



Chartered
Institute of
Taxation
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**Pensions Tax Relief:
Individual Protection from the Lifetime Allowance Charge
Response by the Chartered Institute of Taxation**

1 Introduction

- 1.1 The Chartered Institute of Taxation (CIOT) is pleased to comment on the consultation on a new type of protection – individual protection 2014 (IP14) – which was announced in Budget 2013.
- 1.2 We note that it is intended that IP14 will commence from 6 April 2014, when the Lifetime Allowance (LTA) will be reduced from £1.5 million to £1.25 million, for individuals with tax-relieved savings in Registered Pension Schemes greater than £1.25 million at 5 April 2014.
- 1.3 We also note that IP2014 will be available either as an alternative to, or additional to, the new fixed protection – Fixed Protection 2014 (FP14) – and that FP14 will operate in a similar way to the existing fixed protection.

2 Executive summary

- 2.1 We think that being able to choose a personalised LTA, with the potential to make further pension savings and accrue further benefits, provides a welcome safeguard for individuals against, for example, potential future decreases in the value of pension rights.
- 2.2 The ability to apply for IP14 in addition to FP12/14 protects individuals in the event that fixed protection is lost. However, the inability to apply for IP14 before Summer 2014 will prevent some individuals, who have applied for FP14 in case they are not eligible for IP14, from making pension savings between 6 April 2014 and the date an application for IP14 can be made.
- 2.3 We do not disagree with the proposition of a revaluation of a pension debit, along the lines suggested in the consultation document, to take into account the alteration in pension savings since 5 April 2014. However, we are not sure why the inconsistent treatment is necessary. Furthermore, while an adjustment for ‘scheme pays’ may be understandable this would also seem to result in inconsistent treatment between

those with and those without protection. More detail is required as to how this adjustment might work in practice if this proposal is to be taken forward.

- 2.4 In the long term we are concerned that a pensions tax regime peppered with different allowances and elections will add complexity. We think the aim should be to stabilise and simplify the taxation of pensions (ie return to the A-day goals) and would suggest a review of pensions taxation (to be conducted by the Office of Tax Simplification).

3 Individual Protection 2014 (IP14)

- 3.1 ***Question 2: Do you agree that individuals with enhanced protection should be excluded from applying for [individual] protection? If not, please give the reasons why you think there is a case for allowing individuals with enhanced protection to apply for IP14 and set out any difficulties or issues this might create.***
- 3.2 While we agree that ordinarily an individual with enhanced protection should not be able to apply for IP14, we think there may be a case for individuals with enhanced protection, who have not also applied for primary protection, to be able to apply for either FP12, FP14 or IP14 in the event that enhanced protection is lost.
- 3.3 ***Question 3: Would monitoring an individual's personalised LTA for the purposes of the tax free lump sum limit be likely to create difficulties for scheme administrators?***
- 3.4 We think the main difficulty will be in recording the correct LTA rather than monitoring whether, for example, a lump sum benefit received by an individual is excessive. We would anticipate that in most cases the administration system will be changed so that, once agreed, the individual's personalised LTA is 'plugged in' to the relevant calculation formula. This will obviously require a change in processes.
- 3.5 ***Question 4: Are these valuation methods fair and appropriate?***
- 3.6 We agree that existing valuation methodology should continue to be used where possible. This would be the simplest approach and, bearing in mind that scheme administrators are likely to receive a significant number of requests to value pension savings as at 5 April 2014 shortly after 5 April 2014, it would be sensible to retain established valuation approaches.
- 3.7 ***Question 6: Should there be some form of revaluation of the pension debit for IP14 to take into account the change in the value of the individual's pension rights since 5 April 2014 and, if so, on what basis this should be done?***
- 3.8 While this would be a change in current practice (in regard to primary protection) we understand the reasoning for there being a revaluation of a pension debit to take into account the alteration in pension savings between 5 April 2014 and the date of the pension debit. However, we are not sure why the inconsistent treatment is necessary. If this proposal is taken forward we suggest it should be on the basis proposed in the consultation document in Example 9 (paragraph 3.49).
- 3.9 ***Question 7: Are there any particular reasons why a scheme pays adjustment should not be deducted from an individual's personalised LTA, and in particular are there any specific administrative burdens that this might lead to?***

