



Family pension fortunes

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We have recently explored the issues relating to making pension contributions in the light of the rapidly changing tax rules and restrictions on tax relief for certain 'high earners'. Here we focus on recent innovations in pension scheme design that enable wealthy families and other groups of individuals to minimise tax and provide maximum flexibility over taking benefits.

Pension limits – the basics

There are a number of potential problems that might impact how much one can take from a pension scheme. For those who do not benefit from transitional protection, the maximum pension fund from which one can take benefits (known as the lifetime limit) without incurring a tax penalty is £1.75m in 2009/10, rising to £1.8m from 2010/11 and then remaining at this level for at least five tax years. Any benefits in excess of this amount will either be taxed at 25% if taken as an income, plus income tax at the appropriate rate, or at 55% if taken as a lump sum. With the freezing of the lifetime limit and reasonable investment growth, it is likely that more and more pension investors will breach the £1.8m lifetime limit over the next decade or so.

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The earliest age at which one can draw benefits from a registered pension scheme is currently 50, assuming that the fund does not relate to a special occupation e.g. sports people and that the investor is not suffering permanent and serious ill health. However, this age rises to 55 for any benefits taken from 6th April 2010, so

those aged between 50 and 54 need to think seriously about their options if they don't want to be forced to wait, in some cases for up to five years, before accessing their pension fund.

Assuming that transitional protection does not apply, up to 25% of the fund value can be taken as a tax-free pension commencement lump sum (PCLS) and the residual fund used to provide taxable income. To the extent that this income exceeds the pension member's personal income tax allowance, this will be taxed at 20%, 40% or, from the next tax year, potentially 50%.

Pension income can be provided by way of a lifetime or limited term (usually five years) annuity purchased from an insurance company, or an income provided directly from the pension fund. Income provided directly from the fund before age 75 is called unsecured pension (USP) and can be any amount between nil and 120% of the annuity rate prescribed by the Government Actuary's Department (GAD), and known as the GAD rate. From age 75, income withdrawn directly from the fund is called alternatively secured pension (ASP) and must be between 55% and 90% of the GAD rate based on someone aged 75, regardless of the investor's actual age.



Enter the 'family' SIPP

Over the past few years a new type of self-invested personal pension (SIPP) scheme has emerged, which provides some very attractive benefits for directors, business partners and high net worth families. This new type of plan, known generally as a 'family SIPP' or 'master trust SIPP' can hold both protected rights and non-protected rights funds; provide a wider range of post retirement income options and offers useful death benefit planning for both the pre- and post- age 75 periods.

The key difference between a family SIPP and a standard personal pension is that the family SIPP is an **individual trust**-based SIPP, which allows multiple members under that trust. This facility was previously only available to members of occupational schemes.

Like a traditional SIPP, investment is permitted in any asset that pension legislation will permit, including commercial property. However, because the scheme is established under its own single trust, this allows the members to 'pool' their individual funds, which could provide advantages in terms of economies of scale, administration and investment opportunities, thus potentially enhancing investment returns.

In addition, investment pooling provides greater flexibility over how any death benefits might be provided, as the trustees have the flexibility to decide which assets to use to provide such benefits. This compares to the situation with a collection of individual SIPPs which co-own a common investment, such as a commercial property. In this scenario the whole property would have to be sold to provide the deceased member's death benefits, if other members had insufficient funds in their own plans to buy out the deceased's share.

It is also possible for the members to decide how investment growth is to be allocated – **proportionately or disproportionately**. In order for this facility to be made available (but not necessarily used), it is necessary for it to be requested within one year from the date the scheme is established. In practical terms it makes sense to request the option at the time the scheme is established.

The default position is that investment growth is allocated to all members of the scheme in proportion to their investment in the scheme. If they wish to allocate growth on a disproportionate basis (but only in respect of non-protected rights) then the decision must be unanimous and unambiguous and decided at the annual review of the scheme.

This ability to **direct growth from one member to another** could be very useful where, say, one member would otherwise breach the lifetime allowance, but other members are well within the limit. Thus a family or group of business associates may pursue a higher growth strategy than might have been the case had they held individual traditional personal pension plans, safe in the knowledge that other family members or business associates could take that benefit and avoid any excess tax charges that might otherwise apply.

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Children (under the age of 18) can join the family SIPP and will be included as long as their parent or guardian is also in the scheme. Unlike a traditional standalone pension plan, this would allow the children access to the same professional investment management or commercial property investment as their parents may be enjoying, rather than the default funds offered by most pension providers.

There is no maximum age in the scheme but, in practice, those aged over 75 will only be able to join by transferring benefits from another pension plan. The minimum number of members is one, with a maximum of 12. The only other requirement is that members must be habitually resident in the UK.

Scheme pension

In addition to lifetime/limited annuities and unsecured or alternatively secured pension benefit options, a family SIPP, unlike a traditional SIPP or personal pension, can also allow members to exchange their share of the pooled fund for what is known as a **scheme pension**.

There are a number of benefits of a scheme pension over any other type of pension, particularly for those who have reached age 75.

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With a scheme pension, the trustees of the family SIPP pay the member a regular income for the rest of their life although the funds exchanged, which must be at least £100,000 of non-protected rights, remain invested in the scheme. The maximum scheme pension permissible is calculated by reference to a number of factors including fund size, age, gender, life expectancy and the nature of the investments held. There is also the option of having a fully underwritten option to take into account poor health and thus improve the pension withdrawal amount.

The initial income under scheme pension can be varied between actuarially calculated levels and/or it can also increase each year and be paid for a minimum fixed payment period of up to 10 years. These options will reduce the initial pension payable. The main downside to a scheme pension is that the member needs to decide on these options at the time of exchange and cannot subsequently change them. However, at any point in the future the remaining fund may be used to purchase a traditional annuity if the **scheme** is wound up.

In contrast, alternatively secured pension (ASP), which is payable from age 75, is based on the life expectancy of a 75-year old, regardless of the member's actual age. This means that a scheme pension can usually permit a much higher level of income withdrawal from the pension plan compared to ASP, particularly for older ages. Thus someone approaching 75 (who has not yet started to take their benefits) could use ASP just before they turn 75 then ASP for a short period and finally scheme pension. This approach would allow the investor to maximise income withdrawals for this period and as such reduce the amount of fund remaining on death. The lower the fund on death, then the lower will be any potential scheme and inheritance tax charges, which may be as high as 82%, which might apply.



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In the context of a holistic and comprehensive financial plan, a family SIPP could be a very useful tax planning tool when combined with a well thought out investment and estate planning strategy. The landscape for registered pensions is changing rapidly but for the well informed there are various options for turning things to their benefit so that there really is a family pension fortune.

For further information please get in touch with your usual Bloomsbury contact, telephone 0207 194 7830 and ask for a member of the wealth team or alternatively e-mail info@bloomsburyfp.co.uk

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