Draft Finance Bill 2025 -26: Pensions and inheritance tax

Inheritance Tax and trusts



21 October 2025

The CIOT and ATT have both raised concerns about the impracticalities of operating the regime set out in the draft legislation on subjecting unused pension benefits to Inheritance tax.

The CIOT and ATT have both commented on the draft legislation, issued on 26 July, which implements the October 2024 Budget announcement that from 6 April 2027 any unused pension funds or death benefits will be included within the value of an individual's estate on death and be subjected to inheritance tax.

In a change from the initial proposals, the deceased's personal representatives (PRs) are to be liable for all the inheritance tax due, including that on any pensions, with the burden effectively falling on the beneficiaries of the free estate.

CIOT response

We submitted two documents: one setting out proposals to lessen the impact on PRs; and another asking 20 technical questions on the detail of the draft legislation.

The established model for liability of inheritance tax under IHTA 1984 ss 201 and 204 is for the person holding the asset (for example, trustees or donees of a failed PET) to be the person primarily liable for the tax. HMRC's proposals in relation to pensions represent a radical and very challenging change to that practical approach. Exceptionally, PRs are to be held liable for tax on the pension fund despite it never coming into their hands.

Although the PRs are given a right of recovery against the pension beneficiaries, that would be time consuming and costly to pursue, even where the pension beneficiary still retains the assets and has not used the funds to discharge debt, for example. If the beneficiary is abroad, recovery would in many cases be impossible.

The increased risks to PRs may lead to executors declining to act and professional indemnity cover becoming unaffordable or withdrawn completely. The costs of the administration of the estate (which fall on the estate beneficiaries alone) will inevitably rise.

Our key proposal was for pension scheme administrators (PSAs) to retain 50% of the pension fund until the earlier of:

- two years from the date of death (or 23 months, to avoid the income tax charge on death benefits which becomes applicable two years after death where the deceased was under 75); and
- four weeks after confirmation of the inheritance tax position (verified by HMRC) is provided by the PRs to the PSAs.

50% was chosen as the appropriate retention to cover all possible inheritance tax on the pension plus interest and costs.

If inheritance tax was found to be due on the pension, the PRs would notify the PSAs of the amount of inheritance tax (via formal notice or letter from HMRC setting out the inheritance tax and interest specifically due on the pension). The PRs could then instruct the PSAs either to reimburse the PRs (if they have already paid the inheritance tax) or to pay the inheritance tax directly to HMRC.

This approach allows the PSAs to make an early payment of some of the pension benefits to their beneficiary, whilst providing the PRs with some reassurance that there will be funds to pay inheritance tax (plus interest and costs) if any is due. We believe that this strikes a proper balance between the beneficiaries of the pension fund and those of the free estate.

ATT response

In our response, the ATT also highlighted concerns about the implications of the shift in liability for paying any inheritance tax on pension assets from the PSAs to the PRs. We appreciate that this has been done to minimise the number of pension beneficiaries affected by the policy when no extra inheritance tax is due, but we consider that too little consideration has been given to the increased risk placed on PRs by shifting liability to them.

We think that the current provisions for PRs to recover inheritance tax on pension assets from pension beneficiaries are inadequate and more needs to be done to ensure that individuals and professionals can still confidently accept the role of PR. As it stands, the policy will make it more challenging for individuals to find PRs willing to handle their estate.

We also raised some concerns about the practical operation of the scheme which allows PSAs to make direct payment of inheritance tax based on the pension beneficiaries' instructions. We do not think it is reasonable to have a lower limit of £4,000 on the amount of inheritance tax that PSAs are required to pay out. PSAs will need to build systems and processes to support the new policy regardless of the amount of tax due and we think this limit will make it hard for beneficiaries of small pension schemes and those involving amendments.

Given the administrative challenges, we still think there would be merit in exploring a separate inheritance tax regime for pensions, helping to meet the government's policy intention, without creating excessive burdens on PRs.

The full CIOT response is available here: www.tax.org.uk/ref1550

The full ATT response is available here: www.att.org.uk/ref489

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