



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

### CHAPTER 5

#### REGISTERED PENSION SCHEMES: TAX CHARGES

##### *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 [<sup>F1</sup>made to or in respect of a person before the person's death, is the person,]
  - (b) in the case of an unauthorised member payment made [<sup>F2</sup>in respect of a person after the person's] death, is the recipient, and
  - (c) in the case of an unauthorised employer payment, is the [<sup>F3</sup>person] 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,

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are resident<sup>F4</sup>... or domiciled in the United Kingdom.

- (5) The rate of the charge is 40% in respect of the unauthorised payment.
- [<sup>F5</sup>(6) The Treasury may by order amend subsection (5) so as to vary the rate of the unauthorised payments charge.
- (6A) An order under subsection (6) may make provision for there to be different rates in different circumstances.]
- (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.

#### Textual Amendments

- F1** Words in s. 208(2)(a) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 14\(a\)](#)
- F2** Words in s. 208(2)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 14\(b\)](#)
- F3** Word in s. 208(2)(c) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 161\(2\), Sch. 23 para. 14\(c\)](#)
- F4** Words in s. 208(4) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\), Sch. 46 para. 125](#)
- F5** S. 208(6)(6A) substituted for s. 208(6) (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 2 para. 12](#)

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

- C1** S. 208 modified (1.4.2012) by [The Postal Services Act 2011 \(Taxation\) Regulations 2012 \(S.I. 2012/764\)](#), regs. 1(1), 24; [S.I. 2012/687](#); [S.I. 2012/688](#); [S.I. 2012/966](#)

#### Commencement Information

- I1** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**Changes to legislation:**

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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\(2\)](#)