ‘Yes’.

You can make a change to a previous election if your Annual Allowance charge has increased or decreased. This is important if you estimated the Annual Allowance charge on the first election.

This information is important because HMRC’s deadline (see page 6) for a first election is different than it is for a change to an election (see page 14).

iii. Your tax rate:

| Tax rate(s) payable in this tax year applicable to the Annual Allowance charge: | % |

To find out how much you will pay, you will need to work out the rate of tax that would be charged if your excess pension savings were added to your taxable income and based on your marginal income tax rate.

HMRC confirm the following marginal rates of tax:

- From tax year 2014/2015 onwards - 20%, 40% and 45%.
- Up to tax year 2013/2014 - 20%, 40% and 50%.

HMRC have provided guidance on how to calculate the Annual Allowance charge in their Pensions Tax Manual (PTM).

If there is a combination of tax rates then please provide us with details of all the tax rates and the amount of Annual Allowance charge subject to each tax rate separately.

iv. Amount of Annual Allowance charge:

| The amount of Annual Allowance charge you want the scheme administrator to pay to HMRC from the 1995/2008 NHS Pension Scheme on your behalf: | £ |

You must tell us the total amount of Annual Allowance charge you want the NHS Pension Scheme to pay on your behalf to HMRC. Please note this figure is not the same amount you have inserted in (iii) above.

If you are estimating the amount of Annual Allowance charge then your total estimated charge from all your pension arrangements must be more than £2,000.
v. Estimate of Annual Allowance charge:

| Is this an estimate of your Annual Allowance charge: | Yes | No |

Where final information is not known or not available you can estimate the amount of the Annual Allowance charge in respect of your growth in the NHS Pension Scheme. This can be changed once a pension savings statement has been issued and the pension input amount confirmed by submitting a further election.

If you have estimated the amount of your Annual Allowance charge (in respect of your growth in the NHS Pension Scheme) then you should tick the ‘Yes’ box as confirmation of this.

You must change an estimated amount of Annual Allowance charge to a final amount by completing a second election form when you receive the pension savings statement. You must do this before HMRC’s deadline for changing a Scheme Pays election.

If this election is a change to the original election (and you have indicated this at ii of Part B) then you need to input the full amount of the Annual Allowance charge and not the additional amount.

For example, if you entered an Annual Allowance charge of £10,000 in the first election and you now want the NHS Pension Scheme to pay an additional £2,000 then you must insert input £12,000 at (v) of part B.

If you no longer have an Annual Allowance charge you should put £0.00 in the amount of Annual Allowance charge and separately confirm the reason for this in writing to us.

Part C: 2015 NHS Pension Scheme – Annual Allowance charge details

If you have an Annual Allowance charge because the growth in your 2015 Scheme benefits exceed the standard Annual Allowance and have resulted in an Annual Allowance charge you should complete part C.

It is important that you complete this part carefully as NHS Pensions will be applying only a cursory check to make sure you have sufficient 2015 Scheme benefits from which to recover the charge.

The questions (i) to (vi) are the same as in Part B.

Scheme Transition Members – Completion of Parts B and C

If you are a Scheme transition member you should only complete parts B and C if the NHS growth from both the 1995/2008 Scheme and the 2015 Scheme when added together is more than the standard Annual Allowance of £40,000 and you want both schemes to pay your Annual Allowance charge. It is not possible for you to elect for one NHS Scheme to pay all the charge.

How much of your Annual Allowance charge the 1995/2008 Scheme and 2015 Scheme can pay on your behalf depends on the amount of growth in each scheme.
Two pension savings statements will be issued when the growth added together from the 1995/2008 Scheme and 2015 Scheme is higher than the standard Annual Allowance, even where the growth in one or both schemes is under the standard Annual Allowance.

The method of splitting the Annual Allowance charge between the 1995/2008 Scheme and the 2015 Scheme is confirmed in the factsheet ‘Scheme Pays facility for transition members’ on our website.