- 3.10 We think it would be helpful if HMRC could expand on the proposal to reduce the personalised LTA where there is a reduction in pension rights under 'scheme pays'. In particular, how is it envisaged that this might work?
- 3.11 If people with no protection can still benefit from their full LTA after a scheme administrator has paid an annual allowance charge on their behalf, why should this treatment not be consistently applied? Consequently, we think more detail is required before this is taken forward. If an adjustment is to be legislated for, the adjustment should be simple to calculate otherwise this will pose a disproportionate burden on scheme administrators, especially as the amounts involved are likely to be modest.
- 3.12 **Question 8: What would be the impact if a deduction was also applied to individuals with primary protection whose pension savings are subject to a scheme pays adjustment?**
- 3.13 We understand the logic behind extending the deduction to individuals with primary protection if a deduction is made to individuals with IP14. For example, if the pension debit is revalued for IP14 cases but not primary protection then it is possible that administrative errors will be made. However, we do not believe that the procedure for primary protection should be changed as this will lead to inconsistent treatment of individuals who are otherwise in almost identical circumstances, apart from one being divorced before and the other after the change in treatment.
- 3.14 **Question 11: Are there any difficulties and issues that may arise if individuals cannot apply for IP14 until summer 2014?**
- 3.15 Paragraph 2.7 of the consultation document advises that the legislation enabling IP14 will be included in the Finance Bill 2014 (with supporting Regulations) which we would assume will receive Royal Assent in summer 2014. This will leave a gap between IP14 coming into effect on 6 April 2014 and the relevant legislation being passed in summer 2014 which could cause administrative difficulties for pension scheme managers. For example, if there is a Benefit Crystallisation Event (BCE) in that period.
- 3.16 We would also anticipate some difficulties arising from the time limit to apply for FP14. In some cases, it will not be possible to decide whether an application for IP14 can be made until after 5 April 2014. Consequently, where the availability of IP14 is uncertain, we would expect individuals to make 'protective' applications for FP14 (which have to be made by 5 April 2014). However, this will mean that between 6 April 2014 and the date when the individual has their application for IP14 agreed no contributions can be made to the scheme. This has administrative implications for scheme administrators as arrangements will need to be put in place before 6 April 2014 to ensure that contributions are stopped while pension savings are valued and it is established whether an IP14 application is appropriate.
- 3.17 Opting for IP14 (or FP14) will be a major financial decision for an individual, who will need informed and accurate advice on what to do. Obtaining the necessary valuations to inform this decision making process will take considerable time and it will be difficult in the interim to decide whether, for example, a protective application for FP14 should be made.
- 3.18 **Question 13: Does the Tax Information and Impact Note at Annex C capture correctly the impacts and burdens associated with the introduction of IP14?**
- 3.19 Paragraph 1.10 of the consultation document explains that the reduction of the LTA to

£1.25 million will impact on a wider population than the previous LTA reduction and notes that ‘this population may not have previously required regular financial advice to make an informed decision about the suitability of FP14’. We think that this larger population base will now need to take advice to properly understand the implications of the available options (ie FP14 or IP14). The cost of obtaining advice has however been omitted from as an ‘impact on individuals and households’ from the TIIN.

3.20 **Other comments – Auto-enrolment**

One further point we would like to raise concerns a potential problem with the interaction of auto-enrolment and enhanced protection and FP12 (and now FP14). Where an individual has elected for these protections they will lose the protection on being auto-enrolled into a pension scheme unless they opt out within 30 days. However, it is not that easy to opt out of auto-enrolment and our concern is that individuals who do not wish to be auto-enrolled may inadvertently lose protection simply because of an oversight or delay in opting-out.

- 3.21 We think there is an opportunity to correct this by allowing an individual who has opted for enhanced or fixed protection an extended period of, say, 90 days to opt-out of auto-enrolment by providing that the protection will not be lost solely on account of failing to opt-out of auto-enrolment within the 30 day deadline (provided, of course, any contributions made are returned).

4 **The Chartered Institute of Taxation**

- 4.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT’s work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members’ experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT’s comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT’s 16,800 members have the practising title of ‘Chartered Tax Adviser’ and the designatory letters ‘CTA’, to represent the leading tax qualification.

The Chartered Institute of Taxation
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