Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 5

REGISTERED PENSION SCHEMES: TAX CHARGES

Charges on authorised payments

204 Authorised pensions and lump sums

(1) Schedule 31 contains provision about the taxation of pensions and lump sums which are authorised to be paid by this Part.

(2) Schedule 36 contains (in Part 4) transitional provision about the taxation of annuities under existing retirement annuity contracts and other relevant transitional provision.

205 Short service refund lump sum charge

(1) A charge to income tax, to be known as the short service refund lump sum charge, arises where a short service refund lump sum is paid by a registered pension scheme.

(2) The person liable to the short service refund lump sum charge is the scheme administrator.

(3) The scheme administrator is liable to the short service refund lump sum charge whether or not—

(a) the scheme administrator, and

(b) the person to whom the short service refund lump sum is paid,

are resident, ordinarily resident or domiciled in the United Kingdom.

(4) The rate of the charge is—
   (a) 20% in respect of so much of the lump sum as does not exceed £10,800, and
   (b) 40% in respect of so much (if any) of it as exceeds that limit.

(5) The Treasury may by order amend subsection (4) so as to—
   (a) increase or decrease either or both of the rates for the time being specified in that subsection, or
   (b) increase the limit for the time being specified in paragraph (a) of that subsection.

(6) Tax under this section is to be charged on the amount of the lump sum paid or, if the rules of the pension scheme permit the scheme administrator to deduct the tax before payment, on the amount of the lump sum before deduction of tax.

(7) A short service refund lump sum is not to be treated as income for any purpose of the Tax Acts.

206 Special lump sum death benefits charge

(1) A charge to income tax, to be known as the special lump sum death benefits charge, arises where—
   (a) a pension protection lump sum death benefit,
   (b) an annuity protection lump sum death benefit, or
   (c) an unsecured pension fund lump sum death benefit,

is paid by a registered pension scheme.

(2) The person liable to the special lump sum death benefits charge is the scheme administrator.

(3) The scheme administrator is liable to the special lump sum death benefits charge whether or not—
   (a) the scheme administrator, and
   (b) the person to whom the lump sum death benefit is paid,

are resident, ordinarily resident or domiciled in the United Kingdom.

(4) The rate of the charge is 35% in respect of the lump sum death benefit.

(5) The Treasury may by order increase or decrease the rate for the time being specified in subsection (4).

(6) Tax under this section is to be charged on the amount of the lump sum paid or, if the rules of the pension scheme permit the scheme administrator to deduct the tax before payment, on the amount of the lump sum before deduction of tax.

(7) No pension protection lump sum death benefit, annuity protection lump sum death benefit or unsecured pension fund lump sum death benefit is to be treated as income for any purpose of the Tax Acts.

207 Authorised surplus payments charge

(1) A charge to income tax, to be known as the authorised surplus payments charge, arises where an authorised surplus payment is made to a sponsoring employer by an occupational pension scheme that is a registered pension scheme.

(2) The person liable to the authorised surplus payments charge is the scheme administrator.

(3) The scheme administrator is liable to the authorised surplus payments charge whether or not—

(a) the scheme administrator, and

(b) the sponsoring employer,

are resident, ordinarily resident or domiciled in the United Kingdom.

(4) The rate of the charge is 35% in respect of the authorised surplus payment.

(5) The Treasury may by order increase or decrease the rate for the time being specified in subsection (4).

(6) Subsection (1) does not apply to any authorised surplus payment—

(a) to the extent that (if this section had not been enacted) the sponsoring employer would have been exempt, or entitled to claim exemption, from income tax or corporation tax in respect of it, or

(b) if the sponsoring employer is a charity.

(7) An authorised surplus payment in respect of which income tax is charged under this section is not to be treated as income for any purpose of the Tax Acts.

(8) Schedule 36 contains (in Part 4) transitional provisions about the authorised surplus payments charge.

Unauthorised payments charge

208 Unauthorised payments charge

(1) A charge to income tax, to be known as the unauthorised payments charge, arises where an unauthorised payment is made by a registered pension scheme.

(2) The person liable to the charge—

(a) in the case of an unauthorised member payment made before the member's death, is the member to or in respect of whom the payment is made,

(b) in the case of an unauthorised member payment made after the member's death, is the recipient, and

(c) in the case of an unauthorised employer payment, is the sponsoring employer to or in respect of whom the payment is made.

(3) If more than one person is liable to the unauthorised payments charge in respect of an unauthorised payment, those persons are jointly and severally liable to the charge in respect of the payment.

(4) A person is liable to the unauthorised payments charge whether or not—

(a) that person,

(b) any other person who is liable to the unauthorised payments charge, and

(c) the scheme administrator,

are resident, ordinarily resident or domiciled in the United Kingdom.

(5) The rate of the charge is 40% in respect of the unauthorised payment.

(6) The Treasury may by order increase or decrease the rate for the time being specified in subsection (5).

(7) An unauthorised payment may also be subject to—
  (a) the unauthorised payments surcharge under section 209, and
  (b) the scheme sanction charge under section 239.

(8) An unauthorised payment is not to be treated as income for any purpose of the Tax Acts.

209 Unauthorised payments surcharge

(1) A charge to income tax, to be known as the unauthorised payments surcharge, arises where a surchargeable unauthorised payment is made by a registered pension scheme.

(2) "Surchargeable unauthorised payments" means—
  (a) surchargeable unauthorised member payments (see section 210), and
  (b) surchargeable unauthorised employer payments (see section 213).

(3) The person liable to the charge—
  (a) in the case of a surchargeable unauthorised member payment made before the member's death, is the member in respect of whose arrangement the payment was made,
  (b) in the case of a surchargeable unauthorised member payment made after the member's death, is the recipient, and
  (c) in the case of a surchargeable unauthorised employer payment, is the sponsoring employer to or in respect of whom the payment was made.

(4) If more than one person is liable to the unauthorised payments surcharge in respect of a surchargeable unauthorised payment, those persons are jointly and severally liable to the surcharge in respect of the payment.

(5) A person is liable to the unauthorised payments surcharge whether or not—
  (a) that person,
  (b) any other person who is liable to the unauthorised payments surcharge, and
  (c) the scheme administrator,

are resident, ordinarily resident or domiciled in the United Kingdom.

(6) The rate of the charge is 15% in respect of the surchargeable unauthorised payment.

(7) The Treasury may by order increase or decrease the rate for the time being specified in subsection (6).

