For financial advisers only

Quilter

Fixed Protection 2016 and Individual Protection 2016

Background

From 6 April 2016, the Standard Lifetime Allowance (SLA) applicable to private pension savings reduced from £1.25 million to £1 million.

As with previous reductions to the SLA, the Government will allow registered pension scheme (RPS) members to protect their existing pension savings, or the future value of their pension savings, if they believe they will eventually exceed the prevailing SLA. This will enable an individual to reduce, or avoid, any additional tax charge that would otherwise apply.

There are two forms of protection, Individual Protection 2016 and Fixed Protection 2016.

Details of how the two forms of protection work are set out below, together with a Q & A document that should help answer questions that might arise as to how, in practical terms, the registration process will work.

Individual Protection 2016

The member can apply for Individual Protection 2016 provided that the capitalised value of the crystallised and uncrystallised savings in their RPS(s) exceeds £1,000,000 on 5 April 2016 and they do not have individual protection 2014 or primary protection (or enhanced protection with dormant primary protection).

The Individual Protection 2016 lifetime allowance limit would be the lower of:

(1) £1,250,000; or

(2) the capitalised value of all of their savings in registered pension schemes on 5 April 2016.

Any benefits crystallised above the Individual Protection 2016 limit will be subject to a lifetime allowance excess charge where the excess is taken as a lump sum. The excess will be paid through PAYE with the tax charge being passed to HMRC.

If an excess is taken as a lump sum, which is only possible before the member's 75th birthday, it would be subject to marginal rate tax charge.

If an excess is taken as income, which is possible at any age, there is no lifetime allowance tax charge.

It would be possible for a client to opt for flexi-access drawdown on nil income, if required, which may be appropriate if the client was intending to use their pension fund as part of a succession planning exercise for inheritance tax purposes.

Contributions into a money purchase RPS, or benefit accrual within a final salary RPS, can continue after 5 April 2016.

Fixed Protection 2016

A client with capitalised pension rights of any value can apply for Fixed Protection 2016, provided that certain conditions are met.

The client must not have Enhanced Protection, Primary Protection, Fixed Protection 2012 or Fixed Protection 2014.

If they obtain Fixed Protection 2016, they will have a personal lifetime allowance of £1,250,000.

(It is also possible for them to obtain Individual Protection 2016 but Fixed Protection 2016 would take priority, i.e. the Individual Protection 2016 would remain dormant whilst the client retained Fixed Protection 2016.)

Any benefits crystallised using Fixed Protection 2016 above £1,250,000 will be subject to a lifetime allowance excess charge where the excess is taken as a lump sum. The excess will be paid through PAYE with the tax charge being passed to HMRC.

If the client obtains Fixed Protection 2016 and subsequently loses it:

(1) the client would need to notify Her Majesty's Revenue & Customs (HMRC) or risk a fine (whether they had obtained dormant individual protection or not); and

(2) HMRC would issue a new protection reference number to the client (if the client had previously obtained dormant Individual Protection 2016 or they subsequently applied for Individual Protection 2016), or the client's benefits would be subject to the prevailing SLA.

You can lose fixed protection if:

- you transfer money between pension schemes in a way that does not meet the transfer rules
- you make new savings in a pension scheme
- you are enrolled in a new workplace pension scheme
- you've got fixed protection and the value of your pension pot in any tax year grows at a higher rate than is allowed by the tax rules — this is called 'benefit accrual'

How this applies depends on when you applied for fixed protection. See Q&A for further details

Questions and Answers

Q: How does 'Losing fixed protection' apply?

A: If your successful application was received before 15 March 2023, you will lose protection if you take any action mentioned in the 'Losing fixed protection' box, between 6 April 2016 to 5 April 2023.

If your successful application was received on or after 15 March 2023, you will lose protection if you take any action mentioned in the 'Losing fixed protection' box after 5 April 2023.

Q: Can a client register for both forms of protection?

A: Yes.

Where a client successfully registers for both, they will receive a Fixed Protection 2016 registration number and their Individual Protection 2016 will be dormant. If the client were to subsequently lose their Fixed Protection 2016, they would need to notify HM Revenue & Customs (HMRC) and obtain an Individual Protection 2016 registration number instead.

Q: Is there any cut-off date by which registration for these forms of protection must be received by HMRC?

A: Not currently.

information can be found via the following link ***https://www.gov.uk/guidance/pension-schemes-protect-your-lifetime-allowance***

Q: What information will HMRC require for both forms of protection?

A: HMRC's requirements differ, depending on the form of protection concerned. The boxes below summarise the requirements for both of them.

Fixed Protection 2016	*Individual Protection 2016*
Confirmation that client has not registered their pension savings previously for: – Primary Protection; – Enhanced Protection; – Fixed Protection 2012; or – Fixed Protection 2014, or that they no longer have any of these protections. No other information required.	Confirmation that client has not registered their pension savings previously for: – Primary Protection (including Enhanced Protection with dormant Primary Protection); or – Individual Protection 2014. Other information required, as applicable to each client's make-up of pension savings: The total capitalised value of the client's pension savings on 5 April 2016 (which must be over £1 million) and the breakdown of this figure into the following four component parts: (1) Capital value of pensions in payment that started before 6 April 2006 (A-Day). (2) The capital value of Benefit Crystallisation Events that have taken place on, or after, 6 April 2006. (3) The capital value of any uncrystallised pension savings. (4) The capital value of pension savings from non-UK pension arrangements.

This document is based on Quilter's interpretation of the law and HM Revenue & Customs practice as at May 2023.
We believe this interpretation is correct, but cannot guarantee it. Tax relief and the tax treatment of investment funds may change.

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