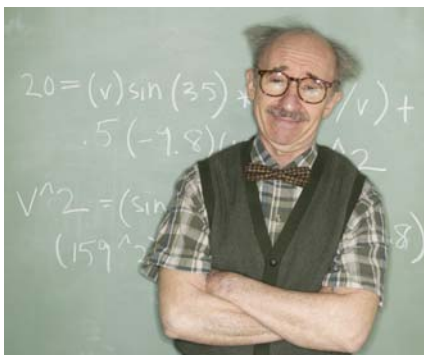


## Pensions - a wake up call

From time to time, we publish articles contributed by third parties. We have never before simply reprinted an article we have come across, but the following recent article by the well-respected Dr Ros Altmann, a former Government adviser on pensions policy, struck us as a very clear synopsis of the problems that many of our readers, and indeed the country at large, are facing as we approach retirement. For that reason, we have reproduced it in full. The underlying political and other views are, of course, not necessarily those of BHG and we invite you to read "Pensions are dead! Long live the ISA" with that in mind.



"We all know the credit crisis has damaged the economy and markets, but what few seem to have realised is that it has been a disaster for pensions. Falls in asset value have wiped out huge chunks of people's retirement nest-eggs, while the surge in gilt prices has increased the value of pension scheme liabilities and raised the cost of buying annuities.

Of course, pensions were already in trouble before the latest turmoil. Since 1997, our once-strong retirement savings culture has fallen apart. This is partly due to poor investment returns and a succession of scandals including so-called "pensions mis-selling", Equitable Life, occupational pension wind-ups et al.

But official Government policy is also a villain in this piece. I am convinced this administration will go down in history as the one which destroyed our once-envied pension system. Over the past decade, Government has paid lip-service to wanting to encourage pension savings, while systematically destroying the incentive to save in a pension for most of the population. It has, however, increased the attraction of pension savings for top-rate taxpayers. Why?

To me, the answer is a deliberate desire to maximise short-term economic growth in order to claim political credit for "successful" economic management. The longer-term consequences were ignored, as people were encouraged to spend as much as they could - and then borrow even more to boost spending further.

The Government did not want ordinary citizens to save, since that meant today's growth would be reduced. But with the baby-boom generation fast approaching retirement, this has left us woefully unprepared for the ageing population.

Government policy has rendered pension savings ineffective for many. Firstly, introducing pension credit into the state pension system in 2003, means pensions are not really a 'suitable' investment for most people at all. Anyone entitled to pension credit, and that is nearly half of all pensioners, will lose between 40% and 100% of their private pension in the means-test.

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B H G, Chartered Accountants  
Bernard Harrington BCom(Acc) FCA FCCA  
BHG LLP  
Blandford House  
77 Shrivensham Hundred Business Park  
Majors Road, Watchfield, Swindon,  
SN6 8TY  
t: 01793 780480  
f: 01793 780180  
[bernard.harrington@bhgllp.com](mailto:bernard.harrington@bhgllp.com)  
[www.bhgllp.com](http://www.bhgllp.com)

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Unless they can rely on being wealthy or can be sure they will not fall back on means-testing in later life, those on basic-rate tax - which is nearly 90% of taxpayers - have a significant probability of finding pensions poor value. ISAs may be suitable, but not pensions.

Secondly, the regulatory system has operated asymmetrically, encouraging borrowing while discouraging saving. The FSA regime facilitated selling mortgages or loans for hundreds of thousands of pounds to people with no hope of paying back, few questions asked, while imposing six-hour full fact finds and risk-disclosures on anyone selling a pension. Is it any wonder, then, that borrowing soared while savings collapsed?

Worryingly, this policy asymmetry continues. To be fair, the authorities have protected bank accounts in full, even in failed overseas banks, but this, too, undermines pensions.

Bank accounts are now far safer than pension investments. Failed bank depositors receive 100% of their money back, but the maximum protection for pensions is 90%, which is capped and has little inflation protection.

So, in trying to encourage over-indebted consumers to borrow and spend more to help revive the economy, policy has reduced the relative security and value of pensions. But the really bad news is that pension savings are at further risk. Sharply easing monetary policy, together with declining sterling, will inevitably stoke inflation. Falling asset values, followed by falling interest income, followed by inflation - a triple whammy for pensions. But more help to debtors whose debts are devalued.

