

SCHEDULES

SCHEDULE 22

Section 160

PENSION SCHEMES: INHERITANCE TAX

Introductory

1 IHTA 1984 is amended as follows.

Dispositions

2 In section 12 (dispositions conferring retirement benefits), after subsection (2) insert—

“(2A) Subsection (2B) below applies where a person who is a member of a registered pension scheme, and who has not reached the age of 75, has omitted to exercise pension rights under the pension scheme and, if the words “(or latest time)” were omitted from subsection (3) of section 3 above,—

- (a) that subsection would have treated the person as having made a disposition by reason of omitting to exercise the pension rights, but
- (b) section 10 above would have prevented the disposition being a transfer of value.

(2B) Section 3(3) above does not actually treat the person as making a disposition by reason of omitting to exercise the pension rights (at the latest time when the person could have exercised them) unless the condition in subsection (2C) below is satisfied.

(2C) That condition is that—

- (a) the person makes an actual pensions disposition under the pension scheme which is not prevented from being a transfer of value by section 10 above within the period of two years ending with the date of his death, and
- (b) it is not shown that, when he made the actual pensions disposition, he had no reason to believe that he would die within that period.

(2D) A disposition treated by virtue of section 3(3) above as made by any person who is a member of a registered pension scheme, and who has not reached the age of 75, by reason of omitting to exercise pension rights under the pension scheme is not a transfer of value to the extent that it results in—

- (a) the provision of a lump sum death benefit or pension death benefit (or both) to a relevant dependant, or
- (b) the making of a payment to a charity.

(2E) A disposition made by a person who is a member of a registered pension scheme, and who has reached the age of 75, is not a transfer of value if the disposition consists in the person—

Status: This is the original version (as it was originally enacted).

- (a) making an actual pensions disposition under the pension scheme, or
- (b) omitting to exercise pension rights under the pension scheme.

(2F) For the purposes of this section—

- (a) a person omits to exercise pension rights under a pension scheme if he does not become entitled to the whole or any part of a pension or lump sum (or both) under the pension scheme at a time when he was eligible to become so entitled (whether or not he does become entitled to any other benefits under the pension scheme); and
- (b) a person makes an actual pensions disposition under a registered pension scheme if he makes a disposition within section 3(1) above by doing anything in relation to, or to rights under, the pension scheme.

(2G) In this section—

“entitled”, in relation to a pension or lump sum, shall be construed in accordance with section 165(3) or 166(2) of the Finance Act 2004;

“lump sum death benefit” has the same meaning as in Part 4 of that Act (see section 168(2) of that Act);

“pension” has the same meaning as in that Part of that Act (see section 165(2) of that Act);

“pension death benefit” has the meaning given by section 167(2) of that Act; and

“relevant dependant”, in relation to a person, means a dependant (within the meaning given by paragraph 15 of Schedule 28 to that Act) who is the person’s spouse or civil partner immediately before his death or someone who is financially dependent on the person at that time.”;

and, in the sidenote, for “retirement benefits” substitute “benefits under pension scheme”.

Secured pension funds

3 In subsection (2) of section 151 (treatment of pension rights etc) insert at the beginning “Subject to sections 151A and 151C below,”.

4 After that section insert—

“151A Person dying with alternatively secured pension fund

- (1) This section applies where a member of a registered pension scheme has an alternatively secured pension fund in respect of an arrangement under the pension scheme immediately before his death.
- (2) In determining for the purposes of this Act the value of his estate immediately before his death he shall be treated as if he had been beneficially entitled to property with a value equal to the relevant amount.
- (3) The relevant amount is—
 - (a) the aggregate of the amount of the sums and the value of the assets forming part of the member’s alternatively secured pension fund immediately before his death, less

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

- (b) the aggregate of the amount of the sums and the value of the assets expended on dependants' benefits within the period of six months beginning with the end of the month in which his death occurs.
- (4) For this purpose sums or assets are expended on dependants' benefits at any time if they (or sums or assets directly or indirectly deriving from them) are at that time—
- (a) applied towards the provision of a dependants' scheme pension for a relevant dependant,
 - (b) applied towards the provision of a dependants' annuity for a relevant dependant,
 - (c) designated as available for the payment of dependants' unsecured pension to a relevant dependant, or
 - (d) designated as available for the payment of dependants' alternatively secured pension to a relevant dependant,
- or if the sums (or sums directly or indirectly deriving from the sums or assets) are at that time paid as a charity lump sum death benefit.

