

Death Benefits

This leaflet explains

- The effect of legislation on the payment of death benefits
- Possible tax liability for anyone receiving death benefits and
- The responsibilities for **Personal Representatives**.

A **Personal Representative**, in relation to a person who has died, is responsible for administering the estate of the deceased.

Death Benefits

This leaflet covers the position on death where there is an uncrystallised death benefit. An uncrystallised death benefit arises where death has happened before the pension fund has been put in to payment for the deceased.

Death benefit payments

From 6 April 2024, the Lump Sum and Death Benefit Allowance (LSDBA) was introduced.

This is a limit on the amount of lump sum death benefits and serious ill health lump sums that can be paid without tax. The standard LSDBA allowance is £1,073,100. A higher LSDBA allowance may apply if an HM Revenue & Customs (HMRC) certificate of protection is held. The LSDBA could be reduced if any previous pension entitlement has been taken.

There may be income tax due where the total death benefits from all pension plans exceeds the deceased person's available LSDBA.

Further details about this new allowance can be found on pru.co.uk/tax

Two year timescale

There will be tax implications where death benefits are not paid within two years of the earlier of,

- The day the Scheme Administrator first knew of the death; and
- The day the Scheme Administrator could first reasonably have been expected to know of the death.

Death on or after age 75

Any death benefits paid out on or after age 75 are taxable at the recipient's marginal rate.

Death Benefits over the LSDBA

Importance of this leaflet

Anyone receiving a death benefit from a pension plan (a beneficiary), may have some tax to pay if the total death benefits are over the deceased's available LSDBA.

If you are a Personal Representative, you have special additional responsibilities to report lump sum benefit payments over the available LSDBA to HMRC.

If you think the deceased may have exceeded their LSDBA, you should read this leaflet.

Questions & answers for Personal Representative

Q. Why is there tax due on death benefits paid from pension funds?

A. Currently, there is a limit on the lump sum death benefits that can be paid from pension schemes called the Lump Sum and Death Benefit Allowance. Where the total lump sum death benefits payable from pension plans, together with any tax-free lump sums taken during the deceased's lifetime are over this allowance, income tax may be payable. In practice, this tax should not affect many people.

Where lump sum death benefits exceed the available allowance and this excess amount is paid as a lump sum within two years of notification of the client's death, this will be taxed at the marginal rate of the beneficiary receiving the lump sum.

Any benefit used to provide pension income for a dependant or nominee of the deceased, will not be subject to the LSDBA. The recipient would be subject to income tax on the pension income they receive. So tax may be reduced by choosing the income option for some/all of the amount in excess of the deceased's LSDBA. See further details in this leaflet of the tax applicable.

Q. Did the deceased take any pension benefits between 6 April 2006 and 5 April 2024, but no other tax-free lump sums have been paid since this date?

A. If yes and you think the deceased may have taken less than 25% tax-free cash from these pension benefits and the lump sum death benefits together with the tax-free lump sums taken may be close or go above the LSDBA, you should consider applying for a transitional tax-free amount certificate. The transitional tax-free amount certificate could give the deceased a higher remaining LSDBA allowance compared to the standard default calculation. This will need to be completed before you claim any lump sum death benefits for the deceased. Further details about the certificate can be found on pru.co.uk/tax

Q. What about Inheritance Tax?

A. Pension funds do not normally attract Inheritance Tax. However, Inheritance Tax may apply where the scheme administrator has no discretion on who benefits are paid to on death. Also, it could apply where someone who is expected to live less than two years:

- alters the term of their pension contract, or
- makes unusually large contributions, or
- assigns benefits into trust
- transfers benefits from one scheme to another

Inheritance Tax and Pensions is a complicated area and independent advice from a solicitor, tax or financial adviser is recommended if you believe Inheritance Tax may apply.

Q. Are there any other tax charges?

A. If benefits are not paid within two years of notification of death (as referred to earlier in this leaflet), these will be subject to tax.

If the death benefit is used to buy an annuity or is designated to drawdown, income taken will be subject to the recipient's marginal rate of tax.

If paid as "an Uncrystallised Funds Lump Sum Death Benefit" after 5 April 2016, payments will generally be subject instead to the recipient's marginal rate of tax, but see below.

The tax the Scheme Administrator will deduct from this lump sum may differ if it is to be paid to a "non qualifying person" i.e. the person is not an individual, or they are an individual and the payment is made to them in their capacity as a trustee, a personal representative, a director of a company, a partner in a firm or a member of a limited liability partnership. Please contact us for more information if this is the case.

Questions and answers for those who receive a death benefit

Q. Will I have to pay any tax?

A. Where a death claim is settled within the two year timescale (see page 1 for further details) and death occurred prior to age 75: Income tax is only payable where there is a LSDBA excess and the benefits are taken as a lump sum. Each person who receives a lump sum is responsible for their share of any income tax due.

A. Where a death claim is settled outside of the two year timescale: Any death benefits not settled within the two year timescale (see page 1 for further details) will not be tested against the deceased's LSDBA, however, the recipient will pay income tax at their marginal rate on payments received.

A. Where a death occurred on or after age 75: Any death benefits paid out on or after age 75 will not be tested against the deceased's LSDBA, however, the recipient will pay income tax at their marginal rate on payments received.

