
STATUTORY INSTRUMENTS

2023 No. 912

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023

PART 6

Administration

CHAPTER 4

Repayments

Repayments: entitlement

37.—(1) A specified individual is entitled to the repayment by HMRC of an annual allowance overpayment, a lifetime allowance overpayment, an unauthorised payments charge overpayment or an unauthorised payments surcharge overpayment only on the making of an application (“a repayment application”).

(2) A payment is an “annual allowance overpayment” if—

- (a) before the relevant time, a liability to the annual allowance charge arose in respect of a specified individual for a relevant tax year, and
- (b) the amount paid by the individual in respect of that charge, by virtue of the operation of a relevant rectification provision or regulation 14 of the 2023 Regulations (local government new schemes: final salary uplifts ignored in calculating pension input amount), exceeds the amount of that liability.

(3) A payment is a “lifetime allowance overpayment” if—

- (a) before the relevant time, a liability to the lifetime allowance charge arose in respect of a specified individual for a relevant tax year in connection with a benefit crystallisation event,
- (b) the individual is liable to the lifetime allowance charge in respect of that benefit crystallisation event and has paid an amount in respect of that liability, and
- (c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.

(4) A payment is an “unauthorised payments charge overpayment” if—

- (a) before the relevant time, an unauthorised member payment⁽¹⁾ was made by a relevant pension scheme to, or in respect of, a specified individual,
- (b) the individual is liable to the unauthorised payments charge in respect of that payment and has paid an amount in respect of that liability, and

⁽¹⁾ By virtue of regulation 2(2)(b), “unauthorised member payment” is defined in section 160(2) of FA 2004. Section 160 was amended by paragraph 3 of Schedule 21, and paragraph 3 of Schedule 23, to FA 2006 and paragraph 5 of Schedule 20 to FA 2007.

- (c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.
- (5) A payment is an “unauthorised payments surcharge overpayment” if—
 - (a) before the relevant time, a surchargeable unauthorised member payment was made by a relevant pension scheme to, or in respect of, a specified individual,
 - (b) the individual is liable to the unauthorised payments surcharge in respect of that payment and has paid an amount in respect of that liability, and
 - (c) the amount paid, by virtue of the operation of a relevant rectification provision, exceeds the amount of that liability.

Repayments: procedure

- 38.**—(1) A repayment application must be made to HMRC.
- (2) A repayment application may be made only at the same time that, or after the time that, specified information is provided in relation to a specified individual.
- (3) Where regulation 32(1) (specified information: due date for information) applies to a specified individual, a repayment application must be made by or in respect of that individual on or before 31st January 2029.
- (4) Where regulation 32(6) applies to a specified individual, a repayment application must be made by or in respect of that individual on or before 31st January 2031.
- (5) A repayment application must contain the following information—
- (a) the information in items 1, 2 and 3 of Column 1 of the Table to the Schedule as applicable to the specified individual,
 - (b) the type of pension tax charge (“the charge”), the amount of the charge paid, and the date on which it was paid,
 - (c) the relevant tax year to which the charge relates,
 - (d) the amount of the overpayment, and
 - (e) the account details to which any repayment is to be made.
- (6) An repayment application must be accompanied by—
- (a) a declaration that the application is made by, or in respect of, a specified individual,
 - (b) a declaration as to the accuracy of the information contained in the application, and
 - (c) a declaration that the applicant understands the consequences of providing false information.
- (7) Within the period of 90 days from the date on which a repayment application is received, an officer of HMRC must notify the applicant in writing whether their application is—
- (a) granted, or
 - (b) refused, either wholly or to the extent that it is excessive.
- (8) An appeal may be brought against a decision made under paragraph (7)(b) as if it were a conclusion stated in a closure notice under paragraph 7 of Schedule 1A to TMA 1970(2).

(2) Paragraph 7 of Schedule 1A to TMA 1970 was amended by paragraph 10 of Schedule 29 to the Finance Act 2001 (c. 9) and by S.I. 2009/56.