### Not much to do about anything

Sadly, there is not much substantially you can do about it. Obviously, writing to MPs to complain about the injustice of the crisis measures can do no harm. Other than that, there are no easy answers and much will depend on individual circumstances. Members of final salary company schemes should be relatively better off.

Naturally, public sector workers are completely safe, but if a private employer fails, the pensions are transferred to the Pension Protection Fund, which only pays up to 90% of expected pensions, with the amount capped at around £30,000 a year. Therefore, people with much higher entitlements than this might consider transferring to a private arrangement.

Investment performance of most money purchase company schemes has been dreadful. For top-rate taxpayers, there are still big advantages in pension saving. For every £3 they contribute to a pension, the Exchequer adds another £2 - such advantages may not last. There is also much more flexibility on withdrawals since 2005.

However, for basic rate taxpayers the situation is less clear cut. They may actually be better off foregoing the employer contribution and saving in an ISA until closer to retirement, to be sure they will not suffer means-testing penalties or poor value annuities and can manage without the money contributed.

Those currently close to or contemplating retirement face a real dilemma and will need to decide whether they can actually afford to stop working! Advice, as always, is essential. It may be tempting to take the 25% tax-free lump sum and invest the rest in the hope of benefiting from any recovery.

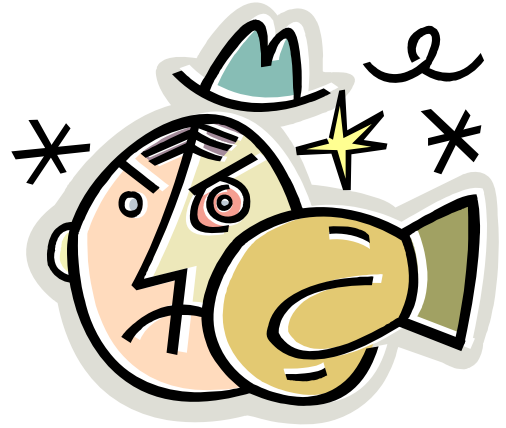
Annuities will look extremely expensive so shopping around for best deals is vital. Perhaps also check out new companies that offer "guarantees" on future savings income, as well as inflation protection.

Finally, I believe it will be important to try to protect against rising inflation in future. National Savings index-linked certificates offer insurance against inflation, as will index-linked gilts. Gold may be another option. Diversification of portfolios into overseas markets - especially developing economies with better demographic profiles than ours - might also benefit a long-term diversified asset allocation.

Whatever happens, though, I believe we need radical reform of pensions (and retirement). Punishing savers and pensioners will ultimately damage growth prospects. Let us hope that policymakers soon wake up to this reality."

## Second tax amnesty could hit harder

Plans for a second offshore 'tax amnesty' by HM Revenue & Customs could see tougher penalties for people hiding their savings offshore, amid frustration over delays to starting the scheme. Speculation has mounted since HMRC confirmed in October last year it would be conducting a second tax amnesty, which it calls an 'offshore disclosure facility'. The amnesty offers taxpayers a reduced penalty for voluntary disclosure of bank accounts held in offshore jurisdictions. The penalty for HMRC's first amnesty in 2007 was capped at 10% of the outstanding tax owed plus interest. The amnesty netted the taxman an estimated £400m.



Taxpayers who disclose information relating to offshore bank accounts are likely to incur tougher fines in a second amnesty because they had an opportunity two years ago.

In its first tax amnesty HMRC relied on the five major UK high street banks and accountants to inform customers and clients about the scheme. However, the second tax amnesty is thought to be much bigger, extending to include customers of about 30 foreign banks.

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## Estate planning for all

Estate planning remains as important as ever despite last year's announcement that a surviving spouse or civil partner can inherit their deceased spouse's or partner's inheritance tax (IHT) nil rate band. That change is certainly welcome, and not least for those people whose deceased spouse or partner gave little thought to the tax implications of their will. However, couples may still be able to save more IHT by passing on assets at the time of the first death. While lifetime gifts continue to be important, there are also vital non-tax related issues to consider.



The starting point of any estate planning is not tax, but to consider your own family circumstances and what you wish to achieve. There is no universal right answer. What is best for you will depend on your financial position and that of your potential heirs, and also what might happen during your lifetime and during theirs? For example, many people want to make sure their children inherit their assets eventually, but wish to provide for their surviving spouse or partner during their lifetime. Passing all assets to a spouse or partner on the first death will now not necessarily waste a nil rate band, but if the survivor remarries, the family's wealth may never reach the ultimately intended beneficiaries.