210 Surchargeable unauthorised member payments

(1) This section identifies which unauthorised member payments made by a registered pension scheme in respect of an arrangement relating to a member under the pension scheme are surchargeable.

(2) If the surcharge threshold is reached before the end of the period of 12 months beginning with a reference date, each unauthorised member payment made in respect of the arrangement in the surcharge period is surchargeable.

(3) The surcharge period is the period—
- (a) beginning with the reference date, and
- (b) ending with the day on which the surcharge threshold is reached.

(4) The first reference date is the date on which the pension scheme first makes an unauthorised member payment in respect of the arrangement.

(5) Each subsequent reference date is the date, after the end of the previous reference period, on which the pension scheme next makes an unauthorised member payment in respect of the arrangement.

(6) The previous reference period is the period of 12 months beginning with the previous reference date or, if the surcharge threshold is reached in that period, is the surcharge period ending with the date on which it was reached.

(7) The surcharge threshold is reached if the unauthorised payments percentage reaches 25%.

(8) The unauthorised payments percentage is the aggregate of the percentages of the pension fund used up by each unauthorised member payment made by the pension scheme in respect of the arrangement on or after the reference date.

(9) The percentage of the pension fund used up on the occasion of an unauthorised member payment is—

$$\frac{UMP}{VR} \times 100$$

where—

UMP is the amount of the unauthorised member payment, and

VR is an amount equal to the value of the member's rights under the arrangement when the unauthorised payment is made (or, if the unauthorised payment is made after the member's death, at the date of the member's death).

(10) The value of the member's rights under the arrangement on that date is the aggregate of—
- (a) the value of the member's crystallised rights under the arrangement on that date, calculated in accordance with section 211, and
- (b) the value of the member's uncrystallised rights under the arrangement on that date, calculated in accordance with section 212.

211 Valuation of crystallised rights for purposes of section 210

(1) The value of the member's crystallised rights under the arrangement on any date is the aggregate of—
- (a) the value of each scheme pension or lifetime annuity to which the member has an actual (rather than a prospective) entitlement under the arrangement on that date, and
- (b) the aggregate of the amount of the sums, and the market value of the assets, representing the member's unsecured pension fund or alternatively secured pension fund in respect of the arrangement on that date (if any).

(2) The value of a scheme pension or lifetime annuity is—

$$RVF \times ARP$$

where—

RVF is the relevant valuation factor (see section 276), and

ARP is an amount equal to the annual rate of the pension or annuity on the date.

212 Valuation of uncrystallised rights for purposes of section 210

(1) Rights are uncrystallised if the member is not entitled to the present payment of benefits in respect of the rights.

(2) The member is to be treated as entitled to the present payment of benefits in respect of the sums and assets representing the member's unsecured pension fund or alternatively secured pension fund.

(3) The value of the member's uncrystallised rights under the arrangement on any date is to be calculated—

(a) in accordance with subsection (4) if the arrangement is a cash balance arrangement,

(b) in accordance with subsection (5) if the arrangement is a money purchase arrangement other than a cash balance arrangement,

(c) in accordance with subsection (6) if the arrangement is a defined benefits arrangement, and

(d) in accordance with subsection (7) if the arrangement is a hybrid arrangement.

(4) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits in respect of those rights if the member became entitled to benefits in respect of those rights on the date.

(5) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date is the aggregate of—

(a) the amount of such of the sums held for the purposes of the arrangement on the date as represent those rights, and

(b) the market value of such of the assets held for the purposes of the arrangement on the date as represent those rights.

(6) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date is—

$$(RVF \times ARP) + LS$$

where—

RVF is the relevant valuation factor (see section 276),

ARP is the annual rate of pension to which the member would, on the valuation assumptions, be entitled under the arrangement on the date if, on the date, the member acquired an actual (rather than a prospective) right to receive a pension in respect of the rights, and

LS is the amount of any lump sum to which the member would, on the valuation assumptions, be entitled under the arrangement on the date (otherwise than by way of commutation of pension) if, on the date, the member acquired an actual (rather than a prospective) right to payment of a lump sum in respect of the rights.

(7) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date is—

(a) if each of subsections (4), (5) and (6) is relevant, the greatest of the values of the rights calculated in accordance with each of those subsections, or

(b) if only two of those subsections are relevant, the greater of the values of the rights calculated in accordance with each of the two subsections.

(8) Subsection (4) is relevant if, in any circumstances, cash balance benefits may be provided to or in respect of the member under the arrangement.

(9) Subsection (5) is relevant if, in any circumstances, money purchase benefits other than cash balance benefits may be provided to or in respect of the member under the arrangement.

(10) Subsection (6) is relevant if, in any circumstances, defined benefits may be provided to or in respect of the member under the arrangement.

213 Surchargeable unauthorised employer payments

(1) This section identifies which unauthorised employer payments made by a registered pension scheme to or in respect of a sponsoring employer are surchargeable.

(2) If the surcharge threshold is reached before the end of the period of 12 months beginning with a reference date, each unauthorised employer payment made to or in respect of the employer in the surcharge period is surchargeable.

(3) The surcharge period is the period—

(a) beginning with the reference date, and

(b) ending with the day on which the surcharge threshold is reached.

(4) The first reference date is the date on which the pension scheme first makes an unauthorised employer payment to or in respect of the employer.

(5) Each subsequent reference date is the date, after the end of the previous reference period, on which the pension scheme next makes an unauthorised employer payment to or in respect of the employer.

(6) The previous reference period is the period of 12 months beginning with the previous reference date or, if the surcharge threshold is reached in that period, is the surcharge period ending with the date on which it was reached.

(7) The surcharge threshold is reached if the unauthorised payments percentage reaches 25%.

(8) The unauthorised payments percentage is the aggregate of the percentages of the pension fund used up by each unauthorised employer payment made by the pension scheme to or in respect of the employer on or after the reference date.

(9) The percentage of the pension fund used up on the occasion of an unauthorised employer payment is—

$$\frac{UEP}{AA} \times 100$$

where—

UEP is the amount of the unauthorised employer payment, and

AA is an amount equal to the aggregate of the amount of the sums and the market value of the assets held for the purposes of the pension scheme at the time when the unauthorised employer payment is made.

Lifetime allowance charge

214 Lifetime allowance charge

(1) A charge to income tax, to be known as the lifetime allowance charge, arises where—

(a) a benefit crystallisation event occurs in relation to an individual who is a member of one or more registered pension schemes, and

(b) either the first lifetime allowance charge condition or the second lifetime allowance charge condition is met.

