

Important Announcement to members of the following Pension Schemes (“the Schemes”)

Mendip RBS Pennines RBS

This is our thirteenth announcement to members.

We are aware that HMRC has been issuing correspondence to members concerning their tax position in relation to loans taken out. In light of this, and based on questions we have received from members in relation to this correspondence, we have produced a document setting out Frequently Asked Questions (FAQ’s). This FAQ’s document is attached to this announcement and it will be added to the members’ website.

What should I do if I have any further questions?

You can raise queries directly with HMRC by e-mail at pensions.compliance@hmrc.gsi.gov.uk.

Should you have any queries in relation to this Announcement or your membership of the Schemes, please contact us.

There is a website set up for members at

www.dalriadatrustees.co.uk/pennines-and-mendip

We will update the website when further information becomes available. We will also upload all Announcements to this page.

As you will be aware, the costs of answering queries have to be met from the assets of the Scheme. In order to minimise these costs it would be very helpful if you could, in the first instance, check the FAQs to see if your question is answered there.

Should you, however, have any specific personal queries in relation to this Announcement, your membership of the Schemes or should you wish to provide us with further information, please contact us.

You can contact us as follows:

By Telephone:	028 9041 2880
By Post:	Dalriada Trustees Limited 22 Great Victoria Street Belfast BT2 7BA
Via e-mail:	penninesandmendip@dalriadatrustees.co.uk

Issued by Dalriada Trustees Limited

April 2016

Frequently asked questions ('FAQs') for the members of the Pennines RBS and Mendip RBS (the Schemes)

These FAQs set out Dalriada's current understanding of the tax liabilities that arose on the members in respect of their membership of the Schemes. As HMRC continues its investigations, the position may change.

Section 1: The payments and associated tax charges

Q1. What tax charges do HMRC think are due?

A1. HMRC's view is that unauthorised payment tax charges arose when members were given access to a loan(s) as a result of their membership of one of the Schemes.

It is HMRC's view that this tax charge arose on members who received loans under section 160(2)(a) Finance Act 2004.

This is because, in HMRC's view, each loan was a "payment" for the purposes of Part IV Finance Act 2004.

Further guidance on unauthorised payments and surcharges is available here:

<https://www.gov.uk/guidance/pension-schemes-and-unauthorised-payments>

Q2. Does HMRC only intend to raise tax charges on members who received a loan?

A2. At this stage, all members have been assessed for tax charges.

We understand that, in the case of certain members, HMRC has not been able to confirm the size of the loan they received. HMRC has indicated that the tax charge has been calculated by reference to 50% of the transfer value in such cases. The transfer value is the value of the transfer a member made to one of the Schemes.

Certain members have recently indicated to HMRC that they received "incentive payments" (rather than a loan) as a result of joining one of the Schemes. HMRC is still considering the tax treatment of such payments.

If you think you did not receive:

- i) a loan or any other payment as a result of joining one of the Schemes; or
- ii) the amount which HMRC has taxed (you received a lower amount for example),

you may wish to say this when appealing HMRC's assessment (see later).

HMRC has indicated that they will continue with enquiries in order to establish the correct amount of tax due and that members should not therefore consider the assessments they have received to signify the final position.

Q3. Should the loans or incentive payments be repaid?

A3. We have not been made aware of HMRC's position regarding whether repayment will have any impact on tax charges. Irrespective of HMRC's position though, members should consider whether they are legally obliged to make repayment. Dalriada is not able to comment or advise on that.

Q4. Why is the tax position so complicated?

A4. The Schemes were intended to give members access to their pension funds contained in their pension scheme without triggering the tax charges that would usually arise in these circumstances. It is not unusual for the tax position to be complicated in such cases.

Section 2: Dealing with HMRC

HMRC has issued decision letters enclosing tax assessments for the year ending 5 April 2012.

HMRC has assessed members for tax based on the amount of loan they received as a result of them joining one of the Schemes. Where HMRC did not have this information, it has assessed members for tax based on 50% of the value they transferred into the Schemes.

The tax (unauthorised payment charge) is calculated as 40% of the value of the unauthorised payment.

HMRC has also assessed members for an unauthorised payment surcharge (of 15% of the unauthorised payment) under s268 of Finance Act 2004.

Q1. Can I appeal against the decision letter and tax assessment?

A1. Yes. You can appeal in writing within 30 days of the date of the assessment. For example if you received an assessment dated 4 March 2016 you should have submitted your appeal within 30 days of that date.

Full details of how to appeal were included in the decision letter and assessment you received from HMRC.

Ultimately if you do not agree with HMRC's decision you will be able to appeal through the Tax Tribunal system. HMRC's assessment sets out further details in this regard.

HMRC has advised that its enquires are continuing and HMRC has not yet given any indication as to how they will manage any appeals received or any Tribunal appeals (if members decide to notify appeals to the Tribunal). If further information emerges in this regard there are likely to be additional announcements from Dalriada and/or HMRC in due course.

Because HMRC's enquires are continuing, HMRC is happy for members to request postponement of any tax payable until such time as their enquires are finalised.

Members can submit their appeals and/or request for postponement of any tax payable by e-mailing the following e-mail address:

pensions.compliance@hmrc.gsi.gov.uk

Be sure to include Pennines or Mendip in the e-mail subject title. In addition your email should include the HMRC reference number quoted on your decision letter and your daytime phone number.

At the same time members may also wish to make a separate application to HMRC requesting a discharge of the unauthorised payment surcharge element of the assessment. Members should include grounds as to why:

“in all the circumstances of the case, it would not be just and reasonable for the person to be liable to the unauthorised payments surcharge in respect of the payment” (see section 268(3) of the Finance Act 2004).

Members may wish to consider taking independent advice from a tax adviser as to how they should word: i) appeals to HMRC; and ii) separate applications to HMRC requesting a discharge of the unauthorised payment surcharge,

Q2. Should I make a payment on account?

A2. Interest will be due on any tax owing from 31 January following the end of the year of assessment in which the loan (or other payment) was received. In the event that tax is found to be payable, interest will continue to accrue until the tax is paid in full. You may therefore wish to consider making a payment on account to reduce any amount of interest payable. You may also be liable to a late payment penalty.

Q3. What if I can't pay the tax charges?

A3. Once a decision has been made and the outcome of any appeal determined, if you are unable to pay the tax charges in full, you should contact HMRC's Debt Management and Banking Service. For further information see www.hmrc.gov.uk/payinghmrc/problems/cantpay.htm

Q4. Who should I contact in HMRC?

A4. HMRC has a dedicated e-mail address to which you can e-mail queries and/or contact them. This email address is pensions.compliance@hmrc.gsi.gov.uk .

When using this e-mail address please enter Pennines or Mendip in the subject line of the e-mail.

Q5. Should I provide HMRC with additional information?

A5. HMRC has asked members to supply copies of various documentation to support their ongoing enquiries. Members may wish to consider taking independent advice from a tax adviser as to how they should approach such requests.