Pointon York SIPPsolutions

Fact Sheet 6

What are the rules on drawing income after age 75?

You can draw income direct from your SIPP after age 75 just as before age 75, however there is a more restrictive limit on the maximum income you can draw each year. There is also a requirement for you to draw a minimum income each year.

What is the maximum that I can draw?

On your 75th birthday we will calculate a new annual maximum.

We will calculate that maximum in exactly the same way as we do before age 75, using the same income withdrawal tables produced for this purpose by the Government Actuary's Department (GAD).

This maximum will be based on your age (75), sex, and the prevailing gilt yields and fund value at that time. But rather than your maximum being set at 120% of the figure obtained from those tables (as before age 75), your maximum will be set at 90% of that figure.

For example, if the figure calculated from the GAD Tables (the 'basis amount') was £20,000, your maximum for the following year would be £18,000.

What is the minimum income I must draw?

The minimum is set at 55% of the figure (the 'basis amount') obtained from the GAD Tables on your 75th birthday. For example, if the 'basis amount' calculated was £20,000, the minimum you must draw in the next year would be £11,000.

What happens if I don't draw this minimum?

If the minimum is not paid, there is a 40% tax charge levied on your SIPP. For example, if the minimum was set at £11,000 and you drew nothing the following year your SIPP would be liable to a £4,400 tax charge (40% of £11,000). If you only drew £5,000 your SIPP would be liable to a £2,400 tax charge (40% of £6,000).

How often is this maximum and minimum reviewed?

Every year, on your birthday. Unlike before age 75, the tax rules require us to review your income annually, on your birthday. Also, when we review your maximum we have to assume you are still aged 75.

Your maximum income may go down as well as up at these reviews.

Is my income still taxed?

Yes.

What happens if I die in ASP?

If you die after age 75 whilst still in ASP then if you are survived by a spouse or dependant the only option available will be to use the remaining funds to provide them with a pension benefit (either through income withdrawal or annuity purchase).

If you are not survived by a spouse / dependant then the only option will be for the remaining funds to be paid to a registered charity or charities (which you should nominate). This too may be an option on the subsequent death of your surviving spouse / dependant if they too are still in ASP (see below).

We will ask you to nominate a charity or charities before going into ASP.

If remaining funds are not used in the above ways there are severe tax consequences on both the beneficiary and your SIPP, including inheritance tax (IHT) being due. These charges in aggregate will be as high as 82% of the fund remaining.

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IHT will also become due if you are only survived by a dependant who is dependent on you purely due to 'mutual dependence'. Please refer to 'who is a dependant'?' below.

Who is a 'dependant'?

A 'dependant' is defined in the tax legislation. The test is at the date of death.

Your spouse or civil partner is automatically treated as a 'dependant' (no matter what the circumstances).

A child of yours (including an adopted child) is automatically treated as your 'dependant' until they reach age 23. After their 23rd birthday, they can only be treated as your 'dependant' if still dependant on you because of a physical or mental impairment. **So, in most circumstances a grown-up son or daughter will not be your 'dependant'.**

An adult (who is not your child) will be a 'dependant' if they are either financially dependent on you, dependent due to physical / mental impairment or whose financial relationship with you is one of 'mutual dependence'. 'Mutual dependence' does not require a person to be entirely or even predominantly dependent on you financially, nor does it require an equal level of financial dependence. But we must be satisfied some reliance on each other financially is involved at the point of death.

If you are only survived by a dependant who is dependent on you purely due to 'mutual dependence' (who is not your spouse or civil partner) then the funds still have to be used to provide them with a pension benefit. In addition, because of the way the IHT legislation works, the remaining ASP funds used to provide them with that pension benefit will count against your estate for IHT purposes (they are not what they refer to as a 'relevant' dependant). This does not apply where you are survived by a dependant due to other circumstances (spouse, full financial dependency etc).

Are there any time limits for distribution on death?

Any remaining ASP funds (as valued at the date of your death) will be included in your estate for Inheritance Tax (IHT) purposes if the funds are not distributed in the above way within 6 months from the end of the month you die in.

It is therefore crucial that the investments held in your SIPP are sufficiently liquid to allow a quick distribution. If you hold property for example, it is unlikely the property would be sold in time to meet this deadline. We give no guarantee, however your SIPP is invested, that this deadline will be met, and you must accept this risk when signing your new Expression of Wish.

What happens if Inheritance Tax becomes due?

Any IHT due in relation to your ASP funds would be payable direct from the SIPP.

The SIPP funds would be treated as the 'top-slice' of your estate – so if your IHT nil-band threshold is used up by your estate, 40% will be charged on the value of the remaining SIPP funds at the time of your death. If you have some nil-rate band unused, however, there would be credit for this.