(2) The first lifetime allowance charge condition is that—

(a) the whole or any part of the individual's lifetime allowance is available on the benefit crystallisation event, but

(b) the amount crystallised by the benefit crystallisation event exceeds the amount of the individual's lifetime allowance which is available on the benefit crystallisation event.

(3) The second lifetime allowance charge condition is that none of the individual's lifetime allowance is available on the benefit crystallisation event.

(4) The following sections make further provision about the lifetime allowance charge—

section 215 (amount of charge),

section 216 and Schedule 32 (benefit crystallisation events and amounts crystallised),

section 217 (persons liable to charge),

section 218 (individual's lifetime allowance and standard lifetime allowance),

section 219 (availability of individual's lifetime allowance), and

sections 220 to 226 (lifetime allowance enhancement factors).

(5) In sections 215 to 219—

(a) references to "the individual", in relation to the lifetime allowance charge, are to the individual in relation to whom the benefit crystallisation event giving rise to the charge occurs, and

(b) references to "the pension scheme", in relation to the lifetime allowance charge, are to the pension scheme to which the benefit crystallisation event giving rise to the charge, or the amount crystallised by it, relates.

(6) Schedule 36 contains (in Part 2) transitional provision about the lifetime allowance charge.

215 Amount of charge

(1) The lifetime allowance charge is a charge in respect of the chargeable amount.

(2) The lifetime allowance charge is a charge—

(a) at the rate of 55% in respect of so much (if any) of the chargeable amount as constitutes the lump-sum amount, and

(b) at the rate of 25% in respect of so much (if any) of the chargeable amount as constitutes the retained amount.

(3) The "chargeable amount" is the aggregate of—

(a) the basic amount, and

(b) any amount which is treated as forming part of the lump-sum amount under subsection (6) or of the retained amount under subsection (8).

(4) The "basic amount"—

(a) if the first lifetime allowance condition is met, is the amount by which the amount crystallised by the benefit crystallisation event exceeds the amount of the individual's lifetime allowance available on it, and

(b) if the second lifetime allowance charge condition is met, is the amount crystallised by the benefit crystallisation event.

(5) The "lump-sum amount" is the aggregate of—

(a) so much of the basic amount as is paid as a lump sum to the individual or a lump sum death benefit in respect of the individual, and

(b) any amount which is treated as forming part of the lump-sum amount under subsection (6).

(6) If and to the extent that the tax payable under this section on any of the lump-sum amount is covered by a scheme-funded tax payment, it is to be treated as itself forming part of the lump-sum amount.

(7) The "retained amount" is the aggregate of—

(a) so much of the basic amount as is not paid as a lump sum to the individual or a lump sum death benefit in respect of the individual, and

(b) any amount which is treated as forming part of the retained amount under subsection (8).

(8) If and to the extent that the tax payable under this section on any of the retained amount is covered by a scheme-funded tax payment, it is to be treated as itself forming part of the retained amount.

(9) An amount of tax payable under this section is "covered by a scheme-funded tax payment" if—

(a) the tax is paid by the scheme administrator, and

(b) the individual's rights under the pension scheme are not reduced so as fully to reflect the amount of the payment of tax.

(10) Whether the individual's rights under the pension scheme are reduced so as fully to reflect the amount of the payment of tax is to be determined in accordance with normal actuarial practice.

(11) The chargeable amount is not to be treated as income for any purpose of the Tax Acts.

216 Benefit crystallisation events and amounts crystallised

(1) This table sets out—

(a) the events which are benefit crystallisation events in relation to the individual, and

(b) the amount which is crystallised by each of those events.

BENEFIT CRYSTALLISATION EVENTS	*AMOUNT CRYSTALLISED*
1. The designation of sums or assets held for the purposes of a money purchase arrangement under any of the relevant pension schemes as available for the payment of unsecured pension to the individual	The aggregate of the amount of the sums and the market value of the assets designated
2. The individual becoming entitled to a scheme pension under any of the relevant pension schemes	RVF × P
3. The individual, having become so entitled, becoming entitled to payment of the scheme pension, otherwise than in excepted circumstances, at an increased annual rate which exceeds by more than the permitted margin the rate at which it was payable on the day on which the individual became entitled to it	RVF × XP
4. The individual becoming entitled to a lifetime annuity purchased under a money purchase arrangement under any of the relevant pension schemes	The aggregate of the amount of such of the sums, and the market value of such of the assets, representing the individual's rights under the arrangement as are applied to purchase the lifetime annuity
5. The individual reaching the age of 75 when prospectively entitled to a scheme pension or a lump sum (or both) under a defined benefits arrangement under any of the relevant pension schemes	(RVF × DP) + DSLS
6. The individual becoming entitled to a relevant lump sum under any of the relevant pension schemes	The amount of the lump sum
7. A person being paid a relevant lump sum death benefit in respect of the individual under any of the relevant pension schemes	The amount of the lump sum death benefit
8. The transfer of sums or assets held for the purposes of, or representing accrued rights under, any of the relevant pension schemes so as to become held for the purposes of or to represent rights under a qualifying recognised overseas pension scheme in connection with the	The aggregate of the amount of any sums transferred and the market value of any assets transferred

BENEFIT CRYSTALLISATION EVENTS	*AMOUNT CRYSTALLISED*
individual's membership of that pension scheme	

(2) Schedule 32 gives the meaning of expressions used in the table in subsection (1).

217 Persons liable to charge

(1) The persons liable to the lifetime allowance charge are—

(a) the individual, and

(b) the scheme administrator of the pension scheme,

and their liability is joint and several.

(2) But where the liability arises by reason of the payment of a relevant lump sum death benefit it is a liability of the person to whom the lump sum death benefit is paid.

(3) Subsection (4) applies if—

(a) more than one relevant lump sum death benefit is paid in respect of an individual, and

(b) tax is not chargeable on the whole amount of all of them.

(4) In that case each of the persons to whom any of the relevant lump sum death benefits is paid is liable under subsection (2) to such portion of the total amount of the tax payable by reason of their having been paid as appears to the Inland Revenue to be just and reasonable.

(5) A person is liable to the lifetime allowance charge whether or not—

(a) that person,

(b) any other person who is liable to the lifetime allowance charge, and

(c) the scheme administrator (if not so liable),

are resident, ordinarily resident or domiciled in the United Kingdom.

