



simply pensions

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➔ Finance Act 2004 scheme administrator

Here we give information for trustees of money purchase schemes about the new role of scheme administrator, and the duties and responsibilities attached to it.

From 6 April 2006, every registered pension scheme will have to have a registered scheme administrator. This is a new role, carrying with it numerous duties and responsibilities. It does not mean someone simply acting in an administrative capacity for the scheme.

The registered scheme administrator will be jointly liable for paying tax (and any interest on that tax) due from the scheme administrator, as well as carrying out other duties.

For existing schemes like yours, the Revenue will automatically assume that you, as trustees, are the scheme administrator from 6 April 2006, unless you tell them otherwise.

Who can be the scheme administrator?

Exactly who can be scheme administrator of your scheme will depend on what your scheme rules allow. However, in general terms, if your scheme has individual trustees, you may not all need to be the scheme administrator: you may be able to decide amongst you which one or more of you is to carry out the role. If you do not want any of the trustees of your scheme to be the scheme administrator, you may be able to appoint someone else to the role.

Whatever you decide (within the provisions of your rules), the scheme administrator must:

- be one or more named individuals, or a corporate body
- be resident in the UK, the EU or a non-member European Economic Area (EEA) state
- have made the 'required declaration' to the Revenue

The required declaration to the Revenue means that the person or persons registering as scheme administrator must confirm that they:

- understand they will be responsible for carrying out the duties of the scheme administrator
- intend to carry out those duties at all times during which they are resident in the UK, the EU or a non-member EEA state

Ceasing to act as scheme administrator

If a person ceases to act as scheme administrator, they must inform the Revenue within 30 days of their appointment being terminated. However, the outgoing scheme administrator (unless this was an individual who has died, or a corporate body that has been wound up) will remain liable until another scheme administrator has been registered, unless the Revenue discharges them from the liability.



What happens if there is no registered scheme administrator?

De-registration of a pension scheme

The Revenue can de-register a pension scheme if it does not have a registered scheme administrator. If so, a tax charge of 40% of the scheme's assets would apply.

So, it is important that, if the registered scheme administrator ceases to act (for example, because they no longer meet the eligibility conditions), a replacement scheme administrator is registered with the Revenue immediately. Remember though, as above, the outgoing scheme administrator (unless this was an individual who has died, or a corporate body that has been wound up) will remain liable until another scheme administrator has been registered, unless the Revenue discharges them from the liability.

Assumption of liability

If:

- there is no registered scheme administrator, or
- the registered scheme administrator cannot be traced, or
- the Revenue considers the registered scheme administrator to be in serious default, and
- no previous scheme administrator remains liable,

liability will fall to the first available person from the following list:

- one or more of the scheme's trustees who are resident in the UK
- one or more persons who control the management of the pension scheme
- any one or more of the persons who established the scheme, or any one or more of the persons who directly or indirectly succeeded them
- any sponsoring employer if the scheme is an occupational pension scheme
- any one or more of the scheme's trustees who are not resident in the UK

Scheme members becoming liable

If no one can be found from the above list, or the Revenue considers the replacement to be in serious default, liability will fall to the individuals who were scheme members during the last three years. Each such person will become liable for a share of any outstanding tax and/or interest due, as well as being responsible for other duties and obligations.

The Revenue can consider the scheme administrator to be in serious default if:

- they have failed to pay a substantial amount of tax (or interest on the tax) due from the scheme administrator
- they have failed to give it certain information, and the failure is significant
- any information contained in the application to register the scheme is materially incorrect
- any declaration given to it by the scheme administrator is materially false

Scheme administrator's responsibilities

The scheme administrator of your scheme will be responsible for:

- registering:
 - for access to the Revenue's online reporting system
 - to operate relief at source and claim tax relief
- accounting for, and paying, tax
- making returns of information to the Revenue
- providing information to scheme members and others

A further point to note here is that the position may change over time (for example, the Revenue could arrange for different duties to become part of the legislation). A scheme administrator will need to keep a watching brief on the requirements.

Reporting to the Revenue

Registering for access to the Revenue's online reporting system

From no earlier than 6 October 2006, all forms being sent by the scheme to the Revenue, and all tax payments, will have to be made online. Until that time, the scheme administrator will be able to make reports and payments either by paper or through the online system (although there may be some reports that will have to be made by paper for a short period following 6 April 2006). The Revenue will decide the cut-off date, and will provide this information on its website.

To be able to access the online system, the scheme administrator will first have to register through the 'Government Gateway'. The Revenue will provide information on its website about registering to use the online system. The full online system will not be available until some time after April 2006.

Registering to operate relief at source and claim tax relief

The scheme administrator of a registered pension scheme operating a 'relief at source' basis for members' contributions will have to register this with the Revenue. Occupational pension schemes, like yours, normally operate a 'net pay' arrangement rather than a 'relief at source' arrangement. Registration will be done through the online reporting system. The scheme administrator will have to provide details of the bank account into which tax repayments are to be made, together with details of the persons authorised to sign the tax repayment claims.

