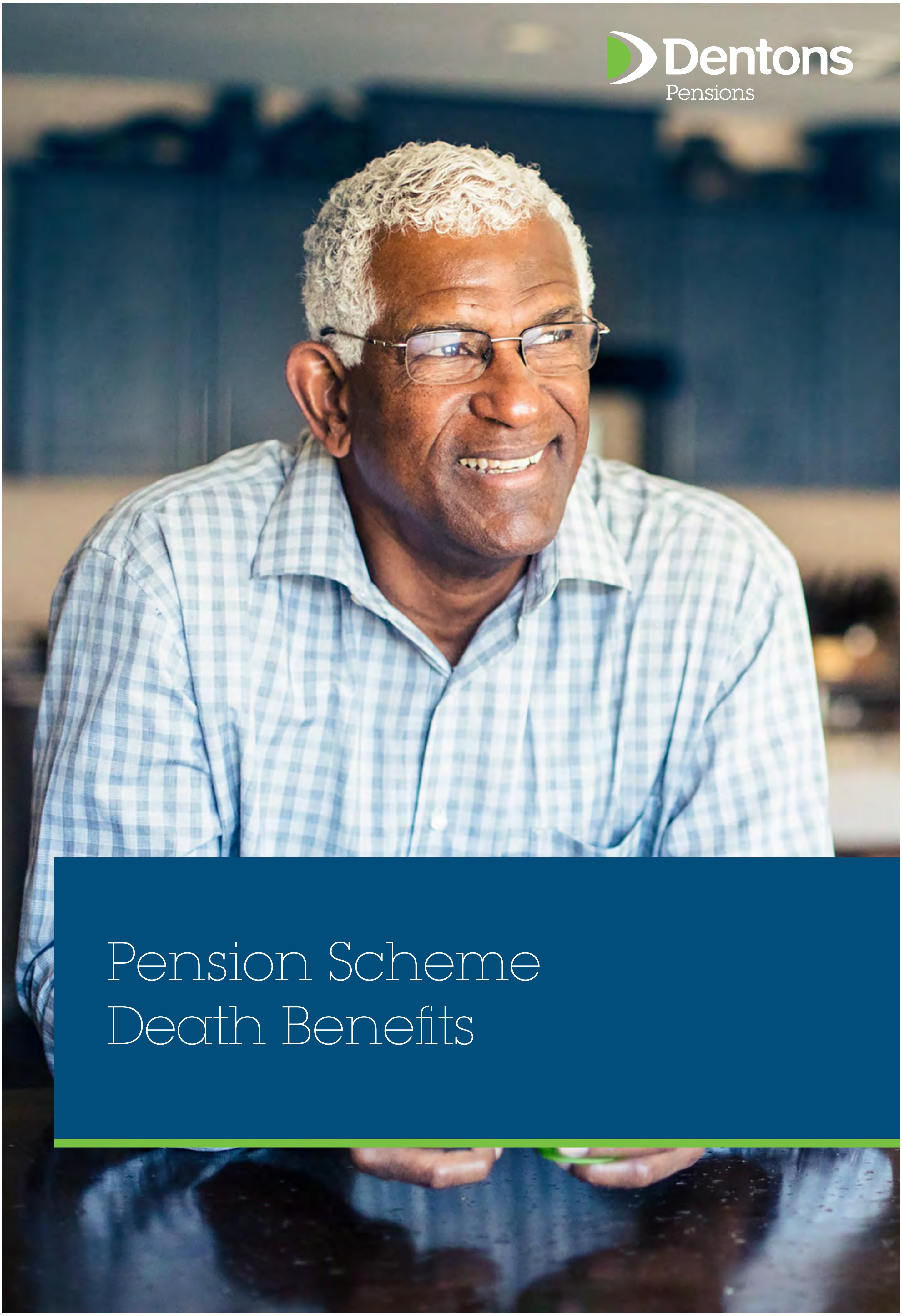

Dentons
Pensions

Pension Scheme Death Benefits

Capability. On every level.

Foreword from Dentons.

This document outlines what happens to a member's self invested pension fund on their death.

This guide has been prepared to cover the main points in relation to death benefits in respect of Self Invested Personal Pensions (SIPPs) and Small Self Administered Schemes (SSASs). We hope you will find it useful.

Contents.

Dentons is an independent self invested pension provider with over 40 years' experience. Dentons provides administration services for SIPPs and SSASs for over 8,000 SIPPs and nearly 1,400 SSASs, with in excess of £7.7 billion assets under administration and over 3,750 commercial properties.

Our self invested pensions put clients in control, offering considerable flexibility through a wide range of asset choices and retirement benefits. With our personalised and award winning service, we can tailor how we work with advisers and direct clients to achieve a client's retirement objectives.

What happens to a member's pension fund when they die?

The basic answer to this question is that the Scheme Trustee uses the member's pension fund (together with any life assurance that the pension scheme trustees had taken out in relation to the member) to provide the member's beneficiaries with benefits in accordance with the pension scheme rules and HM Revenue & Customs (HMRC) legislation.

