



# Finance (No. 2) Act 2015

## 2015 CHAPTER 33

### PART 4

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Income tax*

#### **22 Pensions: some lump sum death benefits taxed as pension income**

- (1) Part 9 of ITEPA 2003 (pension income) is amended in accordance with subsections (2) to (7).
- (2) In section 636A (lump sums under registered pension schemes) for subsection (4) (certain death benefit lump sums) substitute—
  - “(4) If a lump sum under a registered pension scheme—
    - (a) is listed in section 636AA, and
    - (b) is paid to a non-qualifying person (see subsection (8)),the sum is subject to income tax under section 206 of FA 2004 (charge to tax on scheme administrator in respect of certain lump sum death benefits) and not otherwise (but see section 206(8) of FA 2004).
  - (4ZA) If a lump sum under a registered pension scheme—
    - (a) is listed in section 636AA, and
    - (b) is paid to a qualifying person (see subsection (8)),section 579A applies in relation to the sum as it applies to any pension under a registered pension scheme.”
- (3) In section 636A(1) (no liability to income tax on certain lump sum death benefits)—
  - (a) after paragraph (c) insert “ or ”, and
  - (b) omit paragraph (d) (certain defined benefits lump sum death benefits) and the “or” preceding it.
- (4) In section 636A, after subsection (7) insert—

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“(8) For the purposes of this section—

- (a) a person is a “non-qualifying person” in relation to payment of a lump sum if, for the purposes of section 206 of FA 2004, the person is a non-qualifying person in relation to payment of the sum, and
- (b) a person is a “qualifying person” in relation to payment of a lump sum except where the person is a non-qualifying person in relation to payment of the sum.”

(5) After section 636A insert—

**“636AA Taxable lump sum death benefits**

- (1) The following are the lump sums mentioned in section 636A(4) and (4ZA).
- (2) An annuity protection lump sum death benefit, or a pension protection lump sum death benefit, paid in respect of a member of the scheme who had reached the age of 75 at the date of the member's death.
- (3) A drawdown pension fund lump sum death benefit under paragraph 17(1) of Schedule 29 to FA 2004, a flexi-access drawdown fund lump sum death benefit under paragraph 17A(1) of that Schedule, a defined benefits lump sum death benefit or an uncrystallised funds lump sum death benefit—
  - (a) paid in respect of a member of the scheme who had reached the age of 75 at the date of the member's death, or
  - (b) paid in respect of a member of the scheme who had not reached the age of 75 at the date of the member's death, but not paid before the end of the relevant 2-year period in respect of the member's death.
- (4) A drawdown pension fund lump sum death benefit under paragraph 17(2) of Schedule 29 to FA 2004 or a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2) of that Schedule—
  - (a) paid on the death of a dependant of a deceased member of the scheme where the dependant had reached the age of 75 at the date of the dependant's death, or
  - (b) paid on the death of a dependant of a deceased member of the scheme where the dependant had not reached the age of 75 at the date of the dependant's death, but not paid before the end of the relevant 2-year period in respect of the dependant's death.
- (5) A flexi-access drawdown fund lump sum death benefit under paragraph 17A(3) or (4) of Schedule 29 to FA 2004—
  - (a) paid on the death of a nominee or successor (as the case may be) of a deceased member of the scheme where the nominee or successor (“the beneficiary”) had reached the age of 75 at the date of the beneficiary's death, or
  - (b) paid on the death of a nominee or successor (as the case may be) of a deceased member of the scheme where the nominee or successor (“the beneficiary”) had not reached the age of 75 at the date of the beneficiary's death, but not paid before the end of the relevant 2-year period in respect of the beneficiary's death.
- (6) In this section—

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- “dependant”, “nominee” and “successor” have the meaning given, respectively, by paragraphs 15, 27A and 27F of Schedule 28 to FA 2004, and
- “relevant 2-year period”, in relation to a death, means the period of 2 years beginning with the earlier of—
- (a) the day on which the scheme administrator of the scheme mentioned in section 636A(4) or (4ZA) (as the case may be) first knew of the death, and
  - (b) the day on which that scheme administrator could first reasonably have been expected to have known of it.
- (7) Section 636A(4A) and (7) (interpretation) apply also for the purposes of this section.”
- (6) In section 579CA as substituted by paragraph 117 of Schedule 45 to FA 2013 (pensions under registered pension schemes: temporary non-residents), in subsection (4) (which lists relevant withdrawals) as substituted by the Taxation of Pensions Act 2014—
- (a) omit the “or” at the end of paragraph (k), and
  - (b) after paragraph (l) insert “, or
    - (m) any payment to the person of a lump sum to which section 579A applies by virtue of section 636A(4ZA).”
- (7) In the version of section 579CA which has effect if the year of departure is the tax year 2012-13 or an earlier tax year, in subsection (3A) (which lists relevant withdrawals)—
- (a) omit the “or” at the end of paragraph (k), and
  - (b) after paragraph (l) insert “, or
    - (m) any payment to the person of a lump sum to which section 579A applies by virtue of section 636A(4ZA).”
- (8) In section 683 of ITEPA 2003 (meaning of “PAYE income”)—
- (a) in subsection (3) (meaning, subject to subsections (3A) and (3B), of “PAYE pension income”) for “and (3B)” substitute “ to (3C) ”, and
  - (b) after subsection (3B) insert—

“(3C) PAYE pension income” for a tax year does not include any taxable pension income that is treated as accruing in that tax year by virtue of section 636A(1A) to (1C) or (4ZA) so far as having effect as applied by paragraph 1(3)(da) or (db) of Schedule 34 to FA 2004.”
- (9) In section 168(2) of FA 2004 (meaning of “lump sum death benefit”), at the end insert “, or a lump sum payable in respect of the member on the subsequent death of a dependant, nominee or successor of the member. ”
- (10) In Schedule 34 to FA 2004 (application of certain charges to non-UK pension schemes)
- (a) in paragraph 1(3) (meaning of “member payment charges”), before the “and” at the end of paragraph (da) insert—

“(db) the charge under section 636A(4ZA) of ITEPA 2003 (certain payments of lump sum death benefits),” and
  - (b) in paragraph 1(4)(b) (provisions of ITEPA 2003 which are “member payment provisions”) after “636A(1A) to (1C)” insert “ and (4ZA) and section 636AA ”.

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- (11) In consequence of subsections (2) and (3)—
  - (a) in Schedule 16 to FA 2011, omit paragraph 42(2)(b) and (4), and
  - (b) in the Taxation of Pensions Act 2014—
    - (i) in Schedule 1 omit paragraph 31(a), and
    - (ii) in Schedule 2 omit paragraph 19(3)(a)(i).
- (12) The amendments made by subsections (2) to (8), (10) and (11) have effect in relation to lump sums paid on or after 6 April 2016.
- (13) The amendment made by subsection (9) is to be treated as having come into force on 15 July 2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 2) Act 2015, Section 22.