218 Individual's lifetime allowance and standard lifetime allowance

(1) Subject as follows, the individual's lifetime allowance is the standard lifetime allowance.

(2) The standard lifetime allowance for the tax year 2006-07 is £1,500,000.

(3) The standard lifetime allowance for each subsequent tax year is such amount, not being less than the standard lifetime allowance for the immediately preceding tax year, as is specified by order made by the Treasury.

(4) Where one or more lifetime allowance enhancement factors operate in relation to a benefit crystallisation event occurring in relation to the individual, the individual's lifetime allowance at the time of the benefit crystallisation event is—

$$SLA + (SLA \times LAEF)$$

where—

SLA is the standard lifetime allowance at the time of the benefit crystallisation event, and

LAEF is the lifetime allowance enhancement factor which operates with respect to the benefit crystallisation event and the individual or (where more than one so operates) the aggregate of them.

(5) The following make provision for the operation of lifetime allowance enhancement factors—

section 220 (pension credits from previously crystallised rights),

sections 221 to 223 (individuals who are not always relevant UK individuals),

sections 224 to 226 (transfers from recognised overseas pension schemes),

paragraphs 7 to 11 of Schedule 36 (primary protection), and

paragraph 18 of that Schedule (pre-commencement pension credits).

(6) Paragraph 19 of that Schedule makes provision for the reduction of what would otherwise be the individual's lifetime allowance in certain cases where the individual is permitted to take pension before normal minimum pension age.

(7) In this Part references (however expressed) to a person's lifetime allowance at any time are to what would be the person's lifetime allowance, calculated in accordance with this section, if a benefit crystallisation event occurred in relation to the person at that time.

219 Availability of individual's lifetime allowance

(1) This section is about the availability of the individual's lifetime allowance on the occurrence of a benefit crystallisation event in relation to the individual ("the current benefit crystallisation event").

(2) If no benefit crystallisation event has occurred in relation to the individual before the current benefit crystallisation event, the whole of the individual's lifetime allowance is available on the current benefit crystallisation event.

(3) If one or more benefit crystallisation events have occurred in relation to the individual before the current benefit crystallisation event—

(a) in a case in which the previously-used amount is equal to or greater than the amount of the individual's lifetime allowance, none of the individual's lifetime allowance is available on the current benefit crystallisation event, and

(b) in any other case, so much of the individual's lifetime allowance as is left after deducting the previously-used amount is available on the current benefit crystallisation event.

(4) The previously-used amount is—

(a) where one benefit crystallisation event has occurred in relation to the individual before the current benefit crystallisation event, the amount crystallised by the previous benefit crystallisation event as adjusted under subsection (5), or

(b) where two or more benefit crystallisation events have occurred in relation to the individual before the current benefit crystallisation event, the aggregate of the amounts crystallised by each previous benefit crystallisation event as adjusted under subsection (5).

(5) The adjustment of the amount crystallised by a previous benefit crystallisation event referred to in subsection (4)(a) and (b) is the multiplication of that amount by—

$$\frac{CSLA}{PSLA}$$

where—

CSLA is the standard lifetime allowance at the time of the current benefit crystallisation event, and

PSLA is the standard lifetime allowance at the time of the previous benefit crystallisation event.

(6) Where more than one benefit crystallisation event occurs in relation to an individual on the same day, it is for the individual to decide the order in which they are to be treated as occurring for the purposes of this section; but this subsection is subject to section 166(2) (entitlement to pension commencement lump sum to arise immediately before entitlement to associated pension).

(7) Where more than one benefit crystallisation event occurs by reason of the payment of lump sum death benefits in respect of an individual the benefit crystallisation events are to be treated for the purposes of this section as occurring immediately before the individual's death.

(8) Paragraph 20 of Schedule 36 makes provision affecting this section in relation to pre-commencement pensions.

(9) In this Part references (however expressed) to the portion of a person's lifetime allowance that is available at any time are to the portion of the person's lifetime allowance that would be available, calculated in accordance with this section, if a benefit crystallisation event occurred in relation to the person at that time.

220 Pension credits from previously crystallised rights

(1) This section makes provision for the operation of a lifetime allowance enhancement factor with respect to a benefit crystallisation event occurring in relation to an individual where—

(a) the individual has (at any time after 5th April 2006 but before the benefit crystallisation event) acquired rights under a registered pension scheme by reason of having become entitled to a pension credit,

(b) the pension credit derived from the same or another registered pension scheme, and

(c) the rights under that registered pension scheme which became subject to the corresponding pension debit consisted of or included rights to a post-commencement pension in payment.

(2) "Post-commencement pension in payment" means a pension to which a person became (actually) entitled on or after 6th April 2006.

(3) The lifetime allowance enhancement factor is the pension credit factor.

(4) The pension credit factor is—

$$\frac{APC}{SLA}$$

where—

APC is the amount which is the appropriate amount for the purposes of section 29(1) of WRPA 1999 or Article 26(1) of WRP(NI)O 1999 in relation to the pension credit, and

SLA is the standard lifetime allowance at the time when the rights were acquired.

(5) This section only applies if notice of intention to rely on it is given to the Inland Revenue in accordance with regulations made by the Board of Inland Revenue.

221 Non-residence: general

(1) This section makes provision for the operation of a lifetime allowance enhancement factor with respect to a benefit crystallisation event occurring in relation to an individual where, during any part of the period that is the active membership period in relation to an arrangement relating to the individual under a registered pension scheme, the individual is a relevant overseas individual.

(2) Section 222 provides the lifetime allowance enhancement factor in the case of an arrangement that is a money purchase arrangement; and section 223 provides the lifetime allowance enhancement factor in the case of any other arrangement.

(3) For the purposes of this Part an individual is a relevant overseas individual at any time if, at that time, the individual either is not a relevant UK individual or—

(a) is a relevant UK individual only by virtue of paragraph (c) of section 189(1) (individuals resident in UK at some time in previous five tax years), and

(b) is not employed by a person resident in the United Kingdom.

(4) In this section and sections 222 and 223 "the active membership period", in relation to a benefit crystallisation event occurring in relation to an arrangement relating to the individual, is the period—

(a) beginning with the date on which the benefits first began to accrue to or in respect of the individual under the arrangement or, if later, 6th April 2006, and

(b) ending immediately before the benefit crystallisation event.

(5) But if benefits ceased to accrue to or in respect of the individual under the arrangement before the benefit crystallisation event, the active membership period is to be treated as having ended then.