Despite the tax changes in March 2006 that ended the favourable tax treatment of some types of trust, a trust is still a useful tool for ensuring the required succession and can help protect assets against unforeseen risks, such as a spendthrift heir, divorce and bankruptcy. Passing on assets on the first death can also save IHT, if only because the value of the assets may increase faster than the value of the nil rate band. Remember, the amount of nil rate band that any individual can inherit is limited to its level at the time of the first death. Where someone has remarried after a partner's death, this rule would prevent them or their surviving spouse or partner eventually using the full amount of inherited nil rate band, but the problem can be avoided with careful planning.

Above all, flexibility is important. Circumstances change, as do tax rules. We can help you to formulate your wishes and make sure that your estate planning will achieve them in the most tax-efficient way.

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## End of year tax tips

Time is ticking away to the end of the tax year on 5 April 2009, so it's worth thinking about whether you have made use of all the tax reliefs and allowances available to keep your tax liability to a minimum.

We hope you will find this quick guide to some of the more popular tax saving opportunities useful but professional advice, tailored to your individual circumstances, is essential to ensure maximum tax-efficiency. To find out more, please contact us.



## Protecting your personal wealth

### Top up your pension pot

If you have cash to spare, putting it into your personal pension is a wise move, particularly as life expectancies continue to increase. With many people looking forward to a retirement of around 20 years or more, planning ahead is crucial, as a state pension will simply not be enough to meet all your future financial needs.

You can pay up to £235,000 into your pension fund in 2008-09, free of tax, so if you are a higher rate taxpayer, each £1,000 payment into the fund will cut your tax liability by £400.

You can also put up to £3,600 into pensions for children, grandchildren and non-working spouse or civil partner, with full tax relief.

### Reducing your inheritance tax bill

Inheritance tax is currently payable at 40% on assets exceeding £312,000, so if you own your own home and have life assurance policies, pensions and savings, your estate could be liable to inheritance tax.

There are a number of tax-efficient ways to reduce your liability. Particularly significant are "lifetime gifts" (gifts made in your lifetime), which are tax-free or potentially tax-free, providing you survive for seven years from the date of the gift.

These include small gifts of up to £250 to any number of people in any one tax year and certain gifts to a bride or bridegroom on their marriage. Each parent can give £5,000, for example. Up to £3,000 in other gifts in any one tax year are also exempt. If this sum is not used up in one tax year, it can be carried forward to the next, although no further. However, the most significant concession is often overlooked - the unlimited exemption for "gifts out of income". The difficulty here is one of establishing a pattern and maintaining adequate records.

Gifts to charities, whether made during lifetime or on death, and to political parties are also inheritance tax free.

### Saving through ISAs

Make the most of your annual individual savings account (ISA) tax-free allowance, and any ISAs belonging to other members of your family.

The maximum annual deposit in an ISA in 2008-09 is £7,200 overall, of which no more than £3,600 can be in cash.

### Inter-spouse transfers

If you are considering the sale of a business, a second home, shares or other property, such as antiques or jewellery, which has increased in value, before the end of the tax year, you may be liable to capital gains tax.

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Transferring assets between spouses can ensure that you both take full advantage of your capital gains tax allowance of £9,600 in the 2008-09 financial year.

## Protecting your business wealth

### A profitable approach

It's worth seeking advice on the best way to extract profits from your business, whether through a salary, bonuses or as a dividend.

There are pros and cons to both, which need to be carefully considered, although dividends are paid free of national insurance contributions, which can produce considerable savings. The last date to pay a 2008-09 dividend is 5 April 2009.

Pension contributions can also be a tax-efficient way to take profit from your company. If the company pays your pension premium for you, your pension contributions do not attract employer or employee national insurance unlike your salary. The annual allowance for contributions into a pension scheme in 2008-09 is £235,000.

### A capital idea

If you buy plant or machinery (other than cars) for your business, you can claim capital allowances. You can deduct the first £50,000 of such expenditure from your taxable profits each year, with the excess over £50,000 being written off at 20% each year on the reducing balance on an ongoing basis. Some items known as integral features - standard fittings within a building - attract a 10% writing down allowance.

