



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 5

REGISTERED PENSION SCHEMES: TAX CHARGES

Unauthorised payments charge

209 Unauthorised payments surcharge

- (1) A charge to income tax, to be known as the unauthorised payments surcharge, arises where a surchargeable unauthorised payment is made by a registered pension scheme.
- (2) “Surchargeable unauthorised payments” means—
 - (a) surchargeable unauthorised member payments (see section 210), and
 - (b) surchargeable unauthorised employer payments (see section 213).
- (3) The person liable to the charge—
 - (a) in the case of a surchargeable unauthorised member payment [^{F1}made to or in respect of a person before the person's death, is the person,]
 - (b) in the case of a surchargeable unauthorised member payment made [^{F2}in respect of a person after the person's] death, is the recipient, and
 - (c) in the case of a surchargeable unauthorised employer payment, is the [^{F3}person] to or in respect of whom the payment was made.
- (4) If more than one person is liable to the unauthorised payments surcharge in respect of a surchargeable unauthorised payment, those persons are jointly and severally liable to the surcharge in respect of the payment.
- (5) A person is liable to the unauthorised payments surcharge whether or not—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (a) that person,
 - (b) any other person who is liable to the unauthorised payments surcharge, ^{F4} ...
 - (c) the scheme administrator, [^{F5}and]
 - [^{F6}(d) the sub-scheme administrator,]
 are resident^{F7} ... or domiciled in the United Kingdom.
- (6) The rate of the charge is 15% in respect of the surchargeable unauthorised payment.
- [^{F8}(7) The Treasury may by order amend subsection (6) so as to vary the rate of the unauthorised payments surcharge.
- (8) An order under subsection (7) may make provision for there to be different rates in different circumstances.]

Textual Amendments

- F1** Words in s. 209(3)(a) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 15\(a\)](#)
- F2** Words in s. 209(3)(b) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 15\(b\)](#)
- F3** Word in s. 209(3)(c) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 15\(c\)](#)
- F4** Word in s. 209(5)(b) deleted (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [4\(1\)\(a\)](#)
- F5** Word in s. 209(5)(c) added (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [4\(1\)\(b\)](#)
- F6** S. 209(5)(d) added (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), [4\(1\)\(c\)](#)
- F7** Words in s. 209(5) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 126](#)
- F8** S. 209(7)(8) substituted for s. 209(7) (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 13](#)

Modifications etc. (not altering text)

- C1** S. 209 modified (1.4.2012) by [The Postal Services Act 2011 \(Taxation\) Regulations 2012 \(S.I. 2012/764\)](#), regs. 1(1), [24](#); [S.I. 2012/687](#); [S.I. 2012/688](#); [S.I. 2012/966](#)

Commencement Information

- I1** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

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):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)