As the Dentons' SIPPs and SSAS pension scheme rules provide for the Scheme Trustee (who in the case of a SSAS is all of the Trustees) to decide, at their absolute discretion, who to pay benefits to and how much, there will normally be no inheritance tax consequences in relation to making those benefit payments.

HMRC might consider applying inheritance tax where the member had been in ill health in the two years prior to their death and during those two years:

- greater contributions than usual had been paid to their pension scheme, or
- they had transferred their benefits from one pension scheme to another to get the benefit of more flexible death benefit provisions (e.g. from a defined benefit scheme to a SIPP or SSAS).

Whether there will be any other tax consequences will depend on how old the member was when they died, whether they had taken any retirement benefits and how much lifetime allowance* they had left.

Beneficiaries, once selected, can choose in what form they wish to receive benefits.

Funds designated to drawdown from 6 April 2015 onwards, will be through flexi-access drawdown which enables clients to take advantage of the greater freedoms available with no limit on the income levels that can be taken.

Who can benefit from a member's pension fund?

As mentioned on the previous page, the Scheme Trustee has absolute discretion when deciding to whom to pay death benefits. However, the member should have completed and lodged with the Scheme Trustee a nomination form, indicating whom the member would like the Scheme Trustee to consider as beneficiaries.

The nomination form is not binding on the Scheme Trustee but they will take account of it as part of their procedures for choosing the beneficiaries.

The member should ensure that the nomination form lodged with the Scheme Trustee is always up-to-date with details of those they wish to be beneficiaries.

The range of potential beneficiaries includes the following:

- the member's spouse or civil partner, other dependants, children, grandchildren etc.
- any individual included in the member's nomination form
- any individuals entitled under the member's will to any interest in the estate
- any persons the member knew before their death who the Scheme Trustee in its absolute discretion decides the member would have wished to provide for after their death
- entities such as a trust or a charity
- the member's legal personal representatives.

The following are a member's dependant:

- the member's spouse or civil partner at the date of the member's death or at the date the member first became entitled to benefits under the pension scheme
- a child or adopted child of the member under the age of 23 when the member died
- a child or adopted child of the member aged 23 or over who, in the opinion of the Scheme Administrator, was dependent on the member because of physical or mental impairment when the member died
- any other individual who, in the opinion of the Scheme Administrator, was financially dependent on, or interdependent with, the member when the member died, or was dependent on the member because of physical or mental impairment when the member died.

What benefits can the Scheme Trustee provide?

The Scheme Trustee can provide lump sums and drawdown pensions and buy annuities from insurance companies.

Lump sums

The Scheme Trustee can pay lump sums to any selected beneficiary including individuals, trusts, the member's estate and charities.

Drawdown pensions

Drawdown pensions can be provided to the member's dependants and other individuals who have been included in the member's nomination form. Such individuals are 'nominees'. However, where a nomination has not been made, drawdown pensions can be paid to a spouse or other dependant, or if there are none, the Scheme Administrator can nominate who receives the drawdown pension.

A SIPP beneficiary who opts for a drawdown pension must transfer their drawdown funds to another pension scheme either with Dentons or another provider.

Annuities

The Scheme Trustee can only buy annuities from an insurance company for the member's dependants and nominees. Where the member had no surviving dependants or nominees, the Scheme Trustee can buy annuities for individuals chosen by the Scheme Administrator.

What are the tax consequences of providing benefits?

There may be no tax consequences if the member dies before their 75th birthday. However, if they die on or after their 75th birthday, there will be tax consequences.

Member dies before their 75th birthday

Lump sums

Unless any of the member's remaining pension funds are subject to a lifetime allowance charge*, lump sum payments, whether from uncrystallised funds or drawdown funds (also known as crystallised funds) will be tax-free, provided the member is under 75 at the date of death and the funds are paid within two years of the date on which the Scheme Administrator was, or ought to have been, aware of the member's death.

Uncrystallised funds are those the the member had not designated to provide retirement benefits.

Drawdown funds are those that the member had already designated to provide retirement benefits.

Lump sums not paid within the two-year period cannot be subject to a lifetime allowance charge* but they are taxable at the rate relevant to the recipient:

- where the recipient is an individual at their relevant income tax rate
- where the recipient is an entity such as a trust, the member's estate or charity at the special tax rate of 45%.

A trust may be able to claim back some of this 45% tax charge when it makes a subsequent payment to a beneficiary of that trust, depending on the beneficiary's marginal rate of tax.

A charity will be exempt from the 45% tax charge if the payment qualifies as a 'charity lump sum death benefit', the conditions for which are:

- there are no dependants of the member
- the payment is made from drawdown funds
- the member included the charity in their nomination form.

*From 6 April 2024 the lifetime allowance will be removed completely however this will happen in a future Finance Bill and is not part of the Finance (No. 2) Bill date 23 March 2023.

What benefits can the Scheme Trustee provide? continued...

Drawdown pensions

If a SIPP beneficiary has opted for pension drawdown income and transferred those benefits to their own SIPP or SSAS with Dentons, the beneficiary can indicate how they would like the Scheme Trustee to distribute any of those benefits remaining when he or she dies.