**Part D: Anticipated events**

If you intend to retire before HMRC’s Scheme Pays deadline then NHS Pensions **must** receive your election before your NHS pension benefits crystalise.

Please tick the ‘Yes’ box and enter the date of your intended retirement. The election notice must then be completed and received before this date. In addition we also need you to confirm which NHS Scheme you are intending to retire from, this is important if you are a Scheme transition member.

If you will attain age 75 before the deadline the election **must** reach NHS Pensions before your 75th birthday.

Please tick the ‘Yes’ box and enter the date of your 75th birthday. The election notice must then be completed and received before this date.

An election notice received after these dates will be rejected.

**Part E: Member declaration**

Please read the declaration carefully, then sign and date the election notice. It is important that you note the deadlines for when the election must be received by NHS Pensions. Any election received after the deadline date will be rejected.

By signing the declaration form you:

- confirm that you are subject to an Annual Allowance charge of more than £2,000, your NHS growth (either in one NHS Scheme or across both NHS Schemes) is more than the standard Annual Allowance, that if you have estimated the amount of Annual Allowance charge that you will confirm the exact figure before HMRC’s deadline and that you have read these guidance notes; and that you

- understand that the election is irrevocable, that interest is applicable on the Annual Allowance charge paid by NHS Pensions, that NHS Pensions will seek a discharge from paying the charge if you die and that your NHS benefits will be permanently reduced when paid.

**Recovering the Annual Allowance charge**

We recover the cost of paying your Annual Allowance charge by permanently reducing your NHS benefits when they are paid to you. The actual reduction is
calculated using factors provided by the scheme actuary and can be viewed in the factsheet ‘Annual Allowance – Scheme Pays Recovery Factors’ on our website.

We record the amount of Annual Allowance charge paid by Scheme Pays as a ‘notional negative defined contribution (DC) account’ on your pension record. In basic terms a negative DC account is similar to NHS Pensions ‘loaning’ you money now to pay your tax bill which you have to pay back with interest at a future date, either when you either retire or transfer out.

Interest is added to the amount of Annual Allowance charge paid from the 1995/2008 Scheme and the 2015 Scheme. The interest applied each year is based on the previous September’s Consumer Price Index (CPI) figure plus the Superannuation Contributions Adjusted for Past Experience (SCAPE) discount rate. The SCAPE discount rate changed from 3% to 2.8% on 16 March 2016.

NHS Pensions reserves the right to change the amount of interest charged following guidance received from the Scheme Actuary.

Interest is applied from 1 January following receipt of your Scheme Pays election.

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>Scheme Pays deadline</th>
<th>Interest applied from</th>
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<tbody>
<tr>
<td>2011/2012</td>
<td>31 December 2013</td>
<td>1 January 2014</td>
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<td>2012/2013</td>
<td>31 July 2014</td>
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At your retirement the total negative DC balance owing, including all relevant interest will be converted into an amount to be permanently deducted from your NHS benefits using the actuarial factors.

- If you are a 1995 Section member - your pension and lump sum will be permanently reduced.

- If you are a 2008 Section member - your pension will be permanently reduced. This remains the same even if you chose to move from the 1995 Section to the 2008 Section under Choice.
• If you are a 2015 Scheme member - your pension will be permanently reduced.

• If you are a transition member – as above.

In the event of your death dependant’s benefits will be based on your NHS benefits before any recovery for Scheme Pays. If you were to die before retirement then the total negative DC balance owing will be written off.

If you leave and transfer your NHS pension rights to another registered pension scheme, the transfer value is reduced to recover the total negative DC balance owing.

Please ensure that you fully understand the implications of making a Scheme Pays election on your future NHS benefits before completing the election notice.

You should read the factsheet ‘Annual Allowance – Estimating the Cost of Scheme Pays’ which can be found on the Annual Allowance page of our website.

