

The Rt Hon Lucy Frazer QC MP
Financial Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Wednesday 25 May 2022

Dear Ms Frazer

Pensions savings annual allowance and retention of key NHS employees

I am writing on behalf of the Association of Independent Specialist Medical Accountants (AISMA) and its members.

By way of background, AISMA is a network of 75 accountancy practices who provide accountancy and taxation advice to NHS GPs, consultants and other health professionals. The network acts for close to 50% of GP practices in the UK.

The pensions savings annual allowance tax charge mechanism has caused significant issues within the NHS, which are well publicised. This has led to a retention issue of key NHS employees and a reduction in work performed through reduced sessions worked.

While there has been a rise in the number of doctors employed, this is being offset by more doctors having to work fewer hours to avoid pension tax charges.

The changes to the tapering rules are welcome, but many doctors still have a pension tax charge.

Our specific concern now is around the impact of inflation and how doctors, particularly GPs, face punitive tax charges simply due to the current steep rise in inflation. The legislation as written does not cope with this scenario.

The issue for GPs

In summary, there is a disconnect between how inflation adjustments are calculated by HMRC, compared with how the NHS pension is calculated. The calculation is meant to ensure that pension growth simply resulting from inflation is disregarded. However, this is not the case.

Section 235 (3) of the Finance Act 2004 directs HMRC to uplift benefits by the Consumer Prices Index (CPI) in the September before the start of the tax year.

The NHS pension uplifts benefits using CPI in the September during the tax year.

Thus, for 2021/22 HMRC uses the September 2020 CPI figure for its calculations, while NHS Pensions uses the September 2021 CPI figure. For 2022/23 HMRC uses the September 2021 figure and NHS Pensions uses the September 2022 figure.

If inflation is level then the calculation is not impacted. However, with rising inflation there is some growth simply due to inflation. If we take 2022/23, HMRC will allow 3.1% (September 2021 CPI) yet NHS Pensions could well be using 10% if inflation peaks at that level in September 2022. This 6.9% difference will then cause deemed pension growth.

In years where inflation falls the calculation works the opposite way. The exception is when there is negative growth, when the rules deem the growth to be set at £nil.

The likely scenario is that there will be high pension growth in 2021/22 and 2022/23, followed by negative growth in 2023/24. This means GPs will be taxed heavily in the two earlier years but will receive no relief for the third year.

Inadequate pension records

The situation is further complicated by issues in the production of accurate pension records for GPs. In a [recent written response](#), Edward Argar MP confirmed that close to 20,000 pension records were inaccurate.

Without accurate pension records it is near impossible for a GP to self-assess their tax liabilities correctly. They therefore risk interest and penalties applying in incorrect estimates.

The impact

There are three immediate issues:

1. GPs could well end up paying tax simply due to inflation which was never intended by the legislation. The amounts modelled for an average earning GP are high.
2. In many cases the growth calculation will exceed the £40,000 threshold allowance available, simply due to the disconnect between the way inflation figures are calculated. GPs will therefore need to consider whether they wish to work additional shifts, for example in primary care network roles or for out of hours organisations. Some may decide to bring forward retirement.

Whilst GP numbers may not fall, the unintended consequence will be a reduction in the sessions they choose to work.

3. GPs are at risk of not being able to comply accurately with their self-assessment requirements through no fault of their own.

The pensions annual allowance tax charge therefore remains a significant barrier to retention of doctors to work sessions in the NHS at a time when the NHS arguably needs them most.

The solutions

In the short-term three actions could be taken:

1. Amend Section 235 (3) of the Finance Act 2004 so that the inflation measurement for NHS workers is aligned between HMRC and NHS Pension calculations. This will smooth out growth calculations to remove all inflation differences enabling fairer taxation but also making it easier to predict ahead.
2. Recognise years of negative growth and allow them to be carried back to the previous year to allow matching of tax charges to real growth over a longer period.
3. Allow NHS England and the devolved bodies to replicate the 2019/20 compensation scheme to protect clinicians from pension growth so that they are freed up to work at maximum capacity in the NHS.

In the longer term we recommend that the annual allowance legislation is reviewed. With the lifetime allowance now fixed, and with enhanced protection no longer available for GPs contributing to the scheme, there is an effective cap on tax relief through the lifetime allowance.

AISMA would be happy to discuss these issues in more detail.

However, we should emphasise that concern is mounting over perceived unfairness in the annual allowance tax, which could lead to the unintended consequence of doctors either reducing sessions or ultimately leaving the NHS altogether.

Regards

Andrew Pow

Director

cc Edward Argar MP, Minister of State (Minister for Health)