



# Finance Act 2009

## 2009 CHAPTER 10

### PART 3

#### PENSIONS

#### **72 Special annual allowance charge etc**

Schedule 35 contains provision for and in connection with a special annual allowance charge in respect of pension schemes.

#### **73 Financial assistance scheme**

- (1) The Treasury may by regulations make provision for and in connection with—
  - (a) the application of the relevant taxes in relation to the financial assistance scheme, and
  - (b) the application of the relevant taxes in relation to any person in connection with the financial assistance scheme.
- (2) “The financial assistance scheme” means the scheme provided for by regulations under section 286 of the Pensions Act 2004.
- (3) The provision that may be made by regulations under this section includes provision imposing any of the relevant taxes (as well as provisions for exemptions or reliefs).
- (4) The relevant taxes are—
  - (a) income tax,
  - (b) capital gains tax,
  - (c) corporation tax,
  - (d) inheritance tax,
  - (e) value added tax,
  - (f) stamp duty land tax,
  - (g) stamp duty, and
  - (h) stamp duty reserve tax.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Regulations under this section may, in particular, include provision for and in connection with the taxation of payments made by virtue of regulations under section 286 of the Pensions Act 2004.
- (6) The exemptions and reliefs that may be given by regulations under this section include, in particular, exemption from charges to income tax, corporation tax or capital gains tax in respect of—
  - (a) income arising from any assets held or managed by, or receipts of, the person who manages the financial assistance scheme (“the scheme manager”) and any chargeable gains arising from the disposal of any such assets, and
  - (b) the receipt of fraud compensation payments (within the meaning of Part 2 of the Pensions Act 2004: see section 182(1) of that Act).
- (7) Regulations under this section may include provision having effect in relation to any time before they are made if the provision does not increase any person’s liability to tax.
- (8) The provision made by regulations under this section may be framed as provision applying with appropriate modifications provisions having effect in relation to registered pension schemes; and for this purpose “registered pension scheme” means a pension scheme within the meaning of Part 4 of FA 2004 which is registered under Chapter 2 of that Part of that Act.
- (9) Regulations under this section may include—
  - (a) provision amending any enactment or instrument, and
  - (b) consequential, supplementary and transitional provision.
- (10) Regulations under this section are to be made by statutory instrument.
- (11) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

#### **74 FSCS intervention in relation to insurance in connection with pensions**

- (1) The Treasury may by regulations make provision for and in connection with the application of the relevant taxes in relation to circumstances in which there is relevant intervention under the FSCS.
- (2) “Relevant intervention” means—
  - (a) anything done under, or while seeking to make, arrangements for securing continuity of insurance in connection with registered pension schemes,
  - (b) anything done as part of measures for safeguarding policyholders in connection with registered pension schemes, or
  - (c) the payment of compensation in connection with registered pension schemes.
- (3) “The FSCS” means the Financial Services Compensation Scheme (established under Part 15 of FISMA 2000).
- (4) The provision that may be made by regulations under this section includes provision imposing any of the relevant taxes (as well as provisions for exemptions or reliefs).
- (5) The relevant taxes are—
  - (a) income tax,
  - (b) capital gains tax,

- (c) corporation tax,
  - (d) inheritance tax,
  - (e) stamp duty land tax,
  - (f) stamp duty, and
  - (g) stamp duty reserve tax.
- (6) Regulations under this section may include provision having effect in relation to any time before they are made if the provision does not increase any person's liability to tax.
- (7) The provision made by regulations under this section may be framed as provision modifying, or applying with appropriate modifications, provisions having effect in relation to registered pension schemes.
- (8) Regulations under this section may include—
- (a) provision amending any enactment or instrument, and
  - (b) consequential, supplementary and transitional provision.
- (9) Regulations under this section are to be made by statutory instrument.
- (10) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (11) In this section “registered pension scheme” means a pension scheme within the meaning of Part 4 of FA 2004 which is registered under Chapter 2 of that Part of that Act.

## **75 Power to make retrospective non-charging provision**

- (1) In section 282 of FA 2004 (orders and regulations under Part 4), insert at the beginning—
- “(A1) Any order or regulations made by the Treasury or the Commissioners for Her Majesty's Revenue and Customs under this Part may include provision having effect in relation to times before the order is, or regulations are, made if that provision does not increase any person's liability to tax.
- (A2) Subsection (A1) does not limit any specific power to make provision by an order or regulations in relation to times before the order is, or regulations are, made.”
- (2) In consequence of the amendment made by subsection (1), omit the following provisions of Part 4 of FA 2004—
- (a) section 164(2)(d),
  - (b) section 281(4),
  - (c) section 283(3C),
  - (d) in Schedule 28, paragraphs 3(2CA) and 17(4A), and
  - (e) in Schedule 29A, paragraph 9(2).
- (3) In consequence of subsection (2), omit—
- (a) in FA 2006, in Schedule 23, paragraph 34(4), and
  - (b) in FA 2008, in Schedule 29, paragraph 2.