

NAPF response to HMRC consultation on Benefit Crystallisation Event 3 (BCE3)

1. NAPF welcomes HMRC's decision to review the conditions attached to BCE3 as a means of removing disproportionate tests on scheme administrators.
2. The policy objective is anti-avoidance, that is, to prevent a taxpayer getting around the lifetime allowance restrictions by engineering an artificially low pension when it first comes into payment, and subsequently increasing it later. NAPF supports the principle that tax relief should support bona fide retirement provision. We recognise however that there will always be a few who will seek to take advantage of pensions tax relief purely to avoid paying tax.
3. We believe that there should be simple and proportionate ways of mitigating the risks of tax avoidance that do not affect the millions of small pensions in payment for people who will never come anywhere near the lifetime allowance. We agree that rather than a system of blanket tests which are time consuming and expensive to operate, a pragmatic risk-based approach (based upon exemptions) might be consistent with the following measures.
 - De minimis exclusion: we support HMRC's suggestion of excluding all pensions in payment below £5,000 a year from the test. We would also support an additional exclusion of increases of an absolute value, say, £1 a week. This is to prevent roundings or minimum increases inadvertently triggering a BCE3.
 - For pre A-day retirements, testing only for post A Day increases: this removes the onerous and disproportionate requirement to test cumulative increases for pensions which came into payment before A Day. Dates may not be available especially if the pension has been in payment a long time. Where the information is held on paper files, the task of trawling through these files – which may be held in archives – will be time consuming and costly.
 - Exempt any reasonably sized pensioner group from the test rather than a scheme-wide test.
 - Introduce an option to test year-by-year rather than dealing with cumulative increases.
 - Remove all guaranteed and statutory increases, and revaluations, which includes GMP "step ups" (increases when the GMP comes into payment) from the test.
 - Remove all "fully secured" pensions which have been bought out with an insurance company from the test.
4. Given that the first BCE3 tests must be carried out from this April, then any easements ideally should be from this year. We welcome the easements that are being proposed in the Tax Simplification Newsletter.
5. It would also be useful to know how HMRC intends to proceed with this as soon as possible.

Ken MacIntyre, Policy Adviser, Regulation and Governance, 2 March 2007