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## SCHEDULES

### SCHEDULE 36

#### PENSION SCHEMES ETC: TRANSITIONAL PROVISIONS AND SAVINGS

##### **Modifications etc. (not altering text)**

- C1** Sch. 36 modified by The Taxation of Pension Schemes (Transitional Provisions) Order 2006 (S.I. 2006/572), art. 23D (as inserted (1.6.2009) by [S.I. 2009/1172, arts. 1, 3](#))
- C1** [Sch. 36](#) applied (1.6.2018) by [The Local Government Pension Scheme \(Scotland\) Regulations 2018 \(S.S.I. 2018/141\)](#), regs. 1(1), **48(2)**

#### **PART 1**

##### PRE-COMMENCEMENT PENSION SCHEMES

###### *Opting out of deemed registration*

- 2 (1) Paragraph 1 (1) does not apply to a pension scheme if the relevant administrator has, at any time before 6th April 2006, notified the Inland Revenue that the pension scheme is not to become a registered pension scheme on that date.
- (2) If, by virtue of sub-paragraph (1) of this paragraph, sub-paragraph (1) of paragraph 1 does not apply to a pension scheme within any of paragraphs (a) to (d), (f) and (g) of that sub-paragraph, income tax is to be charged at the rate of 40% on the relevant amount.
- (3) The relevant amount is an amount equal to the aggregate of—
- (a) the amount of the sums held for the purposes of the pension scheme immediately before 6th April 2006, and
  - (b) the market value (at that time) of the assets held for the purposes of the pension scheme at that time.
- (4) The liability to income tax is a liability of the person who is the relevant administrator on 5th April 2006 or, if more than one person is the relevant administrator on that date, is a joint and several liability of those persons.
- (5) Where tax is charged in accordance with sub-paragraph (2), for the purposes of TCGA 1992 the assets which immediately before 6th April 2006 are held for the purposes of the pension scheme—
- (a) are to be treated as having been acquired at that time for a consideration equal to the amount on which tax is charged by virtue of sub-paragraph (2) by the person who would be chargeable in respect of a chargeable gain accruing on a disposal of the assets on that date, and
  - (b) are not to be treated as having been disposed of by any person at that time.

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- (6) “Relevant administrator” means—
- (a) in the case of a pension scheme within paragraph 1(1)(a), (b) or (c), the person who is, or the persons who are, the administrator of the pension scheme under section 611AA of ICTA,
  - (b) in the case of a pension scheme within paragraph 1(1)(d) or (f), the trustee or trustees of the pension scheme, or the insurance company which is a party to the contract in which the pension scheme is comprised,
  - (c) in the case of a pension scheme within paragraph 1(1)(e), the trustees of the scheme or fund, and
  - (d) in the case of a pension scheme within paragraph 1(1)(g), the person who is referred to in section 638 (1) of ICTA.
- (7) If paragraph 1 (1) does not apply to a pension scheme by virtue of sub-paragraph (1), sections 431B(2) and 466(2B) of ICTA (meaning of pension business: pension scheme ceasing to be a registered pension scheme) apply as if the pension scheme had ceased to be a registered pension scheme at the beginning of 6th April 2006.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)