Creating a secondary annuity market consultation – LITRG response

Employment Tax | Personal tax

01 August 2016

LITRG has said that annuitants selling their income stream from April 2017 will need clear tax information, and warns that those with low-value amounts should not be forced to take advice.

HMRC has been consulting on proposals for a tax framework for the secondary annuity market, which is intended to come into effect in April 2017. There seems to be some doubt as to how the industry will respond in terms of creating a market for second-hand annuities, or whether annuitants will in fact be able to sell back their income stream to the policy provider for a cash sum. Whatever the economic reality of the market, HMRC needs to be ready with tax rules for these transactions. As it stands, an assignment of an annuity could create a significant 'unauthorised payment charge'.

LITRG welcomed this consultation, noting in our response that this should put everyone – both pre- and post-pensions freedoms introduced in April 2015 – on an equal footing.

Those wishing to sell back a now-inappropriate annuity (either for a lump sum or for conversion to drawdown or a different annuity) will come under the same tax treatment as those who have had since April 2015 the opportunity to take their pension savings in various ways. We point out, however, that there must be no compulsion on those with modest amounts at stake to be forced to pay for expensive independent financial advice before making a decision, since these costs would exclude them from participating in a secondary market. Careful consideration must therefore be given to the benchmark set for such compulsion.

We also highlight the need for clear warnings against the activities of scammers, ever ready to part the unwary saver from their money. Pension Wise (or its

successor body under the proposed changes to ‘public financial guidance’ arrangements), HMRC and insurers all have a consumer protection role to play.

HMRC also needs to consider carefully the information to be passed to annuitants by insurers. Worryingly, the consultation suggested that information about the proceeds and the individual’s tax responsibilities ‘could be incorporated into other written material’.

LITRG’s response argued that tax information should not be included in other material. This needs to be a clear, separate statement calling the recipient to action. Indeed, we suggested that it might even be best if HMRC designed a standard form or letter – written in plain language – for the insurers to enclose with other information, on to which the insurer could insert the taxable amount and which clearly describes what the recipient needs to do with it. An official paper or form is more likely to attract the recipient’s attention than a few lines buried among ‘other written material’.

As to be expected, there could still be an unauthorised payment charge where transactions fall foul of proposed anti-avoidance provisions, including assignment of an annuity to a connected person, a sponsoring employer, a close company or otherwise forms part of a scheme designed to avoid tax. These are unlikely to be concerns of significance to low-income taxpayers but, in the interests of good tax law, LITRG pointed out that these provisions should be based on existing definitions where possible.

Read the full response on the LITRG website.