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Are the rules that complicated?

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Most providers are setting themselves up for an extremely busy 2011 tax year end period for benefit claims and new contributions as clients and their advisers look to make the most of changes to the pension regulations.

Recent discussions with advisers and journalists seem to suggest that there are murmurs of discontent with some providers around challenges with the introduction of flexible drawdown. The suggestion is that the complexity of the new proposals and challenges with system development seem to be creating problems.

I have been known to comment many times in the past on the habit in our country to favour complexity when simplicity was on offer as an alternative. However, are the rules that complicated? Individuals with a secure income which meets a Minimum Income Requirement (MIR) will be allowed to withdraw funds from their pension schemes in excess of the limits imposed by the new drawdown pension. In order to make use of flexible drawdown individuals will need to declare that they meet certain conditions.

- The individual will initially need to meet an MIR of £20,000;
- The MIR can include income from state pension benefits, lifetime annuities and scheme pensions.
- Level annuities will be allowed to count towards the MIR. The initial consultation indicated that only escalating annuities would qualify.
- The MIR cannot contain income from drawdown, purchased life annuities or from assets held outside a pension scheme.
- The individual must not have made any contributions, and must not have been an active member of a defined benefit scheme in the tax year in which they wish to access flexible drawdown.

Once they have accessed flexible drawdown individuals will not be subject to any income limits on their drawdown pension and there will be no requirement to review existing drawdown limits.

The level of the MIR will be periodically reviewed, but where an individual has accessed flexible drawdown, they will not face a re-test.

The issue of responsibility for checking that the MIR has been met was a topical one during the consultation process with many providers suggesting that responsibility should rest with HMRC. The main worry seemed to centre on concerns of responsibility for unauthorised payments in situations where a client declares an incorrect income figure. The concern at provider level is that you may be liable for a scheme sanction charge in this situation. This does not hold a great deal of weight as the Finance Act 2004 already covers unauthorised payment made where the provider reasonably believed that the payment was authorised. So long as the provider acts in good faith they should not be liable for the scheme sanction charge. A sensibly worded declaration signed by the client should mitigate any concerns.

I might be missing the point but it strikes me that complexity may not be the only reason why some providers are not fans of flexible drawdown.

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