

Talking Points

For adviser use only. Not approved for use with clients

[Forward to a Friend](#) | [Contact me now](#) | [Illustration tool](#) | [Download literature](#) | [Case studies](#)

In this Talking Points:

[When is a refund not a refund?](#)

There are likely to be a number of people in the UK caught out by anti-forestalling, knowingly or unknowingly. For example, those that have not read the small print may not realise that it is not just salary that is used in the calculation to determine if earnings are over the limits. In addition if a client moves employer and the new pension scheme is not on a like for like basis (such as the original scheme being an EPP and the new scheme being a SIPP) then they will lose their protected pension input amount. So further contributions may quickly exceed the special annual allowance and tax charges will subsequently apply.

For those inadvertently caught, and not wishing to contribute with only basic rate relief as the rules demand, then there has always been the option to refund the contribution. It has come to our attention that this may not be the best option, to the extent that in the long run the decision could end up costing the client money.

HMRC have confirmed to Suffolk Life that pension investors who take a contribution refund due to being caught by the anti-forestalling rules could lose up to 12.5% of their initial contribution. Some high earners will have been caught by the anti-forestalling measures in the tax year 2009/10 and paid contributions in excess of their special annual allowance. They will be penalised for taking a contribution refund rather than leave the contribution in the scheme.

The contribution refund can only be paid in the tax year following the year in which the contribution was paid, unfortunately HMRC have changed the level of the tax charge on the refund. The tax charge is linked to the higher rate of tax applicable to Short Service Lump Sum payments, which increased to 50% from 40% in 2009/10. However, even if left in their scheme it will have effectively only received basic rate tax relief – in itself a penalty of sorts. For a significant number of people this will only come to light when considering if they should request a refund whilst completing their tax returns, given the deadline of the 31st January.

HMRC have confirmed the following example.

An investor earns £135,000 and was not aware that the level of income to be caught by anti-forestalling had reduced to £130,000 in December 2009. The investor makes a net contribution of £8,000 into their pension scheme in January 2010. The scheme reclaims 20% tax relief (giving a gross contribution of £10,000) and the investor claims a further 20% (£2,000) through self assessment.

Scenario 1 – no refund claimed

The special annual allowance charge applicable would be charged at 20% because the investor is a 40% tax payer. This cancels out the higher rate relief leaving the investor with just basic rate tax relief. So the gross contributions of £10,000 is retained by the SIPP but no higher rate relief is received.

Scenario 2 – refund claimed

The scheme pays a tax charge of 50% of the gross contribution, only returning £5,000 to the investor, which together with the higher rate reclaim totals £7,000. This leaves the investor £1,000 out of pocket – 12.5% of the original contribution is lost.

Our view

A seemingly endless series of short-term changes to the long term savings vehicle of pensions has resulted in many anomalies, of which this is just one example. The next series of changes concerning new drawdown options seem sensible, as does the forthcoming consultation on early access to pension funds. Let's hope that the next certainty for pensions will be that there won't be any further changes, allowing advisers and investors to plan for the future with confidence.

[How has this impacted on your client base?](#)

Category: Survey | Source: Survey Monkey

Why not tell us about your clients' experience of anti forestalling by answering a couple of short questions.

[Complete survey now!](#)

