



Assets, Residence and Valuation team
HM Revenue and Customs
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By email to: ihonpensions@hmrc.gov.uk

Strictly private and confidential

Date: 15 September 2025

Dear Assets, Residence and Valuation Team,

**Technical consultation – Draft legislation - Inheritance Tax on pensions: liability, reporting and payment–
USS response**

The Trustee of the Universities Superannuation Scheme (USS) welcomes the opportunity to respond to the *Draft Finance Bill Measures – inheritance tax on pension interests etc.* technical consultation.

Firstly however, we would like to express our thanks to you and your colleagues for considering USS' response to the technical consultation which concluded earlier in 2025 and sharing a summary of those responses as well as the government's new proposals, both of which have addressed a number of the concerns raised in USS' letter dated 22 January 2025. Providing financially for the beneficiaries of members in the most upsetting and difficult times is exactly what USS is here to do and, had IHT been imposed on DB death in service lump sum payments, bereaved families and beneficiaries would have been facing additional difficulties and potentially being left worse off precisely when they needed support the most.

The updated proposals have removed some of these concerns, which is very positive, but we still have some questions which we have included in this letter. We are concerned that there are consequential issues related to the Government's direction that remain to be resolved – in our view, these leave members at risk of financial harm.

About USS

Universities Superannuation Scheme (USS) was established in 1974 as the principal pension scheme for universities and higher education institutions in the UK. We work with around 330 employers to help build a secure financial future for 577,000 members and their families. We are one of the largest pension schemes in the UK, being a hybrid pension scheme, with both a defined benefit (DB) part and a defined contribution (DC) part, and total assets under management of £76.8bn at 31 March 2025.

We set out our detailed comments in relation to the proposed legislation in section 2, before following on to provide in section 3 what we hope are some helpful comments in relation to the forthcoming information sharing requirements. However, we would like to first revisit the matter of the benefits covered and encourage further action to be taken.

Universities Superannuation Scheme Ltd

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1. Our remaining comments in relation to the application of Inheritance Tax (IHT) to pension scheme death benefits

Whilst we appreciate this is a consultation on the draft legislation governing IHT on pensions, we have taken the opportunity to again share some of the concerns raised in our initial letter dated 22 January 2025 in relation to some aspects of the proposed application of IHT to pension scheme benefits.

As well as paying benefits which support members in their retirement, and later their spouses and dependants, the USS Trustee (the Trustee) can pay discretionary lump sum benefits when a member dies. Generally the Trustee decides to whom these benefits are paid but members are able to make a non-binding nomination of potential beneficiaries (like in many other pension schemes). In relation to the defined benefit (DB) section of the scheme the most significant of these benefits which would still be caught by the proposed IHT changes are:

- **Death in deferment Lump Sum** - a discretionary lump sum death benefit is payable in respect of deferred members who have not attained Normal Pension Age (NPA) and therefore represents a benefit payable upon death during an individual's working lifetime. In 2024, the average age at death that gave rise to this benefit from USS was 53.
- **Death after retirement Lump Sum** – in the majority of cases, a discretionary lump sum is payable if death occurs within 5 years of the member's date of retirement. This lump sum seeks to ensure that the member (and their beneficiaries) receive a guaranteed minimum level of benefit post-retirement.
- **Death after incapacity retirement Lump Sum** – in some circumstances, in the event of the death before Normal Pension Age of a member who retired from service due to incapacity, a discretionary lump sum is payable (in addition to the death after retirement lump sum noted above). The purpose of this benefit is to allow members who are in a state of poor health to utilise their retirement benefits whilst alive and retain for their beneficiaries a further lump sum amount reflecting the amount payable had they died whilst an active member of the scheme. It would seem unreasonable if the tax system created a pressure for members who are unfit to continue in employment to forgo taking ill-health retirement in order to avoid additional complications for their families on their death.

It is therefore still our view that bringing the death benefits listed above into scope of IHT appears inconsistent with our understanding of the aim of the change (i.e. applying IHT to assets forming part of an estate which an individual was able to control for the purposes of estate planning) and will detrimentally impact members.