To clarify, IHT should only become an issue if the above 6 month deadline is missed, or if you are only survived by a dependant through 'mutual dependence'.

What happens then if I am survived by a spouse / dependant?

We must provide that spouse or dependant with a pension benefit. Just as you have the option, this can be provided in one of two ways. Either we use the remaining funds to buy an annuity from an insurance company, that will provide them with an income direct, or instead the spouse / dependant can opt to take an income direct from the SIPP through income withdrawal.

If your spouse / dependant decides to take income withdrawal then we would recalculate a new income withdrawal maximum (or minimum, if over age 75) based on their own circumstances (so based on their age and sex). If they were under age 75 a review would be carried out at least every five years until they reached age 75, and if aged over 75, or at the point they do eventually reach age 75, annually.

They will have the option of buying an annuity at any time (although not a joint-life or guaranteed annuity).

If you have a child under the age of 23 (including an adopted child) then they are automatically treated as a 'dependant' until they reach age 23. Then, they will only be a 'dependant' if it can be shown they are dependant on you because of physical or mental impairment. Any pension entitlement must stop on their 23rd birthday, where no continuing dependency due to physical / mental impairment.

If you are survived by a dependent purely on 'mutual dependence' IHT will be an issue (see above).

What would then happen when my spouse / dependant dies (or a child of mine reaches age 23)?

If there were any funds still held in the SIPP then the position is different, depending on whether your spouse / dependant was under or over age 75 when they died.

If they were over age 75, then, subject to the next paragraph, the remaining funds must be paid to a registered charity or charities, as nominated by you (or, where you have consented, your spouse / dependant). As a last resort we can nominate, but we will ask you to nominate before going into ASP.

In the unlikely event you were survived by more than one 'dependant' then we could not pay the monies to charity on the death of the first dependant, and instead the remaining monies would be used to provide that other dependant with a pension benefit. On the death of your second dependant, the position would be as on the first dependant's death (but depending on that second dependant's age at death).

Again, the 6 month time limit for distribution from the end of the month the dependant dies in would apply if IHT was not to be due.

If they were under age 75, then it is possible for a lump sum to be paid, but this will be subject to IHT **and** a 35% tax charge.

As we understand the legislation, the IHT due would be charged and accounted for first, with any residual fund left paid out as a lump sum net of a 35% tax charge (i.e. the 35% tax charge would only be based on the residual fund, after deduction of any IHT due).

In either of the above two scenarios, the IHT position would be based on your circumstances at death, not your surviving spouse / dependant's circumstances on their death, even though this may be some time later (so if your estate was over the nil-rate threshold following your death, all the funds remaining on the death of your surviving spouse / dependant would be liable to IHT). This does not mean your estate cannot be settled on your death.

If the value of your estate on death was less than the IHT nil-rate band threshold at the time of your spouse/ dependant's death then credit would be given for this.

Where a child of yours reaches age 23 and stops being a 'dependant', the position would be the same way as where a dependant dies before age 75 (including the same level and type of tax charges).

Can I still buy an annuity once in ASP?

Yes. Once you have gone into ASP at age 75 an annuity can still be purchased at any time from an insurance company, although you should bear in mind that the older you get the availability of such contracts may well diminish.

What happens if I buy an annuity, now or in the future?

If you buy an annuity, your SIPP will be closed.

That annuity will then provide you with an income for life, following the terms of that annuity contract. That income may be level, indexed or fluctuate (subject to certain conditions), depending on the type of contract you choose.

You must choose the insurance company you want to buy the annuity from, and the type of annuity you want.

If you wish, you can buy a joint-life annuity (that will provide an income on your death to any spouse or dependant who survives you) or a guaranteed annuity (that will provide an income for the length of that guarantee, even if you die in that period). An annuity may not be guaranteed for more than 10 years.

Warning: The older you get, the harder you may find it to locate an insurance company willing to provide you with an annuity.

What happens now?

If you intend to go past age 75 into ASP you must complete and return the Expression of Wish form we send you with this Fact Sheet. This asks for details of your spouse and / or dependants you have at present (if any), and asks you to nominate a charity you wish us to pay any remaining funds to on your death, if you are still in ASP and are not survived by a spouse or dependant. There is a risk notice to sign as well.

We strongly recommend that you seek professional advice before deciding to take ASP once you reach age 75. We will not provide that advice.

Assuming the above documentation is returned, we will provide you with a quote once your 75th birthday has been reached, which will confirm your new maximum for the year (and the minimum you must draw). When you return that quote, you may tell us how much income you wish, and when you want us to pay it.