Unless the member's remaining pension funds are subject to a lifetime allowance charge*, drawdown pension payments to beneficiaries will be tax-free, as long as the member is under age 75 at the time of death and provided that where the member's remaining pension funds include 'unused uncrystallised funds', the beneficiary designates them as drawdown funds within two years of the date on which the Scheme Administrator was, or ought to have been, aware of the member's death.

Annuities

Unless the member's remaining pension funds are subject to a lifetime allowance charge, annuity payments by an insurance company to beneficiaries will be tax-free, as long as the member is under age 75 at the time of death and the annuities have been bought within two years of the date on which the Scheme Administrator was, or ought to have been aware of the member's death.

Member dies on or after their 75th birthday

Lump sums

Lump sums, drawdown pensions and annuities to individuals, are taxable at the individual's relevant rate of income tax.

Lump sums to entities such as a trust, the member's estate or a charity, are taxable at the special rate of 45%.

A charity will be exempt from the 45% tax charge if the payment qualifies as a 'charity lump sum death benefit', the conditions for which are:

- there are no dependants of the member
- the payment is made from drawdown funds
- the member included the charity in their nomination form.

Drawdown pensions

As pension drawdown income can only be paid to individuals, beneficiaries who opt for flexi-access drawdown would need to transfer their funds to an existing pension scheme of which they are a member, or establish a new pension scheme (either with Dentons or another provider that can accept such funds).

Such pension drawdown income payments are assessable income for tax purposes.

Annuities

Alternatively, they can use their funds to buy a pension income in the form of an annuity with another provider.

The Scheme Trustee can only buy annuities from an insurance company for the member's dependants and nominees. Where the member had no surviving dependants or nominees, the Scheme Trustee can buy annuities for individuals chosen by the Scheme Administrator.

Such pension income payments from an annuity are assessable income for tax purposes.

Please note: *If the member had deferred their entitlement to tax-free retirement lump sum (also known as a 'pension commencement lump sum') until after their 75th birthday and died before taking it, the tax-free lump sum would no longer be available and would remain part of the pension fund for distribution to the member's beneficiaries in accordance with the above rules.*

What happens when a beneficiary with drawdown funds dies?

For a beneficiary of a Dentons SSAS, or a beneficiary who transfers their funds to a SIPP with Dentons, the following conditions will apply.

The beneficiary should have completed their own nomination form, so that the Scheme Trustee can take account of it when using its discretionary powers to pay benefits.

Beneficiary dies before their 75th birthday

Lump sums

Lump sums to anyone are tax-free provided they are paid within two years of the date on which the Scheme Trustee was, or ought to have been, aware of the beneficiary's death.

Lump sums not paid within the two-year period cannot be subject to a lifetime allowance charge* but they are taxable at the rate relevant to the recipient:

- where the recipient is an individual - at their relevant income tax rate
- where the recipient is an entity, such as a trust, the member's estate or a charity - at the special tax rate of 45%.

A trust may be able to claim back some of this 45% tax charge when it makes a subsequent payment to a beneficiary of that trust, depending on the beneficiary's marginal rate of tax.

A charity will be exempt from the 45% tax charge if the payment qualifies as a 'charity lump sum death benefit', the conditions for which are:

- there are no dependants of the original member
- the payment is made from drawdown funds
- the beneficiary or original member had included the charity in their nomination form.

Drawdown pensions and annuities

These are payable only to individuals nominated by the beneficiary (and known as the original member's 'successors') and/or a dependant of the original member and are tax-free.

Where there are no successors and no surviving dependants of the original member, the Scheme Trustee can provide drawdown pensions and annuities to a successor nominated by the Scheme Administrator.

There are no lifetime allowance issues*.

Beneficiary dies on or after their 75th birthday

Lump sums, drawdown pensions and annuities to individuals, are taxable at the individual's relevant rate of income tax.

Where there are no successors and no dependants of the original member, the Scheme Trustee can provide drawdown pensions and annuities to a successor nominated by the Scheme Administrator.

Lump sums

Lump sums to entities such as a trust, the beneficiary's estate or a charity, are taxable at the special tax rate of 45%.

A charity will be exempt from the 45% tax charge if the payment qualifies as a 'charity lump sum death benefit', the conditions for which are:

- there are no dependants of the original member
- the payment is made from drawdown funds
- the beneficiary or original member had included the charity in their nomination form.

Drawdown pensions

As pension drawdown income can only be paid to individuals, successors who opt for flexi-access drawdown would need to transfer their funds to an existing pension scheme of which they are a member, or establish a new pension scheme (either with Dentons or another provider that can accept such funds). Such pension drawdown income payments are assessable income for tax purposes.

Annuities

The Scheme Trustee can only buy annuities from an insurance company for the member's dependants and nominees. Where the member had no surviving dependants or nominees, the Scheme Trustee can buy annuities for individuals chosen by the Scheme Administrator.

Such pension income payments from an annuity are assessable income for tax purposes.

Summary

We hope that you have found this document helpful as a guidance to how a member's self invested pension fund is treated on their death. If you have any further questions around any of the content discussed in this document, please contact your local Dentons Sales team member as outlined below.

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