Buying assets a few days before the end of your accounting year means you qualify for capital allowances a year earlier than if the purchase was made just after the year end.

### Keep the cash flowing

Businesses can take advantage of a recent special measure, introduced in the Pre-Budget Report on 24 November 2008, to help the cash flow position of those that have recently become loss-making.

They will be able to carry back losses of up to a maximum of £50,000 against the profits of the previous three years. This measure will apply for a year from 24 November 2008 to both companies and unincorporated businesses.

### Research pays off

Businesses that carry out research and development as part of their work may be eligible for generous research and development tax credits. The requirement is that expenditure is on a project which will deliver a genuine advance in science or technology - although not necessarily a huge one. R&D tax credits allow businesses employing less than 500 people to deduct 175% of their qualifying expenditure when calculating taxable profits.

### In conclusion...

At a time when the economy is facing ongoing challenges, everyone is becoming more conscious of the need to manage their money in the most effective and tax-efficient way.

So seeking professional advice now on ways to make the most of your money as April fast approaches is a sensible step - this year and every year.

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## Unbelievable but true

A new European Court of Justice (“ECJ”) ruling on workers’ holiday rights has significant implications for employers. In a case brought by five employees at HM Revenue & Customs - who else! - the ECJ ruled last month that employees on long-term sick leave accrue paid annual holiday during their absence from work and are entitled to take this leave on their return. The court held that a worker does not lose his right to paid annual leave which he has been unable to exercise because of sickness. He must be compensated for his annual leave not taken.



The ruling also means that staff who have been sacked, or who have left their employer, must receive pay for any time they were unable to take as leave while on sickness absence!

The ECJ ruling only applies to the 20 days of annual leave required by law under the European Union Working Time Directive, and not to the UK minimum for paid leave of 24 days that currently applies in the UK under the Working Time Regulations. This entitlement will increase to 28 days from 1 April 2009 (see article on page 7). The case will now go to the House of Lords make a decision on how the ruling is to be interpreted in the UK - for example whether it should apply only to the 20 days’ minimum holiday entitlement or to the higher UK entitlement.

Unsurprisingly, the ECJ decision has been criticised by British business leaders. Businesses suffer when staff take sick leave and it was hoped that a compromise could have been achieved over unused holiday time. At a time when the economy is struggling, this judgment will ensure that staff who are no longer sick are away from the workplace for longer. With no timescale as yet for the House of Lords’ decision, employers need to start thinking about reviewing existing employment policies and contracts to deal with the extra holiday entitlement under the Working Time Regulations and contractual holiday that exceeds statutory requirements.

## Taxman’s lack of interest

From January 27, HMRC has stopped paying interest to taxpayers who overpay income tax, capital gains, tax, stamp duty or national insurance while they wait for the money to be refunded. Recently, taxpayers received 0.75% on refunds but the rate has been reduced following the recent Bank of England rate cut.

The new 0% rate is already in force for companies overpaying corporation tax. HMRC has confirmed it will never “charge” negative interest.



Needless to say the rate of interest on overdue tax continues at the comparatively extortionate rate of 3.5%.

## VAT on foreign entertaining

The Treasury could be liable to refund hundreds of millions of pounds in VAT to taxpayers that have spent money entertaining foreign clients and customers. Businesses in line to receive the reimbursement include exporters in areas of defence and drugs manufacturing. The prospect of a refund follows an EU VAT ruling which covers the taxpayers and the money spent on corporate entertainment over the past 12 years.

The ruling is set to cause a wave of companies seeking to lodge claims for backdated VAT paid. If you believe you are eligible for a refund, please contact us for advice.

Moreover, you should change your systems going forward to ensure you are reclaiming input tax on expenditure of this sort. However, there is still a block on recovery of input tax on expenditure incurred entertaining UK based customers.



## Increased late filing penalties

If you run your own company you will no doubt be aware that company law requires all companies to file a copy of their annual accounts at Companies House by their 'due date'. Penalties become payable if these accounts are filed late. With effect from 1 February 2009 higher late filing penalties are payable by those companies that file their accounts late.



You may recall that under normal circumstances a company must file a copy of its accounts at Companies House within ten months of its year end. For accounting periods that begin on or after 6 April 2008 (that is April 2009 year ends and onwards for most), the Companies Act 2006 has reduced this period to nine months.

