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SCHEDULES

SCHEDULE 29

Section 92

FURTHER PROVISION ABOUT PENSION SCHEMES

Authorised member payments

- 1 (1) Part 4 of FA 2004 (pension schemes etc) is amended as follows.
- (2) In section 164 (authorised member payments)—
- (a) the existing provision becomes subsection (1), and
 - (b) after that subsection insert—
- “(2) Regulations under subsection (1)(f) may—
- (a) provide that for the purposes of Part 9 of ITEPA 2003 all or part of a prescribed payment is to be treated as pension under a registered pension scheme, or as a lump sum of a prescribed description,
 - (b) provide that all or part of a prescribed payment is subject to the short service refund lump sum charge or the special lump sum death benefits charge,
 - (c) provide that a prescribed event in relation to a prescribed payment is to be treated for the purposes of the lifetime allowance charge as a benefit crystallisation event, and make provision as to the amount crystallised by that event,
 - (d) include provision having effect in relation to times before the regulations are made if that provision does not increase any person's liability to tax,
- and “prescribed” means prescribed in regulations under subsection (1)(f).”
- (3) In the table in section 216 (benefit crystallisation events and amounts crystallised), insert at the end—

“9. If regulations under section 164(1)(f) so provide, the happening of an event prescribed in the regulations in relation to a payment prescribed in the regulations

An amount determined in accordance with the regulations”.

Transfer of lifetime annuities and dependants' annuities

- 2 (1) Schedule 28 to FA 2004 (authorised pensions etc) is amended as follows.
- (2) In paragraph 3 (lifetime annuities), after sub-paragraph (2C) insert—

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“(2CA) The regulations may include provision having effect in relation to times before they are made if that provision does not increase any person's liability to tax.”

(3) In paragraph 17 (dependants' annuities), after sub-paragraph (4) insert—

“(4A) The regulations may include provision having effect in relation to times before they are made if that provision does not increase any person's liability to tax.”

Definition of investment-regulated pension schemes

(1) In Schedule 29A to FA 2004 (taxable property etc), omit paragraph 2(1)(b) and the “or” before it.

(2) The amendment made by sub-paragraph (1) is treated as having come into force on 6 April 2006.

Benefit crystallisation event 3

Part 4 of FA 2004 (pension schemes etc) is amended as follows.

In the table in section 216(1) (benefit crystallisation events), in benefit crystallisation event 3 (becoming entitled to pension at increased annual rate), in column 1, after “rate which” insert “—

- (a) exceeds the threshold annual rate, and
- (b) ”.

Schedule 32 (benefit crystallisation events: supplementary) is amended as follows.

(1) Paragraph 10 (benefit crystallisation event 3: excepted circumstances) is amended as follows.

(2) The existing provision becomes sub-paragraph (1).

(3) For paragraph (b) of that sub-paragraph substitute—

“(b) that the individual is one of a class of at least 20 pensioner members of the pension scheme, and all the scheme pensions being paid under the pension scheme to pensioner members of that class are at that time increased at the same rate.”

(4) After that sub-paragraph insert—

“(2) A class may consist of all the pensioner members of the pension scheme.

(3) Sub-paragraph (4) applies where—

- (a) the annual rate of the individual's pension is increased in excepted circumstances (“the excepted increase”),
- (b) before the end of the period of 12 months beginning with the date of the excepted increase, the annual rate of the individual's pension is increased in circumstances which would (apart from that sub-paragraph) be excepted circumstances (“the subsequent increase”), and

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(c) the class by virtue of which sub-paragraph (1)(b) is satisfied on the subsequent increase (“the new class”) is not the class by virtue of which it was satisfied on the excepted increase.

(4) If the purpose, or one of the main purposes, of the individual's being included in the new class is to increase the annual rate of the individual's pension without benefit crystallisation event 3 occurring, the subsequent increase is not in excepted circumstances.”

8 After that paragraph insert—

“Benefit crystallisation event 3: threshold annual rate

10A(1) This paragraph applies for the purposes of benefit crystallisation event 3.

(2) The threshold annual rate is the annual rate of the pension on the date of which the increase date is the first anniversary, increased by the greatest of—

- (a) the relevant percentage rate,
- (b) the relevant indexation percentage, and
- (c) £250,

and rounded up in accordance with sub-paragraph (8).

(3) But if the person became entitled to the pension after the date of which the increase date is the first anniversary, the threshold annual rate is the annual rate of the pension on the date on which the person became entitled to the pension, increased and rounded up as mentioned in sub-paragraph (2).

(4) The increase date is the date on which the individual becomes entitled to payment of the pension at the increased annual rate.

(5) The relevant percentage rate is—

- (a) in a case where the pension is paid under a pension scheme, or an arrangement under a pension scheme, in relation to which the relevant valuation factor is a number greater than 20, the rate agreed by the Commissioners for Her Majesty's Revenue and Customs and the scheme administrator, and
- (b) otherwise, 5%.

