Robert Graves, Chairman of the Association of Member-Directed Pension Schemes,
c/o Rowanmoor Pensions, Rowanmoor House, 46-50 Castle Street, Salisbury SP1 3TS.
Direct: 08445 440 716 | Mobile: 07841 672832 | Email: robert.graves@rowanmoor.co.uk

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Open letter sent via email to:

George Osborne MP - Chancellor of the Exchequer
The Rt Hon Iain Duncan Smith MP - Secretary of State for Work and Pensions
Steve Webb MP - Minister for Pensions
Mark Hoban MP - Financial Secretary
David Gauke MP - Exchequer Secretary

Emergency Budget June 2010 Representations

I am contacting you in my capacity as chairman of the Association of Member-directed Pension Schemes (AMPS) to raise a number of crucial issues ahead of the forthcoming emergency Budget.

1) Reconsideration of the restriction of pension tax relief

We appeal to the Government to rethink the method of restricting tax relief on pension contributions for higher earners that was carried through in the pre-general election fast track enactment of the Finance Bill 2010.

AMPS understands the financial and economic drivers for restricting the tax relief for high earners and has been actively involved throughout the informal and formal consultation process regarding this topic following the announcement by the previous Government in the Budget of 2009 to put in place pension tax relief restrictions in 2011.

As a result of our involvement and our own analysis, we concluded that what was being proposed would be an overly complicated method to achieve the Governments aims. AMPS consequently put forward the alternative proposal that a reduced Annual Allowance in the region of £50,000 to £60,000 would be broadly financially neutral with those aims, and would in fact be a better method of limiting the cash flow demands placed on the Exchequer, if only as an interim measure while further consideration can be given to developing longer term and sustainable pension policy objectives. A copy of our Consultation response and accompanying documents are attached.

We did also make representation in April 2010 ahead of the Finance Bill becoming an Act, urging that the proposed restrictions should be removed from the Bill due to our concerns that this important issue would not be afforded the usual Parliamentary scrutiny because of the pre-general election fast track process. A copy of our representation to Conservative Shadow Ministers is also attached.

As a new Government with a forthcoming emergency Budget we again make an appeal and urge that you take this opportunity to reappraise the appropriateness of implementing the restrictions as per Finance Act 2010 and that you strongly consider the alternative method of limiting the amount of tax relief granted in a tax year by reducing the Annual Allowance, as has been proposed by many other relevant trade bodies.

There is a huge strength of opinion that the principle that pension contributions are deferred pay, should be retained. In other words the existing system of EET – **E**xemption to tax on contributions, **E**xemption to tax on growth, **T**ax on benefits, should be upheld. This principle would be severely undermined by the current intentions, as per Finance Act 2010, to restrict pension tax relief, with the prospect of some individuals being taxed twice on their income. The alternative of a reduced Annual Allowance would uphold the principle and yet still limit the amount of tax relief granted in any one tax year.

The strength of opinion is demonstrated as follows. At the AMPS Annual conference held on the 25th May 2010, we carried out a survey of the 140 member delegates. Amongst a variety of questions we asked:

Which of the following issues do you consider to be the most important?	Response
Tax relief e.g. Retaining the principle that pension is deferred pay i.e. EET	62.96%
Removal of the requirement to secure an income by age 75	7.41%
Equalise the tax treatment of lump sum death benefits and explore inheritability options	27.16%
Provide earlier access to pension savings	2.47%

We applaud the Government in announcing that it will look at the age 75 issue as well as explore the possibilities of providing earlier access to pensions savings but this result shows that tax relief on pension contributions is the critical issue.

We do appreciate that the Government has the difficult task of reducing the deficit and that as a consequence higher rate pension tax relief comes under scrutiny. However we maintain that given the Government’s clear intent to explore and develop its pension policy, it would be detrimental to impose such complex, costly and damaging legislation as a method of restricting pension tax relief. We believe that it will inevitably lead to harmful unintended consequences in the future, especially if pensions legislation will be amended further. Utilising the existing and well understood mechanism of the annual allowance would achieve a similar out come but with less negative effect.

We are aware that in order to implement the Finance Act 2010 restrictions on pension tax relief, further industry consultation would be required which is on top of the significant consultation that has already been undertaken on this issue. We believe that the Government would do better to avoid expending further resource on continued consultation on implementation of this legislation by adopting the option of a reduced Annual Allowance. This would then allow the Government to focus its resources on consulting with the pensions industry on developing a long term and sustainable pensions policy that is fit for today’s society and future generations.

2) AMPS would welcome Government consultation opportunities

With regard to future consultation with the pensions industry, AMPS is very keen to support the Government in the development of its pensions policy. With AMPS being the representative body for providers of Self Invested Personal Pensions (SIPPs) and Small Self Administered Schemes (SSAS), pension products that aim to give individuals control and flexibility of choice, we are well placed to provide input not only on tax relief issues but exploring the options around the age 75 issue, earlier access to pension funds and tax treatment of death benefits.

