# Technical CONNECTION

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## THE TRIPLE LOCK

The Work & Pensions Select Committee has joined the chorus of voices against continuation of the triple lock ie. the increase in the state pension every year by the higher of CPI inflation, average earnings and a minimum of 2.5%.

The House of Commons Work & Pensions Select Committee, chaired by Frank Field, has published its 3rd report on intergenerational fairness. Unsurprisingly, it sees ‘an economy skewed towards baby boomers [born 1945-1965] and against millennials [born 1980-2000].’ The report quotes the frequently cited statistic that ‘pensioner household incomes now exceed those of non-pensioners after housing costs’, creating a risk of the millennial generation ‘being the first in modern times to be financially worse off than its predecessors.’

The crux of the problem is that:

- The birth rate during the baby boomer generation was between 800,000 and 1,000,000 a year, whereas subsequent generations have seen typically 700,000-800,000. There is thus a greater strain on the post-baby boomer generations to support the retiring baby boomers.

- The swollen baby boomer generation is also hanging around longer thanks to improved life expectancy. The report notes that ‘a boy born in 1955, in the middle of the baby boom, had an 83% chance of living to at least 65, compared with 45% of those born in 1895.’

The net result of these two factors is that 'The share of the population aged 65 and over is projected to grow from 18% in 2014 to 24% in 2039, while the proportion 80 and over is expected to grow from 5% to 8% over the same period.'

- The baby boomer generation was a winner in the housing lottery: 'The opportunities that were open to baby boomers to buy a home with a relatively small deposit are closed to today's young.' Getting onto the housing ladder early helped the baby boomers to build up wealth.

The report's main proposal is that triple lock increases to the basic and single tier state pension should be abandoned when the current commitment to maintain it expires in 2020. Retaining the lock 'would… tend to lead to state pension expenditure accounting for an ever greater share of national income. At a time when public finances are still fragile, this is unsustainable.' The option of accelerating state pension age increases as an alternative to removing the lock is dismissed because it 'would disproportionately affect the young and those socio-economic groups with lower life expectancies in retirement,' a point which echoes concerns raised in John Cridland's SPA review for the DWP.

The report suggests that the triple lock should be replaced by a "smoothed earnings link". Under this mechanism the 2020 state pension would set the base and increases would normally be linked to earnings growth. In periods when earnings increases lagged behind price inflation, an above-earnings increase would be applied equal to (CP1) price indexation. Then, when real earnings growth resumed, (CPI) price indexation would continue until the state pension reverts to its 2020 benchmark as a proportion of average earnings.

Based on the estimate in the most recent Fiscal Sustainability Report from the Office for Budget Responsibility (OBR), the long-term effect of reverting to an earnings link would be that state pensions would rise by about 0.4% a year less than they would under the triple lock. That may not sound a great deal, but its cumulative effect is significant: the OBR estimated that the annual cost of the triple lock relative to earnings uprating will be an additional 1.3% of GDP by 2064/65.

The report is also critical of universal pensioner benefits, such as the Winter Fuel Payment (cost about £2bn a year) and free TV licences for the over-75s. The report states such benefits 'have been deployed by successive governments for reasons of short term expediency. Such measures, which do not tend to be subject to indexation, lead to ill-targeted support, further complicate the benefits system and are politically and administratively far harder to put right than to introduce in the first place… They should …not be off limits when spending priorities are set in future Parliaments.'

***COMMENT***

*There is growing pressure to remove the triple lock when it reaches its currently scheduled expiry date in 2020. However, as that year will see the next general election – assuming no Article 50 snap election – politicians must be prepared to anger the (baby boomer) grey vote and face the inevitable pension-snatcher headlines.*

## PENSION SCHEMES NEWSLETTER 82

HMRC has recently published Pension Schemes Newsletter 82 which covers:

1. Bridging pensions

2. Registration statistics
3. Sale of lifetime annuities
4. Pension flexibility statistics
5. Relief at source
6. Overseas pension schemes
7. Lifetime Allowance
8. Annual Allowance

In summary:

**Bridging pensions**

New legislation has been introduced to align bridging pensions with DWP legislation.

**Registration statistics**

For the period 6 April 2016 to 30 September 2016, HMRC received in total 1,400 applications to register new pension schemes. This is a 42% reduction compared to applications received in the same period last year.

Of these applications, 82% have been registered and HMRC has currently refused registration for about 7% of applications. No decision has yet been made on the remainder.

**Sale of lifetime annuities**

On the 18 October the Government announced that a second-hand annuities market would not be proceeding as planned.

**Pension flexibility statistics**

26 October saw the release of official statistics with regards to flexible payments from pensions. In addition more information was provided with regards to the tax repayment claim forms processing.

**Relief at source**

HMRC reminded pension schemes that although the deadline for submitting the 2015/16 annual return of individual information has passed there are still a number outstanding and this will hold up any future interim claims.

Pension schemes should contact HMRC, as instructed in the newsletter, if they haven't received a request and believe they should have.

Schemes have also been reminded of the importance of timely submissions to the issues surrounding the Scottish rate of income tax.