- (5) In this section—

“alternatively secured pension fund” has the same meaning as in Part 4 of the Finance Act 2004 (see paragraph 11 of Schedule 28 to that Act);

“charity lump sum death benefit” has the meaning given by paragraph 18 of Schedule 29 to that Act;

“dependants' alternatively secured pension” has the meaning given by paragraph 19 of Schedule 28 to that Act;

“dependants' annuity” has the same meaning as in Part 4 of that Act (see paragraph 17 of that Schedule);

“dependants' scheme pension” has the same meaning as in that Part of that Act (see paragraph 16 of that Schedule);

“dependants' unsecured pension” has the meaning given by paragraph 18 of that Schedule; and

“relevant dependant”, in relation to a member of a registered pension scheme who dies, means a dependant (within the meaning of paragraph 15 of that Schedule) who—

- (a) is the person's spouse or civil partner immediately before his death; or
- (b) is financially dependent on the person at that time.

151B Relevant dependant with pension fund inherited from member over 75

- (1) This section applies where—

- (a) a relevant dependant of a person who, immediately before his death, was a member of a registered pension scheme has a dependant's unsecured pension fund, or a dependant's alternatively secured pension fund, in respect of an arrangement under the pension scheme immediately before his death or immediately before ceasing to be a relevant dependant of the member,
- (b) the member had reached the age of 75 at the time of his death and had an alternatively secured pension fund in respect of an arrangement under the pension scheme immediately before his death, and

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

- (c) sums or assets forming part of that fund were designated as available for the payment of dependants' unsecured pension, or dependants' alternatively secured pension, to the relevant dependant within the period of six months beginning with the end of the month in which the member's death occurs.
- (2) Where this section applies tax shall be charged under this section.
- (3) The amount on which tax is charged under this section shall be the aggregate of the amount of the sums and the value of the assets forming part of the dependant's unsecured pension fund, or the dependant's alternatively secured pension fund, in respect of the arrangement immediately before the relevant dependant died or ceased to be a relevant dependant of the member.
- (4) But where tax is chargeable under this section by reason of the death of the relevant dependant, that amount is reduced by so much of sums forming part of the dependant's unsecured pension fund, or the dependant's alternatively secured pension fund, (or sums directly or indirectly deriving from sums or assets forming part of that fund) as are paid to a charity within the period of six months beginning with the end of the month in which his death occurs.
- (5) Tax charged under this section shall be charged at the rate or rates at which it would have been charged on the death of the member if—
- (a) the amount mentioned in subsection (3) above (as reduced under subsection (4) above) had been included in the value transferred by the chargeable transfer made on his death, and
 - (b) the amount on which the tax is charged had formed the highest part of that value.
- (6) In this section—
- “alternatively secured pension fund” has the same meaning as in Part 4 of the Finance Act 2004 (see paragraph 11 of Schedule 28 to that Act);
- “dependants' alternatively secured pension” has the meaning given by paragraph 19 of that Schedule;
- “dependant's alternatively secured pension fund” has the same meaning as in that Part of that Act (see paragraph 25 of that Schedule);
- “dependants' unsecured pension” has the meaning given by paragraph 18 of that Schedule;
- “dependant's unsecured pension fund” has the same meaning as in that Part of that Act (see paragraph 22 of that Schedule); and
- “relevant dependant”, in relation to a member of a registered pension scheme who dies, means a dependant (within the meaning of paragraph 15 of that Schedule) who—
- (a) is the person's spouse or civil partner immediately before his death; or
 - (b) is financially dependent on the person at that time.

