



Independent Trustees



Briefing note – November 2013

Overview

- HMRC to carry out a risk assessment before registering pension schemes
- HMRC to provide limited information about receiving schemes without their consent
- High Court ruling that pension liberation schemes are occupational schemes

HMRC strengthens its approach to combat pension liberation

Hardly a day goes by without the term 'pension liberation' being mentioned. Following a high profile summit meeting of government departments, agencies and industry representatives in September, HMRC have taken further steps against fraudulent pension liberation, effective from 21 October 2013.

Registering a pension scheme

To date, registering a scheme with HMRC has been a relatively straightforward process, with successful registration being granted immediately after an online application. **HMRC are now taking a tougher approach and a detailed risk assessment will be carried out** before a decision is made as to whether a scheme can be registered. Further information may also be requested from the applicant as part of the process.

During that period of assessment, tax relief on contributions will not be available and any transfers to the scheme from another scheme will be classed as unauthorised.

Transfer of pension funds between registered pension schemes

When a valid transfer is made between registered schemes and all the right conditions are fulfilled, the transaction is authorised in the eyes of HMRC and no tax charges arise. When dealing with requests from members to transfer their funds, trustees and their administrators need to be satisfied that a potential transfer meets certain criteria.

Registered status is a fundamental requirement, so checking the current registration of a receiving scheme is a key step. Until now, HMRC could not respond to an enquiry unless they had the consent of the scheme in question.

From now on, **when HMRC receive an enquiry from one scheme to confirm the registration status of the receiving scheme, they will not seek the latter's consent when responding.**

However, the information that HMRC can share will be limited to either:

- confirming that
 1. a scheme is registered; and
 2. the information they hold on the scheme does not indicate a significant risk that it is being used for pension liberation purposes; or
- stating they cannot provide the confirmation requested and setting out what they require to be able to confirm the scheme's registration status.

You can see the details at:
www.hmrc.gov.uk/news/pensionliberation.htm

Comment

Whilst these developments are a step in the right direction, administrators will still have to carry out proper due diligence before paying a transfer value and concerns remain that trustees may still be obliged to pay out transfer values to a scheme that they suspect to be a pension liberation scheme.

The reality is that, to deal with these tricky situations properly, trustees need further action from both government and Regulators.

This briefing is provided for general information only and is based on our understanding of the position as at the date shown. It should not be relied upon as advice on your specific circumstances.

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Test case news

A long-awaited High Court ruling was also delivered on 21 October, confirming the status of nine pension liberation schemes as 'occupational pension schemes'. The ruling followed a series of police raids and investigations into the legal status of these schemes. During this time, further contributions and transfers to these schemes had been suspended.

Commenting on the ruling, the Pensions Regulator (tPR) said in a press release:

'We welcome the legal clarity provided by this ruling, which will help inform our wider strategy and enable us to take the appropriate steps to combat activities that could undermine confidence in the pension system.'

tPR is currently looking into 27 cases of potential pension liberation fraud, estimated to be valued at around £185million.

Find out more

If you have any questions about pensions liberation, please contact Ian Eggleden.



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