Pension Transfers consultation

General Features

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While tax advisers themselves must not give pension transfer advice, unless also suitably qualified and regulated by the FCA, tax may be a key factor in making appropriate choices.

The Financial Conduct Authority (FCA) are consulting on Advising on Pension Transfers. The consultation paper, CP17/16, can be found on the FCA website. The closing date is 21 September 2017.

The Low Incomes Tax Reform Group (LITRG) has responded to this consultation, as we are concerned that a future mis-selling problem could arise in this area, given that people may be attracted by the selling points of accessing pension freedom which they cannot do from a defined benefit scheme.

Our response highlights the difficulties of explaining to low-income and unrepresented individuals all the factors they need to take into account in getting to the right decision for them. We agree that pensions transfer advice is nigh on impossible to automate and that individual recommendations should be given; generic advice or guidance is unlikely to be of great assistance to many people.

In giving such advice, our response cautions that it is important not to overplay the potential future benefits of pensions freedom. Who can guarantee that today's policy will stand the test of time? Pensions and what you can do with them are, after all, regulated by what is permitted under tax law – which changes from one year to the next.

Indeed, the fact that pensions are subject to complex and ever-changing rules is a key reason for people preferring to save in other simple and accessible ways. For example, to encourage a person in their mid-thirties, say, to transfer from a defined benefit scheme to a defined contribution scheme in order to take advantage of future pensions freedom seems inappropriate, unless there are other factors to take

into account. We therefore recommended that the FCA ensure this point is stressed in its guidance to advisers.

Although LITRG commended the FCA for ensuring that the tax consequences of transfers and proposed means of taking benefits were mentioned in the consultation, we would like to see this stressed more clearly. With pensions freedom, the risk of creating a large, unexpected tax bill (not only through an obvious direct income tax charge, but also through loss of other reliefs and benefits) is much greater than when someone invests their pension for an annual income. Clearly advising on this area is an uncertain business, as it does involve an element of crystal ball-gazing – for example, assumptions about what the future tax and welfare benefits regime might look like. Nevertheless, it is essential that advisers highlight any such assumptions made – even if it is simply that they have assumed that the regime of the future will be the same as it is now (in itself perhaps a highly risky assumption, given the rate of change of tax law).

LITRG's full submission can be read at www.litrg.org.uk/ref275.

Members coming across examples of pensions advice being given which has caused unexpected tax consequences are welcome to send comments to litrg@ciot.org.uk to help inform our work in this area.