Even if a scheme is already operating on a 'relief at source' basis, the scheme administrator will have to register under the new system.

Accounting for, and paying, tax

The scheme administrator:

- will be liable for tax due on any:
 - authorised surplus payments
 - short service refunds
 - special lump sum death benefit payments
 - authorised surplus payments to a sponsoring employer
 - scheme sanction charge
 - de-registration charge
- and
- will be jointly liable with the individual for the tax charge on a payment above the available lifetime allowance (other than on death, when the tax liability falls on the recipient of the benefit)

The scheme administrator will have to make a return to the Revenue for any quarterly period if they have incurred a tax liability. The return must be made within 45 days of the quarter end, using the Accounting for Tax form on the online reporting system. Any tax due should be paid at the same time. Interest will be added to any amount not paid by the due date.

If the scheme administrator does not pay the correct level of tax when the return is made, the Revenue can serve them with a tax assessment. Any tax due under the assessment must be paid within 30 days, unless it relates to an unauthorised payment or surcharge on an unauthorised payment, in which case it must be paid by the later of:

- the 31 January following the end of the tax year in which the payment was made, and
- thirty days of the assessment being raised by the Revenue

Interest will be added to any amount not paid by the due date.

Failure to submit a quarterly Accounting for Tax form when required will result in an immediate penalty of £100 for each set (or part of a set) of 10 people for whom particulars should have been included in the return. For example, where particulars for 27 scheme members should have been included, the immediate penalty for failing to submit the return would be £300. A further penalty of the same amount will be applied for each of the next three quarterly periods during which the return remains outstanding. If the return has still not been made by the end of the fourth quarterly period, in addition to any penalties already imposed, a penalty of an amount no greater than the amount of the income tax due for the quarterly period to which the return relates will be incurred.

If the scheme administrator fraudulently or negligently makes an incorrect return under the Accounting for Tax form, a penalty of an amount up to the difference between the amount of tax shown in the return and the amount that should have been shown in the return will be incurred.

Making returns of information to the Revenue

As well as providing information to the Revenue to register for relief at source and account for tax, the scheme administrator will have to:

- complete a pension scheme return
- report certain events
- provide information and/or documents to the Revenue, if required

Pension scheme return

The Revenue can require the scheme administrator to complete a pension scheme return in relation to any tax year. This will have to be done through the online reporting system.

You can find details of the information that would have to be supplied, the timescales for compliance and penalties for non-compliance in the table at the end of this factsheet.

Event reporting and provision of information and/or documents

The scheme administrator will have to submit a report to the Revenue if any of the events listed happen during a tax year, as well as provide information and documents.

You can find details of the events that must be reported, the timescales for compliance and penalties for non-compliance in the table at the end of this factsheet.

Submitting the event report

The report must be completed through the online reporting system and, unless the scheme has wound up, must be submitted no later than the 31 January following the end of the tax year in which the event occurs. If the scheme has wound up, submission must be made by the earlier of: the 31 January following the end of the tax year in which the event occurred; and three months after the date of wind-up.

The scheme administrator will have to be aware of the events that need to be reported and make sure that proper records are kept so that the report can be made at the appropriate time.

Documents and/or information about the scheme to be provided on request to the Revenue

The Revenue can ask the scheme administrator to give it certain documents or information relating to the scheme or an annuity bought by the scheme. However, the Revenue cannot ask for any documents or information relating to a period more than six years ago.

You can find details of the timescales for compliance and penalties for non-compliance in the table at the end of this factsheet.

Revenue forms and notices

The Revenue can ask the scheme administrator to provide the information on a Revenue form. If the Revenue form is not used, then the scheme administrator may not have fulfilled the duty of providing the information.

The scheme administrator has to do all that the Revenue asks for on a notice. If a notice asks for, say, five documents, then the notice has not been complied with until all five have been sent. The penalties will apply if the fifth document is sent after the time limit, but the other four were sent on time.

Providing information to scheme members and others

The scheme administrator will have to provide certain information to scheme members, personal representatives of deceased members and scheme administrators of other registered pension schemes. You can find details of the information to be provided, the timescales for compliance and penalties for non-compliance in the table at the end of this factsheet.

The scheme administrator will have to be aware of the information requirements and make sure that proper records are kept so that information can be supplied to the right person at the appropriate time.

Record keeping

The scheme administrator must keep records of the following activities for at least six years after the end of the tax year in which the activity occurred:

- money received by, or owed to, the scheme
- investments and assets held by the scheme
- payments made by the scheme
- contracts to purchase a lifetime annuity in respect of a member under the scheme
- the administration of the scheme

Failure to keep proper records for at least six years after the tax year to which they relate can result in a penalty of up to £3,000. In theory, this could apply per record not held.