**Overseas pension schemes**

HMRC has published a dedicated web page for customers to get information on overseas pension schemes.

**Lifetime Allowance**

Clarification is given on the dates from which Lifetime Allowance protections IP14, FP16 and IP16 come into force for members.

**Annual Allowance**

HMRC has thanked readers for the feedback on the Annual Allowance calculator.

## LUMP SUM DEATH BENEFITS PAID FROM A REGISTERED PENSION SCHEME

*The Registered Pension Schemes (Provision of Information) (Amendment No. 2) Regulations 2016 have been published with regards to changes in information that must be passed to trustees when a lump sum death benefit from a pension scheme is paid to a trust rather than to an individual*

**Background**

Under the changes to the taxation of death benefits announced in September 2014, certain lump sum death benefits were taxed at 45% with tax being paid by the scheme. From 6th April 2016 this changed so that these benefits are taxed at the recipient's marginal rate(s) of tax if paid to an individual. However, if the benefits are paid to someone other than an individual or trustees of a bare trust then the scheme is still required to pay 45% tax on the benefits.

Although the 45% tax charge is taken up front it was the intention that when an individual receives these benefits from the trust they will be broadly in the same tax position as they would have been had they received the funds directly from the scheme. This may often mean that there has been an overpayment of tax that can be refunded or offset against the individual's tax liabilities.

**Overview of the changes**

The changes proposed should impose an obligation on the Scheme Administrator to pass on the correct information to the trustees of the trust for them to fulfil their obligations. It requires the Scheme Administrator to tell the trustees how much the lump sum death benefit was and how much tax was paid in respect of it. It also requires the trustees to tell the recipient how much income tax they need to pay and how much was previously paid on that amount by the Scheme Administrator.

The Scheme Administrator must provide the following information within 30 days of the payment or within 30 days of this change coming into force whichever is the later

- the amount of the lump sum death benefit on which tax has been charged under section 206 Finance Act 2004;
- the amount of that tax charge;
- the name and pension scheme tax reference number of the registered pension scheme making the payment; and
- the name, date of birth and date of death of the member of the registered pension scheme in respect of whom the lump sum death benefit is paid.

The trustees must provide the beneficiary with the following information within 30 days of the payment, within 30 days of receipt of the information from the Scheme Administrator or 30 days from this change coming into force whichever is the latest.

- the amount of the lump sum death benefit on which tax has been charged under section 206 Finance Act 2004;
- the amount of that tax charge;
- the name and pension scheme tax reference number of the registered pension scheme making the payment; and
- the name, date of birth and date of death of the member of the registered pension scheme in respect of whom the lump sum death benefit is paid.

## CURRENT TAX CONSULTATIONS – WHERE ARE WE NOW?

What follows is a brief summary of some of the recent consultations which we feel may be of relevance to financial planners and their clients. Here we provide an overview of each of the consultations which have recently closed and are currently being reviewed by HMRC. In what follows "AS" means the Autumn Statement delivered on 23 November 2016.

**Part surrenders and part assignments of life assurance policies**

Following the case of Joost Lobler, where a large part withdrawal from an investment bond created a large chargeable event gain that far exceeded the real investment gain under the policy, HMRC decided to consult on the tax treatment of part surrenders and part assignments from a single premium life assurance policy (commonly referred to as a "bond"). This consultation was to look at three alternative ways of taxing excess part surrenders that exceeded the available 5% allowance(s):

- Taxing the economic gain
- Giving a 100% allowance (from the date of investment as opposed to accruing it at the rate of 5% pa for 20 years)
- Allowing the deferral of excessive gains

In the AS it was announced that following consultation the government will legislate in Finance Bill 2017 regarding these disproportional tax charges. We will then know which route will apply and the legislation will also allow applications to be made to HMRC to have the charge on historic gains recalculated on a just and reasonable basis. The changes will take effect from 6 April 2017.

**Salary sacrifice for the provision of benefits in kind**

The purpose of this consultation is to explore the potential impacts on employers and employees if the government decides to change the way the benefits code applies when a benefit in kind is provided in conjunction with a salary sacrifice or flexible benefit scheme. Importantly, pension saving, employer supported childcare and cycle to work schemes are excluded from these proposed changes.

The closing date for comments was 19 October. Following consultation it was announced in the AS that the government will legislate in Finance Bill 2017 so that in future it will have the power to amend by regulations the list of assets that life assurance policyholders can invest in without triggering the PPB tax anti-avoidance rules. The changes will take effect on Royal Assent of Finance Bill 2017.

**Tackling offshore tax evasion: a requirement to correct**

This consultation is about introducing new legislation which will require taxpayers with outstanding tax liabilities relating to offshore interests to come forward and correct those liabilities by September 2018. The consequence of not meeting the requirement and carrying out the necessary correction within the defined window would see the taxpayer subjected to a new set of legal sanctions for ‘‘failing to correct’’.

This consultation closed on 19 October so HMRC is currently reviewing the responses.

