The Society of Pension Professionals (SPP) response to draft legislation relating to modernising and mandating tax adviser registration with HMRC

1. Introduction

1.1. The SPP shares the government's commitment to making our tax system fairer and simpler. We also welcome proposals to monitor and enforce minimum standards for tax practitioners, to remove substandard and unscrupulous tax practitioners from the market and to provide confidence in the quality of tax advice and services that clients receive from tax practitioners.

1.2. Plans to compel those giving such advice to register with HMRC may be an improvement that could prove effective, proportionate, and reasonable in raising standards.

1.3. However, the SPP has two key concerns with this legislation – the proposed definition of "tax adviser" and therefore the scope of the legislation and the current omission of any exemption for pension professionals.

1.4. Despite previously stating that, "*The government wants to avoid increasing burdens on professionals that are already robustly regulated…*[1]*"* the government will increase such burdens if it proceeds without necessary amendments because this legislation is remarkably broad in scope and liable to catch a wide range of individuals who would never be considered "tax advisers" by any objective measure. This includes many pension professionals.

1.5. Responding to the original consultation on this issue in May 2024, the Society of Pension Professionals (SPP) said*; "SPP recommends that HMRC consider granting an exemption to pensions professionals on the basis of any work carried out for or on behalf of a registered pension scheme, undertaking disclosure of information statements and other clearly defined work as covered by existing legislation."* However, whilst such an exemption has been granted for payroll professionals, no such exemption has been granted for pension professionals.

2. Consultation response

<u>Meaning of tax adviser – scope of the legislation</u>

2.1. The draft legislation brings into scope anyone who provides "*assistance with any document that is likely to be relied upon by HMRC to determine*" another person's tax position even if the organisation for whom the work done is "*appointed indirectly or at the request of someone other than the client*". This means that actions taken as part of general pensions administration by a firm appointed by trustees as a third-party administrator will fall into scope of this legislation by virtue of the information provided to members such as pension savings statements and information about relevant benefit crystallisation events in accordance with The Registered Pension Schemes (Provision of Information) Regulations 2006 (as amended). Depending on the interpretation of this legislation we suspect that other information about tax provided in pursuance of the Occupational Pension Schemes (Disclosure of Information) Regulations 2013 and general member education may also be brought into scope.

[1] **Raising standards in the tax advice market, 2024:** https://www.gov.uk/government/consultations/raising-standards-in-the-tax-advice-market-strengthening-the-regulatory-framework-and-improving-registration/raising-standards-in-the-tax-advice-market-strengthening-the-regulatory-framework-and-improving-registration

2.2. More broadly we believe that the drafting of section 1 (Meaning of “tax adviser”) of the draft legislation may bring into scope a whole range of individuals and firms who not really performing as tax advisers but may be in scope simply because they provide basic assistance that mentions tax. We believe that pure ancillary assistance (such as an estate agent providing basic information about property tax) should be excluded from scope. The test should be aimed at those whose main or sole purpose in providing assistance is to influence or serve a person in relation to their tax affairs (and not, for example, to purchase a home).

2.3. Without some other test to limit the scope we believe that there may be a number of unintended consequences of drafting legislation so broadly. When so much economic activity has a taxation consequences a great many individuals or firms may inadvertently find themselves as breaching a law that they may not have been aware of.

2.4. In light of the above, there is a very tangible risk of pensions professionals, who HMRC previously confirmed were not the intended target audience for these proposals, being inadvertently captured by the proposed new regulatory regime. With around 35 million pensions (23.5m DC[2] and 10m DB[3]) being administered in the UK, the potential impact of unintended consequences here is considerable.

Exemptions from the requirement to register

2.5. The SPP is pleased to note that HMRC has recognised the need to exempt certain individuals from this legislation. This demonstrates a clear understanding of the potential for unintended consequences and the need to ensure those who were never the intended target for this legislation are not inadvertently captured by it.

2.6. However, it is clear that the work of ordinary third-party pensions administration and basic member guidance should also be exempt from this legislation in the same way that those providing payroll or other tax or accounting software to a client have been granted an exemption.

2.7. The service delivered by pension scheme administrators, who are broadly a human equivalent of software in that they are complying with legal requirements on behalf of their trustee clients who appointed them.

2.8. HMRC have recently indicated a willingness to consider further exemptions for such third-party administrative work[4] and so the SPP suggests that an exemption be added to draft section 3(1) so that a tax adviser does not contravene section 2(1) where the adviser only interacts with HMRC as an authorised practitioner on HMRC’s Managing Pension Schemes Service in relation to one or more registered pension schemes.

2.9. In keeping with the government’s statement that, “*The government wants to avoid increasing burdens on professionals that are already robustly regulated…*[5]*”* it is also worth noting that many pension firms and advisers will already be regulated by the FCA. This means they have to comply with a number of high level principles that include principles 1 (Integrity), 2 (Skill, care and diligence), 3 (Management and control), 6 (customers’ interests), 7 (communications with clients), 8 (conflicts of interest) and 12 (Consumer Duty) all of which bear on the key issues of standards with which this legislation is principally concerned. It therefore makes little sense to impose an additional, duplicate burden of regulation here.

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[2] **TPR Scheme Return Data, 2022-2023: https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/dc-trust-scheme-return-data-2022-2023**
[3] **DWP Committee, March 2024: https://committees.parliament.uk/publications/44037/documents/218270/default/**
[4] **HMRC Roundtable on IHT legislation, 1 September 2025**
[5] **Raising standards in the tax advice market, 2024: https://www.gov.uk/government/consultations/raising-standards-in-the-tax-advice-market-strengthening-the-regulatory-framework-and-improving-registration/raising-standards-in-the-tax-advice-market-strengthening-the-regulatory-framework-and-improving-registration**

3. About The Society of Pension Professionals

3.1. The SPP is the representative body for a wide range of providers of advice and services to pension schemes, trustees and employers. Our work harnesses the expertise of our membership, striving for a positive impact on pension scheme members, the pensions industry and its stakeholders.

3.2. The breadth of our members is a unique strength for the SPP and includes actuaries, lawyers, professional trustees, DC consultants, investment managers, providers, administrators, covenant assessors, and other pension specialists, delivering a wide range of services.

4. Further information

4.1. For more information about this consultation response please contact SPP Director of Policy & PR at: phil.hall@the-spp.co.uk or telephone the SPP on 0207 353 1688.

4.2. To find out more about the SPP please visit the SPP web site: https://the-spp.co.uk/

4.3. Connect with us on LinkedIn at: https://www.linkedin.com/company/the-society-of-pension-professionals/

4.4. Follow us on X (Twitter) at: https://twitter.com/thespp1

15 September 2025