(6) This section only applies if notice of intention to rely on it is given to the Inland Revenue in accordance with regulations made by the Board of Inland Revenue.

222 Non-residence: money purchase arrangements

(1) This section applies in the case of an arrangement that is a money purchase arrangement.

(2) The lifetime allowance enhancement factor is—

(a) if the arrangement is a cash balance arrangement, the cash balance arrangement non-residence factor (see subsections (3) to (5)), and

(b) if the arrangement is any other sort of money purchase arrangement, the other money purchase arrangement non-residence factor (see subsections (6) and (7)).

(3) The cash balance arrangement non-residence factor is—

(a) the factor arrived at by the application of subsection (4) in relation to the part of the active membership period during which the individual was a relevant overseas individual, or

(b) if there have been two or more parts of that period during which the individual was a relevant overseas individual, the aggregate of the factors arrived at by the application of subsection (4) in relation to each of those parts of that period.

(4) The factor arrived at by the application of this subsection in relation to any part of the active membership period is—

$$\frac{CV - OV}{SLA}$$

where—

CV is the closing value of the individual's rights under the arrangement,

OV is the opening value of the individual's rights under the arrangement, and

SLA is the standard lifetime allowance at the time when that part of that period ended.

(5) For the purposes of subsection (4)—

(a) the closing value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of that part of that period, and

(b) the opening value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the beginning of that part of that period.

(6) The other money purchase arrangement non-residence factor is—

(a) the factor arrived at by the application of subsection (7) in relation to the part of the active membership period during which the individual was a relevant overseas individual, or

(b) if there have been two or more parts of that period during which the individual was a relevant overseas individual, the aggregate of the factors arrived at by the application of subsection (7) in relation to each of those parts of that period.

(7) The factor arrived at by the application of this subsection in relation to any part of the active membership period is—

$$\frac{ROIC}{SLA}$$

where—

ROIC is the amount of the contributions made under the arrangement by or in respect of the individual in any part of the active membership period during which the individual is a relevant overseas individual, and

SLA is the standard lifetime allowance at the time when that part of that period ended.

223 Non-residence: other arrangements

(1) This section applies in the case of an arrangement that is not a money purchase arrangement.

(2) The lifetime allowance enhancement factor is—

(a) if the arrangement is a defined benefits arrangement, the defined benefits arrangement non-residence factor (see subsections (3) and (4)), and

(b) if the arrangement is a hybrid arrangement, the hybrid arrangement non-residence factor (see subsections (5) to (7)).

(3) The defined benefits arrangement non-residence factor is—

(a) the factor arrived at by the application of subsection (4) in relation to the part of the active membership period during which the individual was a relevant overseas individual, or

(b) if there have been two or more parts of that period during which the individual was a relevant overseas individual, the aggregate of the factors arrived at by the application of subsection (4) in relation to each of those parts of that period.

(4) The factor arrived at by the application of this subsection in relation to any part of the active membership period is—

$$\frac{(RVF \times PE + LSE) - (RVF \times PB + LSB)}{SLA}$$

where—

RVF is the relevant valuation factor (see section 276),

PE is the amount of the annual rate of the pension which would, on the valuation assumptions (see section 277), be payable to the individual under the arrangement if the individual became entitled to payment of it at the end of that part of that period,

LSE is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to payment of it at the end of that part of that period,

PB is the amount of the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the beginning of that part of that period,

LSB is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to payment of it at the beginning of that part of that period, and

SLA is the standard lifetime allowance at the time when that part of that period ended.

(5) The hybrid arrangement non-residence factor is the greater or greatest of such of—

(a) what would be the cash balance arrangement non-residence factor (under section 222) if the arrangement were a cash balance arrangement,

(b) what would be the other money purchase arrangement non-residence factor (under that section) if the arrangement were any other sort of money purchase arrangement, and

(c) what would be the defined benefits arrangement non-residence factor (under subsections (3) and (4)) if the arrangement were a defined benefits arrangement,

as are relevant factors in relation to the arrangement.

(6) A factor is a relevant factor in relation to a hybrid arrangement if, in any circumstances, the benefits that may be provided to or in respect of the individual under the arrangement may be benefits linked to that factor.

(7) For that purpose—

(a) cash balance benefits are linked to the cash balance arrangement non-residence factor,

(b) other money purchase benefits are linked to the other money purchase arrangement non-residence factor, and

(c) defined benefits are linked to the defined benefits arrangement non-residence factor.

224 Transfers from recognised overseas pension scheme: general

(1) This section makes provision for the operation of a lifetime allowance enhancement factor with respect to a benefit crystallisation event occurring in relation to an individual where (at any time after 5th April 2006 but before the benefit crystallisation event) there has been a recognised overseas scheme transfer.

(2) There is a "recognised overseas scheme transfer" if any sums or assets—

(a) held for the purposes of an arrangement under a recognised overseas pension scheme, or

(b) representing accrued rights under such an arrangement,

are transferred so as to become held for the purposes of, or to represent rights under, an arrangement under a registered pension scheme relating to the individual.

(3) The arrangement specified in subsection (2)(a) or (b) is referred to in this section and sections 225 and 226 as the "recognised overseas scheme arrangement".

(4) The lifetime allowance enhancement factor is the recognised overseas scheme transfer factor.

(5) The recognised overseas scheme transfer factor is—

$$\frac{AAT - RRA}{SLA}$$

where—

AAT is the aggregate of the amount of any sums transferred, and the market value of any assets transferred, on the recognised overseas scheme transfer,

RRA is the relevant relievable amount, and

SLA is the standard lifetime allowance at the time when the recognised overseas scheme transfer took place.

(6) Section 225 specifies the relevant relievable amount in the case of a recognised overseas scheme arrangement that was a money purchase arrangement; and section 226 specifies the relevant relievable amount in the case of an recognised overseas scheme arrangement that was any other sort of arrangement.

(7) In this section and sections 225 and 226 "overseas arrangement active membership period" is the period—
(a) beginning with the date on which the benefits first began to accrue to or in respect of the individual under the recognised overseas scheme arrangement or, if later, 6th April 2006, and
(b) ending immediately before the recognised overseas scheme transfer.

(8) But if benefits ceased to accrue to or in respect of the individual under the recognised overseas scheme arrangement before the recognised overseas scheme transfer, the overseas arrangement active membership period is to be treated as having ended then.

(9) This section only applies if notice of intention to rely on it is given to the Inland Revenue in accordance with regulations made by the Board of Inland Revenue.