**Tackling disguised remuneration: technical consultation**

At Budget 2016 the government announced a package of changes to tackle disguised remuneration avoidance schemes to ensure users of these arrangements pay their fair share of income tax and National Insurance contributions.

This technical consultation includes more detail on the changes the government will introduce in Finance Bill 2017 as well as details of proposals to tackle similar schemes used by the self-employed, and proposals to restrict the tax relief available to employers in connection with the use of these schemes.

This consultation closed on 5 October so HMRC is currently reviewing the responses.

**Reforms to the taxation of non-domiciles: further consultation**

At the Summer Budget 2015, the government announced a series of reforms to the way that individuals with a foreign domicile (‘non-doms’) are taxed in the UK. These changes will bring an end to permanent non-dom status for tax purposes and mean that non-doms can no longer escape a UK inheritance tax (IHT) charge on UK residential property through use of an offshore structure like a company or a trust. In particular, it is proposed that a 15/20 year residence test will apply to give deemed domicile status for income tax, capital gains tax and IHT purposes.

At the Autumn Statement 2015, the government made a further announcement that it would consult on how to change the Business Investment Relief rules (these are the rules that permit those taxed on the remittance basis to remit offshore income and gains tax free in order to invest in qualifying UK investments) to encourage greater investment into UK businesses.

Further consultation and draft legislation was published in August 2016 setting out the detail of the proposals to deem certain non-doms to be UK-domiciled for tax purposes.

This consultation closed on 21 October so HMRC is currently reviewing the responses.

**Personal portfolio bonds – reviewing the property categories**

At the 2016 Budget, it was announced that the government would review the categories of permitted investments which could be held in a life assurance bond without it becoming taxable as a personal portfolio bond.

Broadly, there are three types of investment vehicles which are being considered to be included within the permitted category list. These are:

- real estate investment trusts (both UK and foreign equivalents);
- overseas equivalents of UK approved investment trusts; and
- UK authorised contractual schemes.

The consultation closed on 3 October 2016 and draft legislation is expected in advance of Finance Bill 2017.

**Simplification of the tax and National Insurance treatment of termination payments**

The government announced at Budget 2016 that it would make changes to the taxation of termination payments.

The changes include:

- clarifying the scope of the exemption for termination payments to prevent manipulation by making the tax and National Insurance contributions (NICs) consequences of all post-employment payments consistent
- aligning the rules for income tax and employer NICs so that employer NICs will be payable on payments above £30,000 (which are currently only subject to income tax)
- removing foreign service relief
- clarifying that the exemption for injury does not apply in cases of injured feelings

The government published an initial consultation looking at these changes and has also published a follow-up consultation on draft legislation, which explains the policy underpinning the changes in greater depth. The draft legislation is intended to give effect to the changes, and the government invites views on whether this objective is achieved.

This consultation closed on 5 October so HMRC is currently reviewing the responses.

**Making tax digital – series of consultations**

Following an announcement in the 2015 Budget, the government has now launched a series of consultations which look at how the tax system can be transformed with a view to moving to a fully digital tax system.

The collection of consultations cover:

1. An overview for small businesses, the self-employed and smaller landlords
2. Bringing business tax into the digital age
3. Simplifying tax for unincorporated businesses

4. Simplified cash basis for unincorporated property businesses
5. Voluntary pay as you go
6. Tax administration
7. Transforming the tax system through the better use of information

These consultations ran until 7 November 2016 and it will be interesting to see how much progress has been made.

## STATE PENSION TOP UP - SIX MONTHS LEFT TO APPLY

The Department of Work and Pensions (DWP) has recently issued a reminder to all those who have expressed an interest in topping up their additional state pension by up to £25 per week. The option to make Class 3A Voluntary Contributions applies to individuals who attained their state pension age (SPA) on or before 5 April 2016, i.e. individuals who receive, or will receive, their state pension under the old rules.

It has been possible to make the Class 3A Voluntary NIC payment since October last year. When the Government announced the details of this arrangement earlier, it stated that the rate offered would be in line with the market. However, even when the facility became available it was not possible for a healthy individual to secure a pension annuity paying the same level of income as achieved from paying Class 3A NICs. However, since then, annuity rates have been falling and then, post BREXIT, nose-dived.

So, for an individual aged 66, to secure an income of £1,300 p.a. with a 50% spouse’s pension that is index-linked would cost over £46,900, according to the MAS site on 28 October.

To obtain the same level of income a Class 3A payment would cost £21,775 based upon the DWP calculator run on the same date.

In simple terms the Government offer, which was generous when it was launched, has, due to the changes in the annuity market, become very attractive.

***COMMENT***

*It may be worth advisers who have clients who attained their SPA on or before 5 April 2016, who have spare capital and are bemoaning the low level of cash deposit interest rates, making them aware of the benefits of paying Class 3A NICs while the offer is still on the table.*

## INCOME WITHDRAWAL RATE FOR NOVEMBER 2016

The appropriate gilt yield, used to determine the ‘relevant annuity rate’ from HMRC’s tables for an adult member commencing income withdrawals (or reaching an income withdrawal review date), in November 2016 is 2.0%.