151C Dependant dying with other pension fund

- (1) This section applies where—

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

- (a) a dependant of a member of a registered pension scheme has a dependant’s alternatively secured pension fund in respect of an arrangement under the pension scheme immediately before his death, and
 - (b) section 151B above does not apply.
- (2) In determining for the purposes of this Act the value of the dependant’s estate immediately before his death he shall be treated as if he had been beneficially entitled to property with a value equal to the relevant amount.
- (3) The relevant amount is—
- (a) the aggregate of the amount of the sums and the value of the assets forming part of the dependant’s alternatively secured pension fund immediately before his death, less
 - (b) so much of sums forming part of the dependant’s alternatively secured pension fund (or sums directly or indirectly deriving from sums or assets forming part of that fund) as are paid as a charity lump sum death benefit within the period of six months beginning with the end of the month in which his death occurs.
- (4) In this section—
- “charity lump sum death benefit” has the meaning given by paragraph 18 of Schedule 29 to the Finance Act 2004;
 - “dependant” has the meaning given by paragraph 15 of that Schedule 28 to that Act; and
 - “dependant’s alternatively secured pension fund” has the same meaning as in Part 4 of that Act (see paragraph 25 of Schedule 28 to that Act).”

Liability

- 5 (1) Section 200 (liability for tax: transfer on death) is amended as follows.
- (2) In subsection (1), after “any person are” insert “(subject to subsection (1A) below)”.
- (3) After that subsection insert—
- “(1A) The person liable for tax chargeable by virtue of section 151A or 151C above in relation to any registered pension scheme is the scheme administrator of the pension scheme.”
- 6 In section 210 (liability: pension rights etc) re-number the existing provision as subsection (1) of that section and insert after it—
- “(2) The person liable for tax chargeable under section 151B above is the scheme administrator of the registered pension scheme.”

Delivery of accounts

- 7 (1) Section 216 (delivery of accounts) is amended as follows.
- (2) In subsection (1), after paragraph (bc) insert—
- “(bca) is liable under section 200(1A) or 210(2) above for tax in respect of any amount, or would be so liable if tax were chargeable in respect of that amount, or”.

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

- (3) In subsection (3)(a), after “death” insert “(or would do apart from section 151A(3)(b) or 151C(3)(b) above)”.
- (4) In subsection (4), insert at the end “(or would be apart from section 151A(3)(b), 151C(3)(b) or 151B(4) above)”.
- (5) In subsection (6), after paragraph (ab) insert—
- “(ac) in the case of an account to be delivered by the scheme administrator of a registered pension scheme, before the expiration of the period of twelve months from the end of the month in which the death occurs or the person ceases to be a relevant dependant of the member;”.

Payment

- 8 In section 226(4) (payment), for “or 126” substitute “, 126 or 151B”.

Interest

- 9 In section 233(1)(c) (interest on unpaid tax), for “or 126” substitute “, 126 or 151B”.

Interpretation

- 10 (1) Section 272 (general interpretation) is amended as follows.
- (2) After the definition of “local authority” insert—
- ““member”, in relation to a registered pension scheme, has the same meaning as in Part 4 of the Finance Act 2004 (see section 151 of that Act);”.
- (3) After the definition of “reversionary interest” insert—
- ““scheme administrator”, in relation to a registered pension scheme, has the same meaning as in Part 4 of the Finance Act 2004 (see sections 270 to 274 of that Act);”.

Rates of tax

- 11 In Schedule 2 (provisions applying on reduction of tax), after paragraph 6 insert—

“Relevant dependant with pension fund inherited from member over 75

- 6A Where tax is chargeable under section 151B of this Act on an occasion after a reduction and the rate or rates at which it is charged fall to be determined by reference