



Pensions briefing – Lifetime allowance and protections

Briefing

February 2017

Introduction

Since A Day (6 April 2006), a lifetime limit has applied to the value of UK tax-privileged benefits that may be taken from pension arrangements.

This lifetime allowance applies in respect of benefits paid from all HM Revenue & Customs (HMRC) registered pension arrangements. The amount of the lifetime allowance has varied since it was introduced, and has been maintained at the same level or reduced in successive tax years since the 2011-2012 tax year. Given these changes, a number of protections have been put in place for members who would or might be affected by the reductions. This briefing summarises these protections, how they can be obtained and how they can be lost.

Lifetime allowance

The vast majority of benefits payable from registered pension arrangements are tested against a member's lifetime allowance, including pensions, pension commencement lump sums, death benefits and overseas transfers. The capital value of each such benefit is assessed against the remaining amount of the member's lifetime allowance at the time of payment.

A charge is payable on any excess above the lifetime allowance. This charge, which is in addition to any tax that is payable by the recipient of the benefit, is 25 per cent of the excess if the benefit is paid as a pension or 55 per cent of the excess if the benefit is paid as a lump sum.

The standard lifetime allowance amounts for the tax years since A Day are as follows:

Tax years	Lifetime allowance
2018-2019 onwards	£1,000,000 plus CPI
2017-2018	£1,000,000
2016-2017	£1,000,000
2015-2016	£1,250,000
2014-2015	£1,250,000
2013-2014	£1,500,000
2012-2013	£1,500,000
2011-2012	£1,800,000
2010-2011	£1,800,000
2009-2010	£1,750,000
2008-2009	£1,650,000
2007-2008	£1,600,000
2006-2007	£1,500,000

Protections

In order to lessen the impact of the introduction of the lifetime allowance and the reductions that have taken place since the 2011-2012 tax year for members who would or might be affected by the changes, a number of protections have been put in place. These are summarised in the below table:

Protection	Eligibility	Features	Application deadline	Further accrual possible?
Primary protection	Accrued benefits worth more than £1.5m immediately before A Day	Applies to pre-A Day pension rights and Pre-A Day lump sum rights exceeding £375,000 Member's lifetime allowance is increased by a factor relating to the proportion by which his benefits were greater than £1.5m immediately before A Day	5 April 2009	Yes
Enhanced protection	Accrued benefits of any value immediately before A Day	Applies to pre-A Day pension rights and Pre-A Day lump sum rights exceeding £375,000 Member's lifetime allowance is disapplied	5 April 2009	No (subject to indexation)
Fixed protection 2012	Expectation that benefits at time of payment will exceed £1.5m Member does not have primary protection or enhanced protection	Applies to pre-6 April 2012 pension rights Member's lifetime allowance is fixed at £1.8m	5 April 2012	No (subject to indexation)
Fixed protection 2014	Expectation that benefits at time of payment will exceed £1.25m	Applies to pre-6 April 2014 pension rights Member's lifetime allowance is fixed at £1.5m	5 April 2014	No (subject to indexation)
Individual protection 2014	Accrued benefits of more than £1.25m on 5 April 2014 Member does not have primary protection	Applies to pre-6 April 2014 pension rights Member's lifetime allowance is the value to his benefits on 5 April 2014 (subject to maximum of £1.5m)	5 April 2017	Yes

Protection	Eligibility	Features	Application deadline	Further accrual possible?
Fixed protection 2016	Expectation that benefits at time of payment will exceed £1.25m Member does not have primary protection, enhanced protection, fixed protection 2012 or fixed protection 2014	Applies to pre-6 April 2016 pension rights Member's lifetime allowance is fixed at £1.25m	May be claimed on or after 6 April 2016	No (subject to indexation)
Individual protection 2016	Accrued benefits of more than £1m on 5 April 2016 Member does not have primary protection or individual protection 2014	Applies to pre-6 April 2016 pension rights Member's lifetime allowance is the value to his benefits on 5 April 2016 (subject to maximum of £1.25m)	May be claimed on or after 6 April 2016	Yes

Application for protections

A member may apply to HMRC for any of the above protections, provided that he satisfies the appropriate eligibility criteria and the deadline for application has not passed. Applications for protection may be submitted to HMRC online. If the application is successful, a reference number will be provided to the member, which he should pass on to the trustees or administrators of his registered pension arrangements.

Loss of protection

Once a member has obtained one (or more) of the above protections, it is possible that they may fall away upon the occurrence of certain events.

Broadly, it is only possible for a member to lose primary protection or either of the individual protections if a pension sharing order causes the value of the member's benefits to fall below a specified amount.

There are, however, a number of ways in which a member may lose enhanced protection or any of the fixed protections. If a protection is lost, the member must inform HMRC of the loss within 90 days. Broadly, these protections will be lost if:

- The member accrues any further benefits under a registered pension arrangement (this includes any member or employer contributions to a defined contribution arrangement and any accrual under a defined benefit arrangement other than deferred pension revaluation)
- The member joins a new registered pension arrangement under an existing or new pension scheme (although there are exceptions to this, such as where the arrangement is joined for the purpose of receiving a recognised transfer)
- The member's pension arrangement receives an "impermissible transfer" (such as a transfer of assets that were not held under a pension scheme or which do not relate to the member)
- The member's pension arrangement makes a non-permitted transfer (such as to a non-registered pension arrangement or to a non-recognised overseas pension scheme).

The requirement for employers to automatically enrol workers into an appropriate pension arrangement and make contributions raises the possibility that some such workers may lose inadvertently enhanced protection or any of the fixed protections. Unless any such workers who have these protections opt-out of the pension arrangement within one month of joining (so that they are treated as not having the joined), they will lose the protection. Since 1 April 2015, however, employers have not been required to automatically enrol workers if they have reasonable grounds to believe a worker has claimed one of these protections.

Contacts

If you would like further information please contact:

London



Peter Ford
Partner

Tel +44 20 7444 2711
peter.ford@nortonrosefulbright.com



Lesley Browning
Partner

Tel +44 20 7444 2448
lesley.browning@nortonrosefulbright.com

Norton Rose Fulbright

Norton Rose Fulbright is a global law firm. We provide the world's preeminent corporations and financial institutions with a full business law service. We have more than 3500 lawyers and other legal staff based in more than 50 cities across Europe, the United States, Canada, Latin America, Asia, Australia, Africa, the Middle East and Central Asia.

Recognized for our industry focus, we are strong across all the key industry sectors: financial institutions; energy; infrastructure, mining and commodities; transport; technology and innovation; and life sciences and healthcare.

Wherever we are, we operate in accordance with our global business principles of quality, unity and integrity. We aim to provide the highest possible standard of legal service in each of our offices and to maintain that level of quality at every point of contact.

Norton Rose Fulbright Verein, a Swiss verein, helps coordinate the activities of Norton Rose Fulbright members but does not itself provide legal services to clients. Norton Rose Fulbright has offices in more than 50 cities worldwide, including London, Houston, Toronto, Sydney and Johannesburg. For more information, see [nortonrosefulbright.com/legal-notices](https://www.nortonrosefulbright.com/legal-notices).

The purpose of this communication is to provide information as to developments in the law. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.