There may also be, in exceptional circumstances, a liability for Inheritance Tax on the estate. For more details about charges including where payments aren't made to a qualifying person i.e. the recipient is not an individual, please refer to [gov.uk](https://www.gov.uk)

Q. How will I know if the LSDBA has been exceeded?

A. The Personal Representative must check to see if the deceased member has exceeded their LSDBA.

To do this, the Personal Representative can request, from each pension scheme and provider details of how much of the deceased's LSDBA:

- has been used, where lump sum pension benefits were taken before their death; and/or
- will be used, where benefits are due to be paid following their death.

The pension scheme or provider must provide information to enable the amount of LSDBA that has been used to be calculated. They will provide information to enable the amount of LSDBA that has been used to be calculated. To assist the Personal Representative, a new form has been created by HMRC and will be available from 6 April 2024 on [gov.uk](https://www.gov.uk)

Q. Will Prudential be able to tell me if the LSDBA has been exceeded and a tax charge is due on any lump sum entitlement?

A. No. HMRC rules mean the responsibility for this lies with the Personal Representatives. Whilst Prudential are aware of the benefits we are paying, we have no knowledge of benefits the deceased may have elsewhere.

Q. Why is it the beneficiaries who pay the tax?

A. The Government decided that, if tax is due, each person receiving death benefits must pay the appropriate share of the tax due.

Questions & answers for Personal Representatives

Q. As a Personal Representative who is responsible for paying any tax which is in excess of the LSDBA?

A. It will be the responsibility of the deceased member's Personal Representative to provide the relevant information to HMRC who will then determine if any income tax is payable by the beneficiaries.

Q. What are our responsibilities?

A. The Personal Representative must check to see if the deceased member has exceeded their LSDBA.

To do this, the Personal Representative can request, from each pension scheme and provider details of how much of the deceased's LSDBA:

- has been used, where lump sum pension benefits were taken before their death; and/or
- will be used, where benefits are due to be paid following their death.

The pension scheme or provider must respond within three months of the request. They will provide information to enable the amount of LSDBA that has been used to be calculated. To assist the Personal Representative, a new form has been created by HMRC and will be available from 6 April 2024 on gov.uk

Q. Where will I get the information to check for a LSDBA excess?

A. You'll get details from the pension provider/scheme that paid any pension benefits. The deceased's personal papers may also help.

Q. Will I need special authority to get information about the pension funds.

A. No, registered pension schemes and pension providers must give Personal Representatives information about the deceased's pension plans to work out if any tax is due.

The scheme or company will need to be satisfied that you are the Personal Representative.

Q. What benefits need to be taken into account?

A. **Death benefits:** The total value of uncrystallised death benefits payments from registered pension schemes, including individual pension plans.

Pension/lump sum benefits crystallised prior to date of death:

Any amounts already vested/crystallised e.g lump sums, annuities, drawdown arrangements must be taken into account.

Q. Are any benefits excluded from the LSDBA?

A. State pensions and any pension being paid to the deceased as a result of someone else's death should be ignored. The LSDBA test can be complex. If you think benefits could exceed the LSDBA, you may wish to seek specialist financial advice and/or refer to gov.uk

Q. Is the LSDBA the same for everyone?

A. No, some people may have different allowances, for example, if a HMRC certificate of protection is held.

Q. How will we know if benefits have been protected?

A. The deceased should have a certificate from HMRC if protection applies. You could contact HMRC and ask them if you are uncertain whether protection applies.

Q. If there is a chargeable amount, what happens?

A. You will need to give the following details to HMRC:

- that the deceased had pension rights in excess of the lump sum and death benefit allowance.
- the name of the Registered Pension Scheme or individual plan that paid death benefits
- the name and address of the scheme administrator
- the name of the deceased member and their NI number
- the name of the beneficiary(ies) and their NI number(s)
- the chargeable amount i.e. The value of the death benefits over the lump sum and death benefit allowance.
- the amount(s) and date(s) of payments under each scheme/plan.

To assist the Personal Representative, a new form has been created by HMRC and will be available from 6 April 2024 on gov.uk

Questions & answers for Personal Representatives continued

Q. When do we need to inform HMRC and how do we do this?

- A. Personal Representatives should provide the information about the chargeable amount to HMRC within:
- 13 months of the death or, if later,
 - Within 30 days of becoming aware that there is a chargeable amount.

HMRC guidance says that, where the requirement to provide the information arises later, the reporting period is extended to 30 months starting with the date of death. Where Personal Representatives do not discover the relevant information until more than 30 months after the death, the period for reporting is extended to three months following the discovery of the information. There will be penalties for late reporting.

You should give HMRC these details, in writing, to:

**Pension Schemes Services
HM Revenue & Customs
BX9 1GH**

Q. What happens after we've given the details to HMRC?

- A. HMRC will get details of the beneficiaries from all the schemes/providers concerned and then work out how much tax is due from each beneficiary.

HMRC will then contact the beneficiaries to arrange for payment of the tax.

Any advice you take will be at your own cost

There is information on the general responsibilities of personal representatives on [gov.uk](https://www.gov.uk)

Information on the pension rules can also be found on [gov.uk](https://www.gov.uk)

This leaflet is based on our current understanding as at April 2023 of current taxation legislation and HM Revenue & Customs practice, all of which are liable to change without notice. The impact of taxation (and any tax reliefs) depends on individual circumstances. It is not intended to provide legal advice and we recommend that readers obtain specific legal advice before taking any action.