**Rejecting a Scheme Pays election**

NHS Pensions does not have to pay an Annual Allowance charge if:

• we do not receive the election by the deadline, or

• the election has not been made on the correct election notice, or

• the growth in NHS benefits either in the 1995/2008 Scheme and/or the 2015 Scheme does not exceed the standard Annual Allowance, or

• the total Annual Allowance charge is less than £2,000, or

• you are already in receipt of your full pension entitlement from either the 1995/2008 Scheme, the 2015 Scheme or both, or

• you are over age 75, or

• you have transferred pension rights from the NHS Pension Scheme to another pension scheme - this does not include moves from the 1995/2008 Scheme to the 2015 Scheme on or after 1 April 2015, or

• you have taken a refund of contributions.

We can ask HMRC for a discharge from paying the Annual Allowance charge if you:
• have insufficient scheme benefits from which to recover the Annual Allowance charge. This may be an issue if you have a large pension share debit on your NHS benefits because of divorce or dissolution of a civil partnership or other negative DC accounts, or

• die in between us receiving the election notice and paying the Annual Allowance charge to HMRC.

If a discharge is granted by HMRC you or your estate will be liable for paying the Annual Allowance charge.

**Changing the amount of Scheme Pays**

Once we receive and accept your Scheme Pays election you will not be able to change your mind and withdraw the election, unless the original election was completed in error.

This may be because:

• growth in your NHS benefits did not actually exceed the standard Annual Allowance, or

• your Annual Allowance charge was less than £2,000.

This could occur if you estimated the amount of your Annual Allowance charge in order to meet the Scheme Pays deadline. If you have estimated your Annual Allowance charge you must inform us of the correct amount as soon as you have received confirmation of the growth in your NHS benefits in a pension savings statement. You must complete another election and we must receive this by HMRC’s deadline for changing a Scheme Pays election.

While the election cannot be revoked it may be amended due to the amount of Annual Allowance charge changing.

In order to change your original election we have to receive a revised election form no later than the 31 July following the end of a period of four years from the end of the tax year to which the Annual Allowance charge relates.

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### More than one pension scheme

If you are also a member of another registered pension scheme, outside the 1995/2008 Scheme and 2015 Scheme, and the total amount of your pension savings is more than the standard Annual Allowance you may be able to make Scheme Pays elections to each pension scheme.

The amount of Annual Allowance charge you may ask each pension scheme to pay is limited to the amount of pension growth in excess of the standard Annual Allowance in that scheme. It is not possible for you to ask NHS Pensions to pay your entire Annual Allowance charge where part of that liability relates to another pension scheme, outside of the 1995/2008 Scheme and 2015 Scheme.

### What if you transfer out?

If you transfer out your NHS pension rights before making an election then you can ask your new pension scheme to pay your Annual Allowance charge. Your notice to the new pension scheme must be made on their Scheme Pays election and received by them within HMRC’s deadline.

If you want to make a change to an election notice but have transferred out then you must make a request to your new pension scheme.

If you are transferring out after we have accepted a Scheme Pays election then the DC balance will be revalued up to the date at which the cash equivalent transfer value (CETV) is calculated. If the transfers out option forms are received within the guarantee period there is no requirement to amend the total negative DC balance. If the forms are received outside the guarantee period the total negative DC balance must be revalued only where a revised CETV is calculated.

The total negative DC balance is deducted from the CETV before payment.
Where the transfer out is to a Club scheme then your Scheme Pays will transfer to the Club Scheme under their rules.

**What if I have an Annual Allowance charge in the NHS Money Purchase AVC Scheme?**

A form SPE3 is also available from us for members to request Scheme Pays where growth in the NHS Money Purchase AVC Scheme exceeds the Annual Allowance.

**Further information**

Information about Annual Allowance and Scheme Pays is available on our website.

More detailed information about Annual Allowance can also be found on HMRC’s website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

HMRC have published a Pensions Tax Manual and this can be found at: [www hmrc gov uk/manuals/ptmanual/](http://www.hmrc.gov.uk/manuals/ptmanual/)

**Important:**

This factsheet reflects the Scheme Administrators current understanding of HMRC’s overriding legislation. NHS Pensions is unable to provide advice on personal tax circumstances and would recommend that independent advice is sought if you have any uncertainty about any tax implications.