(6) The relevant indexation percentage means—

- (a) if the retail prices index for the reference month is higher than the retail prices index for the same calendar month in the previous year, the percentage increase in the retail prices index, and
- (b) if it is not, 0%.

(7) The scheme administrator may select as the reference month any month in the period of 12 months ending with the month in which the increase date falls.

(8) An amount is rounded up in accordance with this sub-paragraph if it is rounded up to the next greatest amount which—

- (a) where the pension is payable monthly, gives an amount of whole pounds when divided by 12, or
- (b) where the pension is payable weekly, gives an amount of whole pounds when divided by 52.

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- (9) If the pension is under a public service pension scheme, any abatement of the pension is to be left out of account in determining for the purposes of this paragraph the annual rate of the pension on the date of which the increase date is the first anniversary (or, where sub-paragraph (3) applies, the date on which the person became entitled to the pension).
- (10) An individual who becomes entitled to payment of a scheme pension at an increased annual rate on 29 February in any year is to be treated for the purposes of this paragraph as having become so entitled on 28 February in that year.
- (11) The Treasury may by order substitute for the amount for the time being specified in sub-paragraph (2)(c) a different amount (including an amount to be calculated as a percentage of the standard lifetime allowance)."
- 9 (1) Paragraph 11 (benefit crystallisation event 3: permitted margin) is amended as follows.
- (2) In sub-paragraph (6)—
- (a) for "month in which the individual becomes entitled to payment of the pension at the increased rate" substitute "reference month", and
- (b) for "month in which the individual became entitled to the pension" substitute "base month".
- (3) After sub-paragraph (7) insert—
- "(7A) The scheme administrator may select as the reference month any month in the period of 12 months ending with the month in which the individual becomes entitled to payment of the pension at the increased rate.
- (7B) The base month is the month which is the same number of months before the month in which the individual became entitled to the pension, as the reference month is before the month in which the individual becomes entitled to payment of the pension at the increased rate."
- 10 In paragraph 13 (benefit crystallisation event 3: meaning of XP), for sub-paragraph (2) substitute—
- "(2) But if one or more benefit crystallisation events has or have previously occurred by reason of the individual having become entitled to payment of the pension at an increased rate, XP does not include the amount of XP on that event or the aggregate of the amounts of XP on those events.
- (2A) For the purposes of sub-paragraph (2), the amount of XP on a previous benefit crystallisation event is to be increased by whichever of calculation A and calculation B gives the greater amount.
- (2B) Calculation A involves increasing the amount of XP on the previous event at the relevant annual percentage rate for the whole of the period—
- (a) beginning with the month in which the previous event occurred, and
- (b) ending with the month in which the individual becomes entitled to payment of the pension at the increased rate.
- (2C) The relevant annual percentage rate has the same meaning as in paragraph 11(4).

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(2D) Calculation B involves increasing the amount of XP on the previous event by the relevant indexation percentage.

(2E) The relevant indexation percentage is—

- (a) if the retail prices index for the reference month is higher than the retail prices index for the base month, the percentage increase in the retail prices index, and
- (b) if it is not, 0%.

(2F) The scheme administrator may select as the reference month any month in the period of 12 months ending with the month in which the individual becomes entitled to payment of the pension at the increased rate.

(2G) The base month is the month which is the same number of months before the month in which the previous event occurred, as the reference month is before the month in which the individual becomes entitled to payment of the pension at the increased rate.”

11 In consequence of the amendment made by paragraph 7(3), in Schedule 10 to FA 2005, omit paragraph 44.

12 (1) The amendments made by paragraphs 9(2) and (3) come into force on 6 April 2008.

(2) The amendment made by paragraph 10 has effect for the purposes of any benefit crystallisation event 3 occurring on or after 10 October 2007 (including the calculation, for the purposes of such an event, of the amount of XP on any benefit crystallisation event occurring before that date).

(3) Subject to that, the amendments made by paragraphs 4 to 11 are treated as having come into force on 6 April 2006.

Transitional protection of lump sums

13 (1) In paragraph 34 of Schedule 36 to FA 2004 (pension commencement lump sums), in the provisions of paragraph 2 of Schedule 29 substituted by sub-paragraph (2)—

- (a) in sub-paragraph (5), omit the words from “and relevant” to “2006” and
- (b) omit sub-paragraphs (6) and (7C).

(2) The amendments made by sub-paragraph (1) are treated as having come into force on 6 April 2006.

Miscellaneous provision about registered pension schemes

14 (1) FA 2004 is amended as follows.

(2) In section 197 (spreading of relief)—

- (a) in subsection (2), for “section 196 (relief for employers in respect of contributions paid)” substitute “ the relieving provisions ”,
- (b) in subsection (4), for “section 196” substitute “ the relieving provisions ”, and
- (c) after subsection (9) insert—

“(9A) In this section “the relieving provisions” means the provisions mentioned in subsections (2) to (4) of section 196 (relief for

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employers in respect of contributions paid), as they have effect under that section.”

