

# Pensions tax – transitional tax-free amount certificates

July 2024

6 April 2024 (“LTA-Day”) marked the end of the LTA and the debut of two new tax-free lump sum allowances: the “lump sum allowance” (“LSA”) and the “lump sum and death benefit allowance” (“LSDBA”). For individuals who took benefits before LTA-Day, transitional provisions help to determine their future allowances.

## The main headlines



- ✓ Broadly, the starting point under the default transitional calculation is that an individual's LSA and LSDBA are reduced by 25% of any LTA used up by a “benefit crystallisation event” (“BCE”) before LTA-Day. Where their entire LTA has been exhausted, their LSDBA will be zero.
- ✓ In addition, if an individual received a tax-free serious ill-health lump sum or died under the age of 75 and a lump sum death benefit was paid, their LSDBA will be reduced by 100% of the LTA used.
- ✓ The default assumption is designed to take account of different historic levels of the LTA and to factor in any higher tax-free lump sums available to members with a valid LTA protection.
- ✓ Where less than 25% tax-free cash was in fact taken, individuals or their personal representatives (“PRs”) can request an alternative calculation by applying to their scheme for a transitional tax-free amount certificate (“TTFAC”).
- ✓ Where a TTFAC is in force, the member's available LSA and LSDBA must be calculated in accordance with it.

## Applying for a TTFAC

- An application can be made to any registered pension scheme of which the individual is a member, or was a member immediately before their death.
- Further changes to the legislation are expected to enable applications to annuity providers.
- Individuals who have taken tax-free cash greater than 25% (eg because of scheme specific protection) should not apply for a certificate if it would result in lower available allowances, because it is not possible to revert to the default calculation once a TTFAC is in force, unless it is cancelled (see below).
- Individuals whose benefits came into payment before 6 April 2006 (ie “A-Day”) and who have had no BCEs between then and LTA-Day cannot apply for a TTFAC.

In the updated Pensions Tax Manual, HMRC suggests individuals apply for a TTFAC from the scheme under which they either:



- crystallised the majority of their benefits prior to LTA-Day (provided they are still a member), or
- expect to first access benefits on or after LTA-Day.

## The process

Trustees should check with their scheme administrators that a suitable TTFAC process is in place, including that a form is available. An application must be:

- » made before the member first crystallises benefits on or after LTA-Day, known as a “relevant benefit crystallisation event” (“RBCE”)
- » accompanied by “complete evidence” of, broadly, any tax-free lump sums taken or lump sum death benefits paid before LTA-Day. In HMRC's view, this means members supplying evidence of the total percentage of the LTA previously used up so administrators can determine the portion of benefits that were tax-free lump sums
- » granted and a certificate issued, or alternatively the applicant notified it has been refused (due to insufficient evidence) within three months of receipt. Whilst additional information may be requested, this time limit cannot be extended.

### Who decides if the evidence is adequate?

It is up to scheme administrators (ie trustees and managers of occupational pension schemes) to decide, on a case-by-case basis, whether the supporting evidence is sufficient. Examples of appropriate evidence suggested by HMRC are financial records, BCE statements, or bank statements.



### What should the certificate look like?



A TTFAC need not be in any particular form, but must cover certain minimum information, such as:

- |   |  |  |
|---|--|--|
| ✓<br>the individual's name, address and national insurance number | ✓<br>the amount of LTA previously used up, expressed as a percentage of the standard LTA | ✓<br>the amount of the individual's available LSA and LSDBA. |
|---|--|--|

\*Note: as payment of certain lump sums after age 75 did not trigger a BCE before LTA-Day (eg a PCLS), regulations in the pipeline, which will be backdated to LTA-Day, will require schemes to take them into account for the purposes of a TTFAC.

### What if a TTFAC is wrong?

- » An inaccurate TTFAC must be cancelled, it cannot be amended.
- » Once cancelled, the default transitional calculation applies instead and benefits (including any previous RBCEs) will be taxed accordingly, unless the individual or their PRs successfully apply for a fresh certificate before the first RBCE.
- » Regulations are expected to prevent a lump sum (eg a PCLS) already taken becoming unauthorised where the cancellation of a TTFAC reveals that an individual's available LSA is zero, although the lump sum will be taxed at marginal rate.
- » Penalties may apply where individuals fraudulently or negligently give false information, or where someone assists them in doing so, in relation to a TTFAC.
- » Although trustees could face fines for failing to comply with the new requirements, HMRC has confirmed that it will not generally look to trustees where certificates are based on inaccurate information supplied by members.

Sacker & Partners LLP  
20 Gresham Street  
London EC2V 7JE  
T +44 20 7329 6699  
E [enquiries@sackers.com](mailto:enquiries@sackers.com)  
[www.sackers.com](http://www.sackers.com)

Nothing stated in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. Action should not be taken on the basis of this document alone. For specific advice on any particular aspect you should speak to your usual Sackers contact. © Sacker & Partners LLP July 2024

### Practical points



#### What to communicate?

Members or their PRs need to know that an application for a TTFAC must be made **before** taking any benefits on or after LTA-Day, as well as what might constitute "complete evidence".



#### Timing

With only three months available to deal with an application, trustees should ensure their TTFAC process provides adequate time to assess evidence and to communicate with individuals / their PRs if more is needed.



#### Member reporting requirements

A requirement for individuals to notify any schemes under which they have outstanding benefits that they are relying on a TTFAC is set to be introduced.



#### Scheme reporting requirements

Under other future amendments, schemes will be able to assume the default transitional calculation applies unless and until made aware that a member has a TTFAC.



#### Trustee discharge

As part of their TTFAC process, trustees and managers may wish to consider taking legal advice on a discharge, and possibly an indemnity, against any liability for tax charges or penalties resulting from inaccurate information.



With further regulations and guidance still expected, for further information please speak to your usual Sackers contact. Other publications in our LTA-Day series can also be found on our [website](#).