

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

Cranborne Star Pension Scheme
Grosvenor Parade Pension Scheme
Tallton Place Pension Scheme
The Lancaster Pension Scheme
The Portman Pension Scheme
Woodcroft House Pension Scheme

This is our 15th Announcement which updates members on the latest position with regard to HMRC and potential tax charges.

A separate Announcement will follow covering other issues, including the Court Applications.

HMRC

In our 14th Announcement we provided information with regard to the potential tax consequences arising as a result of the loans made from the Schemes.

We confirmed that it was HMRC’s belief that there is tax payable in the form of unauthorised payment tax charges and Scheme Sanction Charges.

HMRC’s proposed basis for taxation was set out in the Frequently Asked Questions document (FAQs) that accompanied the Announcement. However, we also advised that the correct basis of taxation would only be established for certain as a result of legal action in the Tax Tribunal (equivalent to the Court for matters relating to tax).

In this regard, we said that HMRC and Dalriada would work together to determine the most efficient way of taking a lead case (or cases) through appeal in the Tax Tribunal.

Subsequent to discussions with HMRC, we have agreed the attached note with HMRC. This sets out some proposals as to how appeals should be handled. Members are advised to read the note carefully and refer back to the FAQs accompanying our 14th Announcement. Our 14th Announcement can be found at the following link:

<http://dalriada.wpengine.com/files/20141107-DOCUMENT-Ark-14th-Announcement-inc-HMRC-FAQs.pdf>

HMRC are seeking volunteers who would be willing to act as test cases. If you are prepared to be considered as a test case, you should advise HMRC accordingly, as set out in the ACTION REQUIRED section of the note.

You need to advise HMRC by **29th April 2016**.

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.

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

You can contact us as follows:

By using the Get
in Touch form on
our website: www.dalriadatrustees.co.uk/contact

By Telephone: 028 9041 2756

By Post: Dalriada Trustees Limited
22 Great Victoria Street
Belfast
BT2 7BA

Via e-mail: suzanne_wilson@dalriadatrustees.co.uk

This Announcement has been uploaded onto our Frequently Asked Questions page available at www.dalriadatrustees.co.uk/ark

Issued by Dalriada Trustees Limited

April 2016

Ark Pension Reciprocation Plan

Appeals to the First-tier Tax Tribunal

Background

As you will be aware HMRC has been carrying out investigations into the taxation of the Ark Pension Reciprocation Plan schemes ("**the Ark schemes**"). HMRC is of the view that the loans made under the MPVA arrangements result in tax charges arising on both members and the administrator, Dalriada Trustees Limited.

It is clear that HMRC, Dalriada and a sizeable number of members disagree as to the correct tax consequences of the MPVA loans. Dalriada has notified appeals against the tax charges imposed on it. Those appeals will be heard by the First-tier Tribunal ("**the Tax Tribunal**").

Ultimately, any member who wishes to dispute the tax charge imposed on him or her will also need to appeal. The time at which an appeal needs to be made will be indicated on the relevant decision when it is sent to the member by HMRC. This process is explained in more detail in the "FAQs" document that accompanied Dalriada's 14th Announcement and which is available here <http://dalriada.wpengine.com/files/20141107-DOCUMENT-Ark-14th-Announcement-inc-HMRC-FAQs.pdf>.

This note sets out some proposals as to how any member appeals ("**the Members Appeals**") should be handled (in co-ordination with the Dalriada appeals) and invites members to participate. The intention behind these proposals is to ensure that both the Dalriada appeals and the Members Appeals are taken forward in the most efficient and cost effective way.

This note does not provide advice as to how members should approach this matter. Members should take their own independent advice.

Test Appeals

There are complex tax issues to be determined in respect of the MPVA loans. Further, there are over 400 members and six pension schemes affected. However, the relevant facts for each of the schemes and for most members fit a relatively small number of fact patterns – for example members have received a loan and/or their scheme has made a loan.

If a member makes an appeal, the common tax issues that will need to be decided could include:

- whether the MPVA loans result in an unauthorised payment charge and if so how should it be calculated; and
- whether the unauthorised payment surcharge applies and if so whether it should be reduced or cancelled because in all the circumstances it would not be just and reasonable for the member to be liable to it.