225 Overseas scheme transfers: money purchase arrangements

(1) This section applies in the case of a recognised overseas scheme arrangement that was a money purchase arrangement.

(2) The relevant relievable amount is—
(a) if the recognised overseas scheme arrangement was a cash balance arrangement, the cash balance relevant relievable amount (see subsections (3) to (5)), and
(b) if the recognised overseas scheme arrangement was any other sort of money purchase arrangement, the other money purchase relevant relievable amount (see subsections (6) and (7)).

(3) The cash balance relevant relievable amount is—
(a) the amount arrived at by the application of subsection (4) in relation to the part of the overseas arrangement active membership period during which the individual was not a relevant overseas individual, or
(b) if there have been two or more parts of that period during which the individual was not a relevant overseas individual, the aggregate of the amounts arrived at by the application of subsection (4) in relation to each of those parts of that period.

(4) The amount arrived at by the application of this subsection in relation to any part of the overseas arrangement active membership period is—

$$CV \quad OV$$

where—

CV is the closing value of the individual's rights under the arrangement, and

OV is the opening value of the individual's rights under the arrangement.

(5) For the purposes of subsection (4)—
(a) the closing value of the individual's rights under the recognised overseas scheme arrangement is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of that part of that period, and
(b) the opening value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions, be available for the

provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the beginning of that part of that period.

(6) The other money purchase relevant relievable amount is—

(a) the amount arrived at by the application of subsection (7) in relation to the part of the overseas arrangement active membership period during which the individual was not a relevant overseas individual, or

(b) if there have been two or more parts of that period during which the individual was not a relevant overseas individual, the aggregate of the amounts arrived at by the application of subsection (7) in relation to each of those parts of that period.

(7) The amount arrived at by the application of this subsection in relation to any part of the overseas arrangement active membership period is the amount of the contributions made under the arrangement by or in respect of the individual in any part of the overseas arrangement active membership period during which the individual was not a relevant overseas individual.

226 Overseas scheme transfers: other arrangements

(1) This section applies in the case of a recognised overseas scheme arrangement that was not a money purchase arrangement.

(2) The relevant relievable amount is—

(a) if the recognised overseas scheme arrangement was a defined benefits arrangement, the defined benefits relevant relievable amount (see subsections (3) and (4)), and

(b) if the recognised overseas scheme arrangement was a hybrid arrangement, the hybrid relevant relievable amount (see subsections (5) to (7)).

(3) The defined benefits relevant relievable amount is—

(a) the amount arrived at by the application of subsection (4) in relation to the part of the overseas arrangement active membership period during which the individual was not a relevant overseas individual, or

(b) if there have been two or more parts of that period during which the individual was not a relevant overseas individual, the aggregate of the amounts arrived at by the application of subsection (4) in relation to each of those parts of that period.

(4) The amount arrived at by the application of this subsection in relation to any part of the overseas arrangement active membership period is—

$$(RVF \times PE + LSE) - (RVF \times PB + LSB)$$

where—

RVF is the relevant valuation factor (see section 276),

PE is the annual rate of the pension which would, on the valuation assumptions (see section 277), be payable to the individual under the recognised overseas scheme arrangement if the individual became entitled to payment of it at the end of that part of that period,

LSE is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to payment of it at the end of that part of that period,

PB is the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the beginning of that part of that period, and

LSB is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to payment of it at the beginning of that part of that period.

(5) The hybrid relevant relievable amount is the greater or greatest of such of—

(a) what would be the cash balance relevant relievable amount (under section 225) if the recognised overseas scheme arrangement had been a cash balance arrangement,

(b) what would be the other money purchase relevant relievable amount (under that section) if that arrangement had been any other sort of money purchase arrangement, and

(c) what would be the defined benefits relevant relievable amount (under subsections (3) and (4)) if that arrangement had been a defined benefits arrangement,

as are relevant to that arrangement.

(6) An amount is relevant to a hybrid arrangement if, in any circumstances, the benefits that may be provided to or in respect of the individual under the arrangement may be benefits linked to that amount.

(7) For that purpose—

(a) cash balance benefits are linked to the cash balance relevant relievable amount,

(b) other money purchase benefits are linked to the other money purchase relevant relievable amount, and

(c) defined benefits are linked to the defined benefits relevant relievable amount.

Annual allowance charge

227 Annual allowance charge

(1) A charge to income tax, to be known as the annual allowance charge, arises where—

(a) the total pension input amount for a tax year in the case of an individual who is a member of one or more registered pension schemes, exceeds

(b) the amount of the annual allowance for the tax year.

(2) The person liable to the annual allowance charge is the individual.

(3) The individual is liable to the annual allowance charge whether or not—

(a) the individual, and

(b) the scheme administrator of the pension scheme or schemes concerned,

are resident, ordinarily resident or domiciled in the United Kingdom.

(4) The annual allowance charge is a charge at the rate of 40% in respect of the amount by which the total pension input amount exceeds the amount of the annual allowance.

(5) That excess is not to be treated as income for any purpose of the Tax Acts.

(6) The following sections make further provision about the annual allowance charge—

section 228 (annual allowance),

section 229 (total pension input amount to be aggregate of pension input amounts for pension input periods ending in tax year),

sections 230 to 237 (pension input amounts), and

section 238 (pension input period).

(7) Schedule 36 contains (in Part 4) transitional provision about the annual allowance charge.

228 Annual allowance

(1) The annual allowance for the tax year 2006-07 is £215,000.

(2) The annual allowance for each subsequent tax year is such amount, not being less than the annual allowance for the immediately preceding tax year, as is specified by order made by the Treasury.

229 Total pension input amount

(1) The total pension input amount is arrived at by aggregating the pension input amounts in respect of each arrangement relating to the individual under a registered pension scheme of which the individual is a member.

(2) The pension input amount in respect of an arrangement—

(a) is the amount arrived at under sections 230 to 232 if it is a cash balance arrangement,

(b) is the amount arrived at under section 233 if it is any other sort of money purchase arrangement,

(c) is the amount arrived at under sections 234 to 236 if it is a defined benefits arrangement, and

(d) is the amount arrived at under section 237 if it is a hybrid arrangement.

(3) But there is no pension input amount in respect of an arrangement if, before the end of the tax year, the individual—

(a) has become entitled to all the benefits which may be provided to the individual under the arrangement, or

(b) has died.