Delegation to a scheme practitioner

The scheme administrator will be able to authorise other people to undertake some of their reporting requirements on their behalf, and this delegate will be called a scheme practitioner.

The scheme administrator will have to provide the Revenue with written authorisation to allow their delegates to access the online reporting system and make reports for them.

However, the scheme administrator cannot delegate registering to use the online reporting system for the first time.

The scheme administrator, if allowed by the scheme provisions, may authorise different people to undertake different tasks, and can authorise more than one person to undertake the same task.

Scheme practitioners may wish to charge fees for any work undertaken for a scheme administrator.

You should note that Scottish Equitable will not accept the role of authorised scheme practitioner.

Action

If you do not want all the trustees of your scheme to be the registered scheme administrator, you will have to decide who is to undertake this role, and tell the Revenue. You will have to make sure that the scheme administrator has access to the information needed to account for and pay tax, make reports to the Revenue and provide information in line with the requirements.

This factsheet represents Scottish Equitable's understanding of the Finance Act 2004 and associated draft regulations.

Table of information

Event	Report on	Who to?	By when	Penalty for non-compliance
Pension scheme return required by the Revenue	<ul style="list-style-type: none"> • Payments made to and from the scheme • The scheme's assets • The scheme's investments 	The Revenue	Date given by the Revenue	<p>Automatic penalty of £100. Further penalty of up to £60 for each day that the return is outstanding.</p> <p>Penalty of up to £3,000 for fraudulently or negligently making an incorrect return or delivering incorrect documents, accounts or statements with the return.</p>
Reportable event occurs	<ul style="list-style-type: none"> • Specified changes to the scheme, including: <ul style="list-style-type: none"> – winding-up – certain changes in members controlling scheme assets – certain changes in the scheme's documents – a change in the legal structure of the scheme – a change in the band for the number of scheme members from that previously reported • Specified movement of scheme funds, including: <ul style="list-style-type: none"> – the making of any unauthorised payments – payment of certain lump sum death benefits under the scheme – suspension of an ill-health early retirement pension and any benefit crystallisation events where a lifetime allowance charge is avoided because the member has protected their pension benefits, or is otherwise entitled to an enhanced lifetime allowance – transfers to a qualifying recognised overseas pension scheme – payment of benefits before the normal minimum pension age (50 before 6 April 2010 and 55 thereafter) – payment of certain serious ill-health lump sums – payment of certain tax-free lump sums – a member's benefits being secured as alternatively secured pension – a reallocation of funds within the scheme following the death of a member with alternatively secured pension – payment of a lump sum after the death of a member aged 75 or more 	The Revenue	<p>Scheme not wound up No later than the 31 January following the end of the tax year in which the event occurs</p> <p>Scheme wound up The earlier of: the 31 January following the end of the tax year in which the event occurred; and three months after the date of wind-up</p>	<p>Automatic penalty of up to £300. Further penalty of up to £60 for each day that the report is outstanding.</p> <p>Penalty of up to £3,000 for fraudulently or negligently providing the Revenue with incorrect information.</p>



Table of information (continued)

Event	Report on	Who to?	By when	Penalty for non-compliance
Documents and/or information requested by Revenue	Determined by the Revenue, but not in relation to any period more than six years before the date of the request	The Revenue	Minimum of 30 days from request being received	Automatic penalty of up to £300. Further penalty of up to £60 for each day that the documents or information are outstanding. Penalty of up to £3,000 for fraudulently or negligently providing the Revenue with incorrect documents or information.
Lifetime allowance charge has been, or will be, paid on a benefit crystallisation in respect of a member	Details of taxable benefit and tax payment	Scheme member	Within three months of benefit crystallisation event	Automatic penalty of up to £300. Further penalty of up to £60 for each day that the information is outstanding. Penalty of up to £3,000 for fraudulently or negligently providing incorrect information.
Unauthorised payment to member	Details of the benefit	Scheme member	No later than 7 July immediately following the end of the tax year in which the payment was made	
Pension in payment or benefit crystallisation event	Statement of total cumulative percentage of standard lifetime allowance used	Scheme member	Pension in payment At least once each year Benefit crystallisation event Within three months of the event	
Lump sum death benefit paid from scheme	Percentage of standard lifetime allowance used, and benefit details	Personal representatives	Within three months of the payment being made	
Previous benefit crystallisation events in relation to a deceased member	Details of events and cumulative total percentage of lifetime allowance used	Personal representatives	Within two months of a request for the information	
Transfer of benefits to another scheme	Details of cumulative total percentage of standard lifetime allowance used up in respect of the transferring member as a result of earlier benefit crystallisation events	Scheme administrator of receiving scheme	Within three months of the transfer	

