LCP INSIGHT CLARITY ADVICE

SSAS update

More questions than answers?

November 2019

With Brexit continuing to dominate the political agenda, most legislation, including any relating to pensions, has been delayed. The potential for further delays after the General Election and if/when Brexit happens is a clear possibility.

In this update

So what does this mean for Small Self-Administered Schemes (SSASs)?

Our view remains that we will (eventually) see a tightening up of the legislation and increased regulation for SSASs. This is largely due to comments made by the Pensions Regulator (TPR) regarding the use of some SSASs and SIPPs (Self-Invested Personal Pensions) to "liberate" pension funds. HMRC have already changed the way they authorise new pension schemes as a result.

Increasing pressure from the Pensions Regulator?

TPR issue an annual survey of the governance standards of "defined contribution" schemes and have highlighted the "unacceptable" scale of under-performance in small pension schemes (under 100 members). Only 12% of "micro schemes" (with 2 - 11 members) met two or more of the five key governance requirements measured. In contrast 84% of "large" schemes (1,000 plus members) met two or more requirements.

Our viewpoint

While the survey does not include SSASs (as most of the requirements measured would not apply to SSAS), with TPR's focus now increasingly on smaller schemes, it may only be a matter of time before that focus moves to SSAS.

We recommend that SSAS trustees check that they are meeting their current requirements for TPR. At least one trustee should be registered with TPR via their "exchange" system and they should ensure that the details TPR holds for them are correct and up to date. They should also ensure that they complete TPR's scheme return when requested. We can be appointed online to assist trustees to meet their requirements if desired.

See the section on regulatory reporting requirements later in this update or contact us for assistance.

Trustees' records up to date?

As we mentioned in our previous update, and as some Trustees have already seen, TPR is asking additional questions in their scheme return regarding trustees' record keeping and the accuracy of the data trustees hold.

By way of background, TPR now expect trustees to measure the data they hold in line with their guidance (after all, without complete and accurate data, how can a scheme run efficiently?).

The Regulator's guidance categorises data into groups and those most applicable to SSASs are:

- Common data – which is necessary to identify a member, such as name, date of birth, NI number etc; and
- Scheme specific data – which for SSASs includes a member's share of funds, details of their benefit calculations and whether they have any type of Lifetime Allowance protection.

TPR have introduced a scoring system and will require the scores to be reported in future scheme returns. The system is straightforward - if any data is missing for a member then that member "fails" so, as an example, a four-member scheme with one "failed" member (perhaps only because of a missing NI number) has a score of 75%.

Our viewpoint

We would not normally expect trustees of SSASs to have a problem confirming their members' "common data"; after all it is generally data about themselves, and with the assistance of their professional advisers, the "scheme specific data" shouldn't be a problem, providing things like scheme accounts etc are up to date. Whether the data is readily to hand is another matter!

To help our SSAS clients meet these requirements we are developing a scheme and member statement which will show the common and scheme specific data we hold with some appropriate commentary. In the meantime, trustees should contact us if they have any concerns.

Understanding the trustee role

Trustees are responsible for all their SSAS activities, even when certain activities have been delegated. Thus it is important for trustees to understand their role and responsibilities in a well run and governed scheme.

The Pensions Regulator (TPR) provides some useful online tools to assist trustees to achieve and maintain good governance with some best practice examples. These can be found at trusteetoolkit.thepensionsregulator.gov.uk.

Over 1.5m people to hit the Lifetime Allowance?

Research published by Royal London, based on data from the Office for National Statistics, suggests that nearly 300,000 working age adults have pension rights more than the Lifetime Allowance (LTA) and a further 1.25m are expected to reach it in the future.

The LTA relates to the value of the total pension savings an individual builds up across all pension arrangements. When an individual draws benefits worth more than the LTA they will pay extra tax on the excess. The LTA for the 2019/20 tax year is £1.055m (currently increasing annually in line with the Consumer Prices Index).

Our viewpoint

Some forms of LTA protection may remain available from HMRC depending on an individual's circumstances. Trustees with members who are concerned whether their funds will reach the LTA should contact us for assistance.

Will any contributions exceed the Annual Allowance?

Trustees are required by legislation to provide their members with a Pensions Savings Statement if contributions exceed the Annual Allowance. The standard Annual Allowance in the 2019/20 tax year is £40,000.

The Annual Allowance (AA) is the figure against which an individual's pension savings (such as contributions) in a year are tested before extra tax is payable. However, some individual's may be affected by the "Tapered Annual Allowance" (if their income from all sources assessable to UK income tax is £110,000 or more), in which case their AA may be as low as £10,000.

In addition, members who have flexibly accessed their funds (for example if they have drawn any amount of pension via Flexi-Access Drawdown) will also be affected by the "Money Purchase Annual Allowance", in which case their AA will be £4,000.