2. Response to the draft legislation

We set out our technical comments in relation to the proposed draft legislation below.

Section 150A (1)(a) of the Inheritance Tax Act 1984 (IHTA 1984)

The draft legislation stipulates that the value of "relevant death benefits" payable from a registered pension scheme will form part of the member's IHT estate. Section 150A (5) of this provision would indicate that this includes a pension death benefit, having the same meaning as FA04, Pt 4, Section 167 (c). Our understanding of the government's intention is for dependants' pensions to be out of scope of IHT (as noted in Section 150A (5) of the draft legislation). It is important that the legislation is absolutely clear as to what benefits should be included in the amounts given to the Personal Representative (PR) by the Pension Scheme Administrator (PSA) for the purposes of valuing the estate and so we recommend you consider the drafting here further.

Section 150A (6)(b) of the Inheritance Tax Act 1984 (IHTA 1984)

This draft legislation stipulates that a 'death in service benefit' is that payable upon the death of an active member of the scheme, with 'active member' defined under Part 4, section 151(2), FA04 as a person for whom there are presently arrangements made under the pension scheme for the accrual of benefits to or in respect of the person. We understand 'death in service benefit' to therefore include lump sum death benefits payable from a DC or DB arrangement, so long as the member met the definition of an 'active member' under FA04 at the time of their death. We would ask that you please make this clearer in the draft legislation or existing definition of 'active member'.

Section 226A (5), IHTA 1984

We note that, where an instruction is received from a beneficiary to pay an IHT liability to HMRC on a member's behalf, PSAs must do so within a period of three weeks beginning on the day the notification is received. A scenario could easily arise in which a PSA receives a notification prior to receiving all relevant documentation from the beneficiary to proceed with payment of the actual relevant death benefit. It is therefore important that HMRC's new scheme for notification will ensure that the beneficiary provides all available information required by PSAs to report the payment to HMRC – it will be helpful to have confirmation that will be the case. Please also confirm what recourse a PSA might have where there are discrepancies between the details provided on the notification and the information previously submitted by the beneficiary.

Full details as to how the new scheme will operate have not yet been published, and we reserve the right to address further concerns as to the timescales involved as part of the next stage of the consultation. We are concerned that details of the new scheme (both in respect of timescales and processes) may not be operationally deliverable or align with administrative best practice.

Section 226A (7), IHTA 1984

The draft legislation suggests that a beneficiary is not prevented from directing a PSA to pay an amount of Inheritance Tax in cases where the PR has already paid an amount of IHT on that same relevant death benefit (for example, where the total amount of IHT is greater than the amount that has already been paid by the PR in relation to the relevant death benefit). It is our understanding from HMRC's guidance that PSAs will not be involved with the amendments process. We are concerned that, by allowing beneficiaries to instruct a PSA to pay additional amounts of IHT, this could leave PSAs liable for an IHT payment after having discharged the full value of a relevant death benefit in question (initial IHT to HMRC, and remaining value to a beneficiary). It would also be our concern that permitting beneficiaries the option to be paid a lump sum death benefit in stages (i.e. reserving part of the lump sum death benefit to potentially cover a future IHT liability) would be operationally burdensome for PSAs and prove difficult to administer. Not least that this could increase the risk of the Trustee not being in a position to exercise their discretionary duties within the two-year period prescribed under existing legislation.

Full details as to how the new scheme will operate have not yet been published, and we reserve the right to address further concerns as to the processes involved as part of the next stage of the consultation. We are concerned that details of the new scheme (both in respect of timescales and processes) may not be operationally deliverable or align with administrative best practice.

Section 226A (9), IHTA 1984

Subsection (4) of this legislation indicates that PSAs have discretion not to pay an amount of IHT where the conditions in subsections (3)(a) and (b) have been met but the amount of IHT liability is less than £4,000. However, subsection (9), as it reads currently, would indicate that PSAs are legally required to make a

payment of IHT to HMRC on a beneficiaries' behalf where official notification has been received through HMRC's new scheme. We are supportive of the £4k limit introduced for these purposes. Imposing a lower limit, or none at all, would risk a potentially unworkable administrative burden, as well as larger costs and delay to the process being envisaged.

