

Pension Sharing

We've recently received an enquiry about the sharing of benefits between Members within a SSAS.

No names were given, but according to a client of ours, some SSAS Providers are allowing Members to share / assign benefits to other Members to avoid the Lifetime Allowance and associated tax charges.

Pension Sharing is only permitted following a Divorce or Dissolution of a Civil Partnership and with strict procedures that must be adhered to.

Section 172 of the Finance Act 2004 confirms that the Assignment of (or even just an agreement to assign) any benefits by a Member, that is not pursuant to a pension sharing order or provision, the pension scheme is to be treated as making an unauthorised payment to the person (or the person's personal representatives) in respect of the member.

<https://www.legislation.gov.uk/ukpga/2004/12/section/172>

Aside from the astronomical tax charges, as a result of an assignment being unauthorised by the Finance Act 2004, any assignment that does not meet the criteria laid out by Sections 91 – 95 of the Pensions Act 1995 would be illegal.

<http://www.legislation.gov.uk/ukpga/1995/26/part/I/crossheading/assignment-forfeiture-bankruptcy-etc/enacted>

That said, the allocation of unallocated funds within a SSAS, could be an authorised payment, providing the allocation amount is below the receiving Member's Permitted Maximum Amount.

