



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 5

REGISTERED PENSION SCHEMES: TAX CHARGES

Unauthorised payments charge

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 [^{F1}member's drawdown pension fund][^{F2}or the member's flexi-access drawdown fund].
- (3) The value of the member's uncrystallised rights under [^{F3}an 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 [^{F4}that is neither a cash balance arrangement nor a collective money purchase arrangement],
 - (c) in accordance with subsection (6) if the arrangement is a defined benefits arrangement [^{F5}or a collective money purchase 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

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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.

- [^{F6}(7) If this subsection applies, the value of the member's uncrystallised rights under the arrangement on the date (“the hybrid value”) is to be calculated by taking the following steps—

Step 1 In relation to each relevant variety of benefits, calculate (in accordance with the preceding provisions of this section) the value of the member's uncrystallised rights on the date, assuming that benefits of that variety are provided under the arrangement.

Step 2 The hybrid value is the higher or highest of the amounts determined under step 1.”

- (8) For the purposes of this section a variety of benefits is “relevant” in relation to a hybrid arrangement if, in any circumstances, benefits of that variety may be provided under the arrangement.
- (9) In this section “variety of benefits” means a variety of benefits specified in section 152(10).]

Textual Amendments

F1 Words in s. 212(2) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 72](#)

F2 Words in s. 212(2) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 15](#)

F3 Words in s. 212(3) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 18](#)

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- F4** Words in s. 212(3)(b) substituted (1.8.2022) by [Finance Act 2021 \(c. 26\)](#), **Sch. 5 paras. 9(2)(a)**, 25(1); [S.I. 2022/874](#), reg. 2
- F5** Words in s. 212(3)(c) inserted (1.8.2022) by [Finance Act 2021 \(c. 26\)](#), **Sch. 5 paras. 9(2)(b)**, 25(1); [S.I. 2022/874](#), reg. 2
- F6** S. 212(7)-(9) substituted for s. 212(7-10) (1.8.2022) by [Finance Act 2021 \(c. 26\)](#), **Sch. 5 paras. 9(3)**, 25(1); [S.I. 2022/874](#), reg. 2

Modifications etc. (not altering text)

- C16** S. 212 modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), **9**, 10

Commencement Information

- II** 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](#)

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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\(2\)](#)