230 Cash balance arrangements

(1) The pension input amount in respect of a cash balance arrangement is the amount of any increase in the value of the individual's rights under the arrangement during the pension input period of the arrangement that ends in the tax year.

(2) There is an increase in the value of the individual's rights under the arrangement during the pension input period if—

(a) the opening value of the individual's rights under the arrangement, is exceeded by

(b) the closing value of the individual's rights under the arrangement.

(3) The amount of the increase in the value of the individual's rights under the arrangement during the pension input period is the amount of that excess.

(4) The opening value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the beginning of the pension input period.

(5) The closing value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of the pension input period.

(6) Section 231 (uprating of opening value) and section 232 (adjustments of closing value) supplement this section.

231 Cash balance arrangements: uprating of opening value

(1) This section applies for adjusting the opening value of the individual's rights as calculated under section 230(4).

(2) The opening value is to be increased by the appropriate percentage.

(3) The appropriate percentage is whichever is the greatest of—
   (a) 5%,
   (b) the percentage (if any) by which the retail prices index for the month in which the pension input period ends is higher than it was for the month in which it began, and
   (c) if provision made by regulations made by the Board of Inland Revenue applies in relation to the arrangement, the percentage to which the regulations refer.

232 Cash balance arrangements: adjustments of closing value

(1) This section applies for adjusting the closing value of the individual's rights under the arrangement as calculated under section 230(5).

(2) If, during the pension input period, the rights of the individual under the arrangement have been reduced by having become subject to a pension debit, the amount of the debit is to be added.

(3) If, during the pension input period, the rights of the individual under the arrangement have been increased by the individual having become entitled to a pension credit deriving from the same or another registered pension scheme, the amount of the credit is to be subtracted.

(4) Subsection (5) applies if, during the pension input period, the rights of the individual under the arrangement have been reduced by virtue of a transfer of any sum or asset held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under, any other pension scheme that is—
   (a) a registered pension scheme, or
   (b) a qualifying recognised overseas pension scheme.

(5) The aggregate of the amount of any sums transferred and the market value of any assets transferred is to be added.

(6) Subsection (7) applies if, during the pension input period, the rights of the individual under the arrangement have been increased by virtue of a transfer of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement.

(7) The aggregate of the amount of any sums transferred and the market value of any assets transferred is to be subtracted.

(8) If, during the pension input period, a benefit crystallisation event occurs in relation to the individual and the arrangement, the amount crystallised is to be added (but this is subject to section 229(3)).

(9) If, during the pension input period, minimum payments are made under—
- (a) section 8 of the Pension Schemes Act 1993 (c. 48), or
- (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49),

in relation to the individual in connection with the arrangement, the amount paid is to be subtracted.

233 Other money purchase arrangements

(1) The pension input amount in respect of a money purchase arrangement other than a cash balance arrangement is the total of—
- (a) any relievable pension contributions paid by or on behalf of the individual under the arrangement, and
- (b) contributions paid in respect of the individual under the arrangement by an employer of the individual,

during the pension input period of the arrangement that ends in the tax year.

(2) The references to contributions in subsection (1)(a) and (b) do not include minimum payments under—
- (a) section 8 of the Pension Schemes Act 1993, or
- (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49),

or any amount recovered under regulations made under subsection (3) of either of those sections.

(3) When at any time contributions paid under a pension scheme by an employer otherwise than in respect of any individual become held for the purposes of the provision under an arrangement under the pension scheme of benefits to or in respect of an individual, they are to be treated as being contributions paid at that time in respect of the individual under the arrangement.

234 Defined benefits arrangements

(1) The pension input amount in respect of a defined benefits arrangement is the amount of any increase in the value of the individual's rights under the arrangement during the pension input period of the arrangement that ends in the tax year.

(2) There is an increase in the value of the individual's rights under the arrangement during the pension input period if—

(a) the opening value of the individual's rights under the arrangement, is exceeded by

(b) the closing value of the individual's rights under the arrangement.

(3) The amount of the increase in the value of the individual's rights under the arrangement during the pension input period is the amount of that excess.

(4) The opening value of the individual's rights under the arrangement is—

$$(10 \times PB) + LSB$$

where—

PB is the annual rate of the pension which would, on the valuation assumptions (see section 277), be payable to the individual under the arrangement if the individual became entitled to payment of it at the beginning of the pension input period, and

LSB is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it at that time.

(5) The closing value of the individual's rights under the arrangement is—

$$(10 \times PE) + LSE$$

where—

PE is the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the end of the pension input period, and

LSE is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it at that time.

(6) Section 235 (uprating of opening value) and section 236 (adjustments of closing value) supplement this section.

235 Defined benefits arrangements: uprating of opening value

(1) This section applies for adjusting the opening value of the individual's rights as calculated under section 234(4) in a case where rights do not accrue to the individual under the arrangement during the pension input period.

(2) The opening value is to be increased by the appropriate percentage.

(3) The appropriate percentage is whichever is the greatest of—

(a) 5%,

(b) the percentage (if any) by which the retail prices index for the month in which the pension input period ends is higher than it was for the month in which it began, and

(c) if provision made by regulations made by the Board of Inland Revenue applies in relation to the arrangement, the percentage to which the regulations refer.

236 Defined benefits arrangements: adjustments of closing value

(1) This section applies for adjusting the closing value of the individual's rights as calculated under section 234(5).

(2) If, during the pension input period, the rights of the individual under the arrangement have been reduced by having become subject to a pension debit, the amount of the debit is to be added.

(3) If, during the pension input period, the rights of the individual under the arrangement have been increased by the individual having become entitled to a pension credit deriving from the same or another registered pension scheme, the amount of the credit is to be subtracted.

(4) Subsection (5) applies if, during the pension input period, there is a transfer relating to the individual of any sum or asset held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under, any other pension scheme that is—

- (a) a registered pension scheme, or
- (b) a qualifying recognised overseas pension scheme.

(5) The aggregate of the amount of any sums transferred and the market value of any assets transferred is to be added.

(6) Subsection (7) applies if, during the pension input period, there is a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement.

(7) The aggregate of the amount of any sums transferred and the market value of any assets transferred is to be subtracted.

(8) If, during the pension input period, a benefit crystallisation event occurs in relation to the individual and the arrangement, the amount crystallised is to be added (but this is subject to section 229(3)).

(9) If, during the pension input period, minimum payments are made under—

- (a) section 8 of the Pension Schemes Act 1993 (c. 48), or
- (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49),

in relation to the individual in connection with the arrangement, the amount paid is to be subtracted.

