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## SCHEDULES

### SCHEDULE 17

#### ANNUAL ALLOWANCE CHARGE

##### PART 1

##### AMENDMENTS

15 After that section insert—

**“237A Liability of individual**

- (1) The individual is liable to the annual allowance charge.
- (2) The individual is liable to the annual allowance charge whether or not—
  - (a) the individual, and
  - (b) the scheme administrator of the pension scheme or pension schemes concerned,are resident, ordinarily resident or domiciled in the United Kingdom.

**237B Liability of scheme administrator**

- (1) This section applies if—
  - (a) the amount of the individual's liability to the annual allowance charge for a tax year exceeds £2,000, and
  - (b) the pension scheme input amount in the case of the individual in relation to a registered pension scheme for the tax year exceeds the amount of the annual allowance specified in section 228(1) for the tax year.
- (2) The pension scheme input amount in the case of the individual in relation to a pension scheme for a tax year is the aggregate of the pension input amounts for the tax year in respect of arrangements relating to the individual under the pension scheme.
- (3) The individual may give a notice to the scheme administrator of the pension scheme specifying that the individual and the scheme administrator are to be jointly and severally liable in respect of so much of the annual allowance charge arising in the case of the individual as—
  - (a) does not exceed the amount of the annual allowance charge which would be chargeable on the excess mentioned in subsection (1)(b) if it were charged at the relevant rate, and
  - (b) is specified in the notice,(“the joint liability amount”).

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- (4) In subsection (3)(a) “the relevant rate” means—
- (a) in relation to so much of the excess as does not exceed the amount (if any) on which tax is chargeable in the case of the individual for the tax year at the additional rate by virtue of paragraph (c) of subsection (4A) of section 227, the additional rate,
  - (b) in relation to so much of the excess as is not within paragraph (a) and does not exceed the amount (if any) on which tax is so chargeable at the higher rate by virtue of paragraph (b) of that subsection, the higher rate, and
  - (c) in relation to any remaining part of the excess, the basic rate.
- (5) The notice—
- (a) must be given not later than 31 July in the year following that in which the tax year ends (but subject to subsection (6)),
  - (b) must be made in such manner and form, and contain such particulars, as may be prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs, and
  - (c) may be amended by giving the scheme administrator notice in accordance with provision made by regulations made by the Commissioners for Her Majesty's Revenue and Customs but may not be revoked.
- (6) In a case in which the individual becomes actually entitled to all of the individual's benefits under the pension scheme in the tax year or benefit crystallisation event 5, 5A or 5B occurs in the tax year in relation to the individual and the pension scheme, the notice must be given before the date on which the individual becomes so entitled or the benefit crystallisation event occurs.
- (7) On receipt by the scheme administrator of the notice the scheme administrator and the individual become jointly and severally liable to pay the joint liability amount, but subject to sections 237C and 237D and to any amendment made to the notice in accordance with regulations under subsection (5)(c).
- (8) The scheme administrator is liable under subsection (7) whether or not—
- (a) the individual, and
  - (b) the scheme administrator,
- are resident, ordinarily resident or domiciled in the United Kingdom.
- (9) Where (but for this subsection) a notice could be given to a scheme administrator of a pension scheme but, before it is given, there is a transfer of all of the sums or assets—
- (a) held for the purposes of, or
  - (b) representing accrued rights under,
- the pension scheme so as to become held for the purposes of, or to represent rights under, another registered pension scheme, the notice may not be given to that scheme administrator but may instead be given to the scheme administrator of that other pension scheme.

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- (10) The Treasury may by regulations make provision modifying the operation of this section in other cases in which there is a transfer of any of the sums or assets—
- (a) held for the purposes of, or
  - (b) representing accrued rights under,
- the pension scheme so as to become held for the purposes of, or to represent rights under, another registered pension scheme.
- (11) The Treasury may by order amend paragraph (a) of subsection (1) so as to increase the sum for the time being specified in that paragraph.

### **237C Exceptions**

- (1) The scheme administrator of a pension scheme does not become liable under section 237B if the time when the scheme administrator would become liable is during an assessment period in relation to the pension scheme; and if an assessment period in relation to a pension scheme begins at a time when the scheme administrator is already so liable (but has not satisfied the liability), the liability ceases when the assessment period begins.

References to an assessment period are to be construed in accordance with sections 132 and 159 of the Pensions Act 2004 and articles 116 and 143 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)).

- (2) The scheme administrator of a pension scheme is not liable under section 237B in respect of any amount if there is no power to make a consequential adjustment to the entitlement of the individual concerned to benefits under the pension scheme in respect of the amount because of section 237E(2) (inalienability of guaranteed minimum pension etc).
- (3) The Treasury may by regulations prescribe other circumstances in which a scheme administrator of a pension scheme does not become, or ceases to be, liable under section 237B.

### **237D Discharge of scheme administrator's liability**

- (1) If the scheme administrator of a pension scheme is liable under section 237B, the scheme administrator may apply to an officer of Revenue and Customs for the discharge of the scheme administrator's liability on either of the following grounds.
- (2) The grounds are—
- (a) that paying the amount to which the scheme administrator is liable would be to the substantial detriment of the interests of the members of the pension scheme, and
  - (b) that in all the circumstances of the case it would not be just and reasonable for the scheme administrator to be liable to that amount.
- (3) On receiving an application under subsection (1), an officer of Revenue and Customs must decide whether to discharge the scheme administrator's liability.
- (4) An officer of Revenue and Customs must notify the scheme administrator of the decision on the application.

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- (5) The discharge of the scheme administrator's liability does not affect the liability of any other person in respect of the same amount.
- (6) The Treasury may by regulations amend this section so as to alter the grounds on which an application under subsection (1) may be made.
- (7) Regulations made by the Commissioners for Her Majesty's Revenue and Customs may make provision supplementing this section; and the regulations may in particular make provision as to the time limits for the making of an application.

#### **237E Consequential benefit adjustments to be reasonable etc**

- (1) Where the scheme administrator of a pension scheme satisfies a liability under section 237B in respect of the individual, consequential adjustment must be made to the entitlement of the individual to benefits under the pension scheme on a basis that is just and reasonable having regard to normal actuarial practice.
- (2) Any power to make such consequential adjustment is subject to section 159 of the Pension Schemes Act 1993 or section 155 of the Pension Schemes (Northern Ireland) Act 1993 (inalienability of guaranteed minimum pension etc).

#### **237F Power to modify rules**

The Commissioners for Her Majesty's Revenue and Customs may by regulations make any modification of the rules of registered pension schemes that appear appropriate to facilitate the operation of sections 237A to 237E.”

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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):

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gvo.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)