Our viewpoint

We will assist trustees by producing the necessary statement where we are given the information to do so. We can also provide further details on the various Annual Allowances if desired.

Regulatory reporting requirements 2018/19

A reminder for all those connected with SSAS of the regulatory reporting requirements.

HMRC requires Scheme Administrators to submit reports online. Their deadline for the submission of their reports for the 2018/19 tax year is 31 January 2020. Failure to meet the deadlines will result in automatic fines.

HMRC Registered Pension Scheme Return

Technically HMRC only requires Scheme Administrators of SSASs to submit a Registered Pension Scheme Return when requested, however, requests appear to be annual.

Whoever has registered with HMRC online as Scheme Administrator should check the scheme's noticeboard on HMRC's website to see whether a notice to complete a return has been received for the 2018/19 tax year and, if so, arrange its completion. Please let us have a copy of the submitted return in due course.

Our viewpoint

If LCP has been appointed as authorised practitioner we have written to request the necessary information (and in many cases already completed the return). If we have not been so appointed, the Scheme Administrator must complete the submission. We are happy to act as authorised practitioner if required - please contact us for details.

The Pensions Regulator's scheme return

The TPR requests the completion of their scheme return normally on a rolling three year basis for schemes with two or more members. This is a separate return to that requested by HMRC. Although TPR usually provides trustees with notification of the requirement by post this is not always the case. We suggest that trustees regularly check the TPR's Exchange system (via their website www.thepensionsregulator.gov.uk) to see whether a return is due.

TPR aims to give six weeks for the completion of the return and has the power to fine trustees for failing to do so.

Our viewpoint

TPR's scheme return is a regulatory hurdle that trustees could easily miss (resulting in an unexpected fine) but one that is not too onerous to complete. We are happy to help clients with completing the return as required. We already monitor TPR's website and complete returns when they become due for some of our clients and would be happy to extend this service to other clients who require further assistance.

Information Commissioners Office registration

Trustees should remember to renew their registration with the ICO on an annual basis. The easiest way to do so is to simply pay the renewal via direct debit. Contact us for any assistance.

HMRC Event Report

In addition to the scheme return, HMRC requires an Event Report to be submitted if certain events occur during each tax year. We have set out opposite some further information on the reportable events to help trustees determine whether or not an Event Report may need to be submitted. If a report is necessary the Scheme Administrator will need to arrange for its completion.

If there is any doubt as to whether an event that has occurred needs to be reported, please let us have details and we will advise accordingly.

Our viewpoint

Where we are aware that a reportable event has occurred we have already written to trustees regarding the next steps that need to be taken to submit the report. If a reportable event has occurred and LCP has been appointed as authorised practitioner we can submit the report. Otherwise the Scheme Administrator must arrange for the submission of the report.

HMRC Event Report 2018/19

The regulations set out numerous separate events covering many areas, most of which are unlikely to apply to schemes ordinarily. However, to help the Scheme Administrator determine whether a report may be required, we have summarised below the type of events that require reporting.

Generally, the reportable events fall into two main areas: scheme events and member events. Please review the following list of events and if you think any of them may have occurred during the last tax year let us know as a matter of urgency so that we can advise whether it needs to be reported.

Scheme events

- Unauthorised payments[1].
- The purchase or sale of any taxable property[2] (or, if already held, any income received from such property), at any time during the tax year.
- A change in membership between certain bands (ie where the number of members has increased from 1 or above 11, or decreased below 2 or become 0).
- The wind up of the scheme.

Member events

- A member commences receipt of their benefits before normal minimum pension age - normally only possible on ill-health grounds.
- Commencement of benefits where the member's funds from all schemes have exceeded the Lifetime Allowance and the member has relied on any form of Lifetime Allowance protection.
- A lump sum is paid to a member who has any form of Lifetime Allowance protection.
- A lump sum is paid to a member that represents more than 25% of their share of the fund.
- Lump sum death benefit payments that amount to more than 50% of the Standard Lifetime Allowance that was applicable on the date of the member's death.
- The trustees are required to issue a Pension Savings Statement (usually when contributions paid in respect of a member exceed the Annual Allowance).

Transfers to Qualifying Recognised Overseas Pension Schemes are now reported separately and must be reported within 60 days of the transfer.

[1] An unauthorised payment is a legally defined term and includes, for example, a loan to a scheme member.

[2] Taxable property is a legally defined term and includes, for example, residential property, works of art etc. If in doubt, please contact us.

Any questions?

If you would like any assistance or further information on the contents of this SSAS update, please contact Peter Clarke or Patrick Moriarty or email enquiries@lcp.uk.com.

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