We respectfully suggest that the Government should engage with the pensions industry to establish the best pensions policy. This is opposed to the way in which the previous Government announced its policy to restrict pension tax relief for higher earners and only then consulted with the pensions industry on how best to implement that policy. Thus it was only at that point that it became evident to the previous Government that implementation of its policy would be extremely complex and expensive and yet it would not accept the alternative option of a reduced Annual Allowance as recommended by many participants of the consultation process.

3) Support needs to be maintained for the current complex pensions regime

We recognise that the role of Government is to concern itself with the bigger picture issues such as the economy and, for example, the setting of overall pensions policy. However, we are concerned that Government, through relevant Ministers, do still continue to deal with current day to day issues. Although there have been many important improvements to the pensions framework following pensions 'A' day, we believe that on the wider issue of 'pensions simplification' the legislation has not been a success. This has not been helped by the year on year changes to pensions legislation that has occurred since the Finance Act 2004 and its implementation on A Day – 6th April 2006. Our assertion is backed by another survey question asked at our Annual Conference.

Do you think pensions have become simpler to provide and administer post A-Day?	Response
On the whole – Yes	9.76%
No real change – just different issues	8.54%
On the whole – No	75.61%
Don't know	6.10%

This data adds to our appeal that additional complexity that would be introduced through maintaining the provisions within Finance Act 2010 to restrict pension tax relief should be avoided.

But we go further to suggest that as pensions have become more complex or at best not any simpler, that despite pressure to cut back on civil service staff, we would urge that due consideration is given to maintaining adequate numbers and calibre of staff within relevant HMRC / Treasury / DWP departments that deal with pension matters to help maintain the current pensions regime as well as move to a regime that does provide long term, stable and simple legislation. Once again our Annual Conference provides data supporting our view that HMRC are suffering from lack of adequate resource and that Ministers should be mindful they, the pensions industry, employers and public are heavily reliant on such civil servants to help maintain the current pensions regime as well as develop a new one.

We have seen constant change in pensions legislation since A-Day. How do you rate HMRCs performance in communicating the changes? E.g. Pensions Newsletters, RPSM, Help Desk. Are their services:	Response
Improving	11.90%
Much the same	32.14%
Getting worse	54.76%
Don't know	1.19%

4) A request for Ministers to resolve defective legislation regarding Normal Minimum Pension Age

AMPS seeks to work closely with HMRC technical and policy staff to clarify pensions legislation and resolve practical issues caused by current day legislation. I wish to take this opportunity to raise one such issue which is summarised as follows:

a) The age from which pension plan members can first start drawing benefits, the Normal Minimum Pension Age (NMPA), increased from age 50 to age 55 on 6th April 2010.

b) Any pension plan members who elected to crystallise their pension fund via Unsecured Pension whilst of NMPA before 6th April 2010, would, according to HMRC interpretation of legislation, still be able to draw an income via unsecured pension or purchase a lifetime annuity despite not yet having attained the new NMPA of 55.

c) However, if such a pension plan member were to transfer to another pension scheme, maybe to obtain better service, lower costs or greater investment flexibility, then for any income paid out under the new pension scheme before attaining the new NMPA of 55, HMRC have interpreted legislation such that these would be unauthorised payments and thus suffer a 55% tax charge.

d) At the time of writing we are still awaiting HMRCs legal advice as to whether legislation means that the purchase of a lifetime annuity from Unsecured Pension funds prior to the new NMPA 55 would be permissible as a recognised transfer.

e) It would seem clear that as no policy objective can be served by restricting pension plan members' rights to draw income or purchase an annuity simply because they switch pension schemes, that this must be an unintended consequence of legislation.

f) Whilst AMPS has suggested alternative ways of interpreting legislation (copies of our representations to HMRC on this topic can be provided on request) that would overcome this issue, HMRC are steadfast that their interpretation of the legislation is correct.

g) As such it would appear that legislation will need to be passed in order to correct this erroneous piece of legislation that goes against common sense, fairness and indeed Financial Services Authority principles that individuals should not be unduly disadvantaged from switching products.

This issue serves to highlight the need for Ministers to continue to keep their eye on resolving the day to day issues arising, as well as the bigger picture issues. We therefore urge Ministers to devote sufficient Parliamentary time to rectify this particular issue as a matter of urgency.

We trust that this input is beneficial to you. If you would like any further information on the points we have raised via additional written material or through a meeting, please get in touch.

Yours sincerely

Robert Graves
Chairman of the Association of Member-directed Pension Schemes

Enc:

1) AMPS response to ConDoc Restricting pension tax relief
2) Modelling of UK Pension Tax Relief (Adrian Boulding Paper)
3) Copy of Pensions Contributions Modeller spreadsheet (Adrian Boulding paper)
4) Why 3 per cent of LTA is the right answer (Adrian Boulding paper)
5) AMPS Finance Bill 2010 Representations

This letter and enclosures will be available on the AMPS website.
www.ampsonline.co.uk