Having discussed the matter with Dalriada and its lawyers, we believe it would be sensible and cost effective to identify sample schemes and sample members and for their disputes to be taken as test cases to the Tax Tribunal. This is a common approach in matters such as this and will allow the Tax Tribunal to make a decision on the issues without being diverted by a large number of similar appeals. All the other members who wish to contest their tax position will have their appeal stayed (i.e. paused or put on hold) until the test cases have been decided.

It will be for the Tax Tribunal to decide how the appeals are managed but HMRC and Dalriada wish to make proposals which we hope will be accepted by the Tribunal. Those proposals will be shared with members.

We would stress that each member is of course entitled to pursue his or her own course of action, including appealing independently to the Tax Tribunal or deciding not to dispute HMRC's view on the tax consequences. If members do seek to pursue an appeal independently (outside of the test appeal structure proposed by this note) then again it will be for the Tax Tribunal to decide how such appeals are managed. The Tribunal could direct, for example, that such appeals be stayed or direct that they be heard at the same time as any test case.

Dalriada's position

Dalriada, as administrator of the participant schemes, has been assessed by HMRC in respect of the scheme sanction charge, a separate tax charge that applies to the administrator in these circumstances.

As explained above, Dalriada has recently appealed these assessments to the Tax Tribunal. There are also appeals by Dalriada in respect of a linked issue called the good faith discharge..

Our view (which is shared by Dalriada) is that the Dalriada appeals should be heard by the Tax Tribunal at the same time as the Members Appeals. This is because they raise similar issues to the members' tax positions. However, the issues are not identical and so we do not consider it to be appropriate to stay all the Members Appeals while awaiting the outcome of the Dalriada appeals. Indeed, members may wish to raise different arguments to Dalriada and it may be that some members will wish to have a voice in the process independent of Dalriada.

Volunteering

In short, to take the relevant tax issues to Tax Tribunal there ideally needs to be a small number of members acting as test appellants. HMRC and Dalriada will then propose to the Tax Tribunal that those test appeals should be considered at the same time as the Dalriada appeals.

The test case process can be handled most efficiently if members are willing to volunteer to be a test appellant. We are conscious that this will take some coordination but in order to start the process HMRC would like to know which members are willing to be test appellants in the Tax Tribunal.

Agreeing a case management process

Once we have the names of volunteers we will need to identify which ones are most suitable to be representative test cases. This exercise is not about identifying those cases which suit HMRC's position, but rather identify those which will help ensure the test appeals are as determinative as they can be of the relevant tax issues.

In order to be in a position to put forward joint proposals to the Tax Tribunal, we will need to discuss the volunteer cases with Dalriada with the aim of agreeing on the proposed test cases. Accordingly, HMRC will need to share with Dalriada and its legal advisers certain information concerning any member offering to volunteer. Ordinarily, HMRC is under an obligation to keep this information confidential. HMRC will only share information relevant to the appeal, for example the procedural stage the member is at in his or her dispute on this matter, but HMRC requires your consent before it can disclose the information. Accordingly, as set out below, when volunteering you will need to agree to disclosure of such information.

Once the proposed test appellants have been identified, their appeals to the Tax Tribunal will need to be accelerated and proposals made to the Tax Tribunal for case management of all members positions. In doing so we will liaise with Dalriada to see if agreement can be reached with them on the process but, as we have said, it will ultimately be for the Tax Tribunal to decide.

Any member unhappy with either the general proposal of having test cases or the specific proposal of who will be the test cases and how the appeals are to go forward will, at any time after they have commenced an appeal to the Tax Tribunal, be able to make representations directly to the Tax Tribunal.

ACTION REQUIRED

If you are willing to volunteer please write to HMRC FAO Lynn Faulkner at pensions.compliance@hmrc.gsi.gov.uk or Pensions Compliance, 1st Floor Fitzroy House, Castle Meadow Road, Nottingham NG2 1BG by 29 April 2016 stating as follows:

"I wish to be considered as a test appellant in the appeal to the First-tier Tribunal. I agree to HMRC disclosing relevant personal information to Dalriada Trustees Limited and its legal advisers for the purposes of reviewing my suitability as a test appellant and establishing case management structure for such an appeal"

In your email or letter please include your full name and address.