Please can you clarify the PSAs legal obligations in the event that a notification is received under subsection (2), meets the conditions of subsections (3)(a) and (b), but the amount of IHT liability is less than £4,000? It will be critical for PSAs, PRs and beneficiaries alike that the final scheme pays processes for beneficiaries are clearly set out in HMRC/Govt information pages, so that there is a clear line of communication as to liability for payment. It may be the case that pension schemes and PRs receive complaints from beneficiaries about this process should it go wrong in future, so ensuring clear communication from HMRC is accessible to the public will be helpful in managing this.

Section 226A (10), IHTA 1984

Please could you clarify whether PSAs will be required to calculate the interest due on any IHT tax payment if instructed to make the payment of IHT under subsection (2), and if so, confirm the rate of interest that would need to be applied.

Section 567 (5), Income Tax (Earnings and Pensions) Act 2003

This legislation stipulates the amount of pension income charged to Income Tax, and clarifies the deductions permitted from total pension income (TPI) subject to tax. This suggests that a deduction, in relation to a charge of IHT, can be made from TPI, preventing double taxation for example in instances where the Lump Sum and Death Benefit Allowance (LSDBA) is exceeded, marginal rate taxation where death occurs on or after age 75, or a Special Lump Sum Death Benefit charge has been paid.

At the point of notification of a member's death, PSAs would not be aware if a Special Lump Sum Death Benefit charge would be payable, or what portion (if any) of a relevant lump sum death benefit would be subject to marginal rate taxation, as whether tax applies is determined by the length of time to make the payment to the beneficiary (i.e. it will apply if payment is made outside two-year window from notification), or for deaths occurring after age 75 (i.e. it will apply if the payment is made directly to the LPR, but will be taxable at marginal rate if made to an individual beneficiary). Notably, PSAs are not required to make an assessment of the late member's LSDBA position and would therefore pay these benefits gross of tax.

We ask that the legislation and supporting guidance documents make clear what information PSAs should provide to a PR and the timescales for doing so. For example, within 4 weeks the PSA should provide: 1) the gross total value of all relevant death benefits payable (i.e. pensions and lump sums to exempt/non-exempt beneficiaries); within three months of payment of all relevant death benefits, the PSA should provide the PR with: 1) the amount of IHT paid, 2) the amount of any special lump sum death benefit charge, 3) the amount of relevant death benefit not subject to tax, 4) the lump sum and death benefit allowance utilised by the relevant death benefit. This will support PSAs with their information sharing requirements and assist the PR/beneficiaries with identifying the overall tax position.

Section 567B (2), Income Tax (Earnings and Pensions) Act 2003

This legislation details the amount to be deducted from TPI and suggests that, where the amount of the relevant death benefit is less than the IHT payable, this amount of relevant death benefit will be deducted from total pension income and therefore will not be subject to tax. Our reading of this is that, in this scenario, the IHT amount would be included in TPI, which could give rise to double taxation – is this correct?

Section 579CB (5), Income Tax (Earnings and Pensions) Act 2003

This legislation sets out the treatment of a refund of overpaid IHT. Please could you clarify what, if any, consequence would be if the initial relevant death benefit was paid as a lump sum to someone who was not a spouse/civil partner and does not meet the definition of a dependant under the Finance Act 2004? Although we understand that the PSA would not be making the payment (it will be made directly by HMRC to the beneficiary), it would not be an authorised pension payment under FA04 if paid to such an individual. Similarly, if it is a refund of overpaid IHT on a benefit that otherwise would not have been subject to income tax (i.e. a lump sum death benefit within the late member's remaining allowances) will the refund count towards the beneficiaries' TPI? Finally, who is deemed to have accrued the benefit (the late member? Beneficiary?) and what impact (if any) will this have on Annual Allowances/LSA/LSDBA? Should this not instead be treated as having become entitled to the pension amount?

3. Information sharing proposals.

We appreciate that a further consultation in relation to the forthcoming information sharing regulations will be due in the near future. However, following the publication of HMRC's recent guidance, we would wish to highlight some further concerns that might arise without further clarification so that these may be considered as part of the drafting of the forthcoming regulations/guidance.

i. Timing of initial information being shared with the PR

We note that the PSA would have four weeks in which to provide the PR with the value of any relevant death benefits, excluding those that relate to death-in-service benefits or dependent's scheme pension. As set out earlier in this response, it is unclear from Section 150A (1)(a) of the Inheritance Tax Act 1984 (IHTA 1984) what pension death benefits should be included in these initial values, as subsection (5) of this legislation appears contradictory.

It will prove challenging for PSAs to provide this information within the timeframe proposed, as the pension death benefits may not be fully realised until such time the Trustee has obtained the relevant information to determine if there is a surviving spouse/civil partner/financial dependant/eligible child and the values of the benefits (for example, where pension death benefits are payable to eligible children, the amounts may depend on the number of eligible children). In addition, the operational procedures of the relevant pension scheme may impact the timescales for obtaining benefit values – for example it is common for schemes to operate a single annual process for the calculation and application of revaluation amounts on all deferred or CARE benefits, and the timing of that in relation to the death may impact the ability to provide benefit values within the proposed short timescales.

We would also direct you to point ii. below and ask that guidance be provided to PSAs where it is unclear who is acting as the late member's PR. It may be that PSAs will require the late member's will/grant of probate/letters of administration in order to establish the certified PR which may take some time: how will the 4-week initial information sharing period operate where there is no clear PR?

ii. Determining an individual's status/appointment as a PR

Given that PSAs will be obliged to provide a great deal of member and beneficiary information to a PR throughout the process, what guidance will the government provide to PSAs to ensure the information required to assess IHT is being provided to the appropriate person where there is no will, letters of administration or grant of probate? What options do PSAs have where they are notified of a death by an individual who is not the PR, or there is conflicting information that suggests the individual claiming to be the PR has not been officially appointed?

iii. Providing beneficiary information to LPR

It remains our view that being required to provide sensitive personal beneficiary information (e.g. National Insurance Number, date of birth and address) to the PR goes against several principles of the Data Protection Act, such as purpose limitation, data minimisation and being fair and transparent. Sharing the information could also potentially lead to harm or distress to the individual if the PR became aware of beneficiary information (such as address) to which they were not previously privy.

In view of this, we would ask HMRC to instead require that PSAs/Trustees only provide minimal beneficiary information to the LPR (such as the beneficiary's relationship to the deceased and their entitlement) and instead require beneficiary information to be reported to HMRC at the point the IHT liability or relevant death benefit is paid. This would reduce the amount of information required by the PR from the member's various pension arrangements, which in turn could reduce the overall timescale for the IHT calculation to be completed.

4. In conclusion

Once again, thank you for considering our response to the previous consultation and for taking action on our concerns relating to death-in-service benefits. We still feel it is important that, if possible, HMRC reconsider the application of IHT to other pension scheme DB death benefits – again these do not appear to be the type of benefits the extension of IHT to pension schemes was intended to capture.

We hope that the points we have made above in relation to highlighting concerns with, or the need for clarification on, the draft legislation and operational processes proposed for IHT on pension scheme death lump sum payments are helpful. We would of course be happy to discuss these further with you if it would help.

Finally, we note that a number of workshops, presented by HMRC, discussing the proposed changes will be delivered over the forthcoming weeks and welcome the opportunity to attend these and share insight and feedback, in addition to the consultation on the draft information sharing requirements and proposed new government scheme for beneficiaries and PSAs, due in the near future. Should anything further come out of those workshops that we feel is relevant to this consultation, we will provide a follow-up letter reflecting those points.

Yours faithfully

Cefn Willis
Head of Pensions Policy
USS