- (3) In section 199(2) (deemed contributions), for paragraphs (a) to (c) substitute “ the relieving provisions (within the meaning of section 197) and sections 197 and 198 ”.
- (4) In consequence of the amendment made by sub-paragraph (3), in Schedule 1 to ITTOIA 2005 (consequential amendments), omit paragraph 648.
- 15 In section 215(4)(a) of FA 2004 (amount of lifetime allowance charge), after “first lifetime allowance” insert “ charge ”.
- 16 In Schedule 34 to that Act (non-UK schemes: application of certain charges), in paragraph 7ZA for “Commissions” substitute “ Commissioners ”.

Employer contributions under exempt approved schemes

- 17 (1) This paragraph applies in relation to section 592 of ICTA (which before its repeal made provision about exempt approved pension schemes), where that section had effect as amended by the 2004 Order.
- (2) Section 592 is to be treated as having had effect as if after subsection (4) (as substituted by the 2004 Order) there had been inserted—
- “(4A) No sums other than contributions made by the employer to the pension scheme in respect of an individual—
- (a) are deductible in computing the amount of the profits of the employer for the purposes of Part 2 of ITTOIA 2005 or Case I or II of Schedule D,
- (b) are expenses of management for the purposes of section 75, or
- (c) are to be brought into account at Step 1 in section 76(7),
- in connection with the cost of providing benefits under the pension scheme.”
- (3) But the words “Part 2 of ITTOIA 2005 or” in subsection (4A)(a) are to be treated as having had effect only in relation to times in relation to which (by virtue of paragraph 253(3) of Schedule 1 to ITTOIA 2005) they had effect in section 592(4)(a).
- (4) In this paragraph “the 2004 Order” means the Finance Act 2004, Sections 38 to 45 and Schedule 6 (Consequential Amendment of Enactments No. 2) Order 2004 (S.I. 2004/3269).

Inheritance tax treatment of non-UK pension schemes

- 18 (1) IHTA 1984 is amended as follows.
- (2) In section 12(2) (dispositions conferring benefits under pension scheme), for “or” substitute “ , a qualifying non-UK pension scheme or a ”.
- (3) In section 58 (meaning of relevant property)—
- (a) in subsection (1)(d), for “or” substitute “ , a qualifying non-UK pension scheme or a ”, and
- (b) in subsection (2A)(b), after “member of” insert “ a qualifying non-UK pension scheme or ”.
- (4) In section 151(2), (4) and (5) (treatment of pension rights etc), for “or section” substitute “ , a qualifying non-UK pension scheme or a section ”.

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(5) In section 152 (cash options), for “or section” substitute “, a qualifying non-UK pension scheme or a section”.

(6) After section 271 insert—

“271A Qualifying non-UK pension scheme

(1) For the purposes of this Act “qualifying non-UK pension scheme” means a pension scheme (other than a registered pension scheme) which—

- (a) is established in a country or territory outside the United Kingdom, and
- (b) satisfies any requirements prescribed for the purposes of this section by regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(2) “Pension scheme” has the same meaning as in Part 4 of the Finance Act 2004 (see section 150 of that Act).

(3) Regulations under this section may include provision having effect in relation to times before the regulations are made if it does not increase any person's liability to tax.

(4) The power to make regulations under this section is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of the House of Commons.”

(7) In paragraph 56 of Schedule 36 to FA 2004 (pension schemes: transitional provision in relation to inheritance tax)—

- (a) in sub-paragraph (1)(a), after “registered pension scheme” insert “, a qualifying non-UK pension scheme”, and
- (b) after sub-paragraph (3) insert—

“(4) In this paragraph “qualifying non-UK pension scheme” has the same meaning as in the Inheritance Tax Act 1984 (see section 271A of that Act).”

(8) The amendments made by this paragraph are treated as having come into force on 6 April 2006.

Application of charges to non-UK pension schemes

19 (1) Schedule 34 to FA 2004 (which applies certain charges to non-UK pension schemes) is amended as follows.

(2) In paragraph 10(2), in the definition of EI, after “tax year,” insert “ excluding any such income which is exempt income (within the meaning of section 8 of ITEPA 2003), ”.

(3) In paragraph 11(2), in the definition of EI, after “tax year,” insert “ excluding any such income which is exempt income (within the meaning of section 8 of ITEPA 2003), ”.

(4) The amendment made by sub-paragraph (2) has effect for the tax year 2008-09 and subsequent tax years.

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- (5) The amendment made by sub-paragraph (3) has effect—
- (a) for the tax year 2007-08 in accordance with sub-paragraph (6), and
 - (b) for the tax year 2008-09 and subsequent tax years.
- (6) For the tax year 2007-08, for the purposes of paragraph 11(1)(b) of Schedule 34 to FA 2004 the appropriate fraction of the contributions mentioned in that paragraph is the aggregate of—
- (a) the appropriate fraction of so much of those contributions as are paid before 12 March 2008, calculated in accordance with paragraph 11(2) unamended by sub-paragraph (3), and
 - (b) the appropriate fraction of so much of those contributions as are paid on and after that date, calculated in accordance with paragraph 11(2) as amended by sub-paragraph (3).

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