### Higher penalties

The higher late filing penalties compared with those which previously applied are as follows:

Length of delay, measured from the date the accounts are due	Previous Penalty		Penalty from 1 February 2009	
	Private company	Public company	Private company	Public company
Up to 1 month	£100	£500	£150	£750
1 to 3 months	£100	£500	£375	£1,500
3 to 6 months	£250	£1,000	£750	£3,000
6 to 12 months	£500	£2,000	£1,500	£7,500
Over 12 months	£1,000	£5,000	£1,500	£7,500

For accounts prepared under the new Companies Act, the penalties will also be doubled for late filing in two successive years.

The tighter filing deadline and higher penalties also apply to Limited Liability Partnerships. However, the doubling of penalties for the late filing of accounts in two successive years will only apply for two successive late filings of accounts for financial years that begin on or after 1 October 2008.

## New minimum holidays rules

Now is a good time to ensure that your employees' (or your own) holiday entitlement has been correctly calculated, especially as many employees' entitlements will increase due to a change in the minimum holiday entitlement that comes into force later this year.

The current minimum statutory holiday entitlement is 4.8 weeks (24 days per annum for an employee working a normal 5 day week). This entitlement has applied since 1 October 2007 and is inclusive of Statutory Bank Holidays. A further increase in entitlement from 4.8 weeks to 5.6 weeks (28 days per annum) applies from 1 April 2009. Where the holiday year end is not 31 March, then employers must pro-rate the entitlement. For example for an employee working a normal 5 day week with a year end of 31 December 2009 then their minimum holiday entitlement would be:

3 months x 4.8 weeks = 6  
9 months x 5.6 weeks = 21  
Total entitlement = 27 days

Business Link's website has a calculator to enable an individual's entitlement to be calculated. This is particularly helpful for part time employees.



## Compulsory retirement for partners

The partnership deeds of many professional practices have long contained clauses providing for the compulsory retirement of partners; a recent ruling by the Employment Appeal Tribunal (EAT) shows that these clauses may not guarantee the clean break intended.

When the government introduced a compulsory retirement age, partners were deliberately excluded. Yet a subsequent ruling by an Industrial Tribunal decided it was realistic to require partners to retire if it was in order to achieve business aims. The contention originated with Orpington law firm Clarkson Wright and Jakes, which forcibly retired a senior partner so as to give associates a chance of partnership, thereby ensuring they did not leave. If practices were allowed to continue to implement forced retirement, they argued, it would give realistic long-term expectations of when vacancies would arise, allowing for better planning. A default retirement age also minimised the need to expel partners for poor performance, the firm argued. The Tribunal agreed.

However, the affected former partner has just won a victory of sorts in an appeal. While the EAT was still happy to accept the earlier arguments, it took issue with the idea that 65 years of age was a suitable retirement age in every case. In particular, it was dissatisfied that there was sufficient evidence to prove an increased risk in the declining performance of workers reaching the age of 65. As a result, it remitted the case back to the Tribunal for further consideration.

The news comes at a time when age discrimination has been much in the news, the issue doubtless boosted by a sharp decline in pension values. Pressure groups such as the Employers Forum on Age are fighting to scrap compulsory retirement together, and the government's planned Equality Bill currently contains some proposed legislation to deal specifically with age discrimination.



## HMRC starts accepting credit cards

Tax payments can now be made by credit card, either online or over the telephone. There is a transaction charge of 1.25% which HMRC passes on to the taxpayer for payment by credit card. You can make credit card payments for the following taxes:

- self assessment
- PAYE
- corporation tax
- VAT
- stamp duty land tax
- some miscellaneous payments.



HMRC does not accept American Express or Diners Club cards. The route for paying by credit card is:

<http://www.hmrc.gov.uk/payinghmrc/credit-card.htm>

B H G, Chartered Accountants  
Bernard Harrington BCom(Acc) FCA FCCA  
BHG LLP  
Blandford House  
77 Shrivenham Hundred Business Park  
Majors Road, Watchfield, Swindon,  
SN6 8TY  
t: 01793 780480  
f: 01793 780180  
[bernard.harrington@bhgllp.com](mailto:bernard.harrington@bhgllp.com)  
[www.bhgllp.com](http://www.bhgllp.com)

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### Newsletter Content

This newsletter deals with a number of topics which, it is hoped, will be of general interest to clients. However, in the space available it is impossible to mention all the points which may be relevant in individual cases, so please contact us for personal advice on your own affairs.

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