237 Hybrid arrangements

(1) The pension input amount in respect of a hybrid arrangement is the greater or greatest of such of input amounts A, B and C as are relevant input amounts.

(2) An input amount is a relevant input amount in the case of a hybrid arrangement if, in any circumstances, the benefits that may be provided to or in respect of the individual under the arrangement may be benefits of the variety mentioned in the definition of that input amount.

(3) Input amount A is what would be the pension input amount under sections 230 to 232 if the benefits provided to or in respect of the individual under the arrangement were cash balance benefits.

(4) Input amount B is what would be the pension input amount under section 233 if the benefits provided to or in respect of the individual under the arrangement were other money purchase benefits.

(5) Input amount C is what would be the pension input amount under sections 234 to 236 if the benefits provided to or in respect of the individual under the arrangement were defined benefits.

238 Pension input period

(1) In the case of an arrangement under a registered pension scheme the following are pension input periods—

(a) the period beginning with the relevant commencement date and ending with the earlier of a nominated date and the anniversary of the relevant commencement date, and

(b) each subsequent period beginning immediately after the end of a period which is a pension input period (under paragraph (a) or this paragraph) and ending with the appropriate date.

(2) "The relevant commencement date" means—

(a) in the case of a cash balance arrangement or a defined benefits arrangement, or a hybrid arrangement the only benefits under which may be cash balance benefits or defined benefits, the date on which rights under the arrangement begin to accrue to or in respect of the individual,

(b) in the case of a money purchase arrangement other than a cash balance arrangement, the first date on which a contribution within section 233(1) is made, and

(c) in the case of a hybrid arrangement not within paragraph (a), whichever is the earlier of the date mentioned in that paragraph and the date mentioned in paragraph (b).

(3) "Nominated date" means—

(a) in the case of a money purchase arrangement other than a cash balance arrangement, such date as the individual or scheme administrator nominates, and

(b) in the case of any other arrangement, such date as the scheme administrator nominates.

(4) A nomination for the purposes of subsection (3)—

(a) if by the individual, is to be made by notice to the scheme administrator, and

(b) if by the scheme administrator, is to be made by notice to the individual.

(5) If more than one date is nominated for the purposes of subsection (3)—

(a) in relation to the period beginning with the relevant commencement date, or

(b) in relation to a tax year following that in which the pension input period beginning with that date ends,

the date nominated first is the nominated date.

(6) "The appropriate date" means the earlier of—

(a) a nominated date falling in the tax year immediately after that in which the last pension input period ended, and

(b) the anniversary of the date on which that period ended.

(7) Once the individual has become entitled to all the benefits which may be provided to the individual under an arrangement, the last pension input period in the case of the arrangement is to be treated as having ended when that was first so.

Scheme sanction charge

239 Scheme sanction charge

(1) A charge to income tax, to be known as the scheme sanction charge, arises where in any tax year one or more scheme chargeable payments are made by a registered pension scheme.

(2) The person liable to the scheme sanction charge is the scheme administrator.

(3) But in the case of a payment treated by virtue of section 161(3) and (4) (payments under investments acquired with scheme assets) as having been made by a pension scheme which has been wound up, the person liable to the scheme sanction charge is the person who was, or each of the persons who were, the scheme administrator immediately before the pension scheme was wound up.

(4) A person liable to the scheme sanction charge is liable whether or not—

(a) that person, and

(b) any other person who is liable to the scheme sanction charge,

are resident, ordinarily resident or domiciled in the United Kingdom.

(5) The following sections make further provision about the scheme sanction charge—

section 240 (amount of charge), and

section 241 (scheme chargeable payment).

240 Amount of charge

(1) The scheme sanction charge for any tax year is a charge at the rate of 40% in respect of the scheme chargeable payment, or the aggregate of the scheme chargeable payments, made by the pension scheme in the tax year.

(2) But if—

(a) the scheme chargeable payment is an unauthorised payment, or any of the scheme chargeable payments are unauthorised payments, and

(b) tax charged in relation to that payment, or any of those payments, under section 208 (unauthorised payments charge) has been paid,

a deduction is to be made from the amount of tax that would otherwise be chargeable for the tax year by virtue of subsection (1).

(3) The amount of the deduction is the lesser of—

(a) 25% of the amount of the scheme chargeable payment, or of the aggregate amount of such of the scheme chargeable payments as are tax-paid, and

(b) the amount of the tax which has been paid under section 208 in relation to the scheme chargeable payment, or in relation to such of the scheme chargeable payments as are tax-paid.

(4) A scheme chargeable payment is "tax-paid" if the whole or any part of the tax chargeable in relation to it under section 208 has been paid.

241 Scheme chargeable payment

(1) In this Part "scheme chargeable payment", in relation to a registered pension scheme, means—

(a) an unauthorised payment by the pension scheme, other than one which is exempt from being scheme chargeable, and

(b) a scheme chargeable payment which the pension scheme is to be treated as having made by section 183 or 185 (unauthorised borrowing).

(2) An unauthorised payment is exempt from being scheme chargeable if—

(a) it is treated as having been made by section 173 (use of scheme assets to provide benefits) and the asset used to provide the benefit in question is not a wasting asset,

(b) it is a compensation payment (see section 178),

(c) it is made to comply with an order of a court or of a person or body with power to order the making of the payment,

(d) it is made on the ground that a court or any such person or body is likely to order the making of the payment (or would be were it asked to do so), or

(e) it is of a description prescribed by regulations made by the Board of Inland Revenue.

(3) "Wasting asset" has the same meaning as in section 44 of TCGA 1992.

(4) Schedule 36 contains (in Part 3) transitional provision about scheme chargeable payments.

De-registration charge

242 De-registration charge

(1) A charge to income tax, to be known as the de-registration charge, arises where the registration of a registered pension scheme is withdrawn.

(2) The liability to the de-registration charge is a liability of the person who was, or each of the persons who were, the scheme administrator immediately before the registration was withdrawn.

(3) That person, or each of those persons, is liable to the de-registration charge whether or not—

(a) that person, and

(b) any other person who is liable to the de-registration charge,

are resident, ordinarily resident or domiciled in the United Kingdom.

(4) The de-registration charge is a charge at the rate of 40% in respect of the aggregate of—

(a) the amount of any sums held for the purposes of the pension scheme immediately before it ceased to be a registered pension scheme, and

(b) the market value at that time of any assets held for the purposes of the pension scheme.