

Exploring

# Pensions

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## KEEPING PENSIONS IN THE FAMILY

### Mitigating the 'inheritance' tax of 82%

The Government's attitude to the inheritance of pension assets was made loud and clear with the changes formalised in the Finance Act 2007. In effect, we have seen the introduction of what could be described as a confiscatory level of tax of up to 82%, which will be applied to any residual assets left on the death of a scheme member and their respective spouse/partner where death occurs after age 75. Whilst the tax is made up of two components, an unauthorised payment charge and inheritance tax, it is truly difficult to understand the rationale behind its justification as it is so out of kilter with mainstream tax levels. It is very disappointing that this Government has failed to accept, or worse still, understand the advantages to both the State and individuals alike in creating the ability to pass on a 'ready-made' pension fund to family, particularly in light of the growing long-term savings gap.

In the longer term, many feel this level of tax will simply not stand the test of time with successive governments adopting a different attitude. Indeed, there may be mounting legal pressure on the subject, coming under a number of guises, one of which is age discrimination. This is on the basis that where death occurs prior to age 75, the tax is much lower at 35%, rising to the higher level post-age 75 as a consequence of the member's age, which is arguably discriminatory. However, with the current economic crisis the likelihood of easing the tax burden is beginning to feel remote.

### Our strategy/solution

In the meantime, we have developed a number of strategic options to assist clients in mitigating this problem, particularly where capital preservation and inheritance are key drivers. One technique in particular uses a long-established variation to income drawdown. When coupled with appropriate restructuring, it becomes possible to substantially reduce the tax liability on death by creating a mechanism by which any residual capital is paid over a period of time as income to a couple's beneficiaries, subject only to the recipient's rate of income tax instead of 82% tax. Crucially, these beneficiaries do not need to be financially dependent, and can therefore be any person(s), including adult children or grandchildren.

This type of planning is available for our SSAS clients, provided appropriate inclusions are made to such schemes' trust documentation. Ordinarily, this variation on income drawdown is not available through mainstream SIPPs, and as such we have developed an individually tailored and flexible arrangement known as our 'Family SIPP', to cater for our SIPP clients who have a specific need for this type of strategy.

We are happy to provide a more detailed explanation of the mechanics of this area of planning, and discuss typical client scenarios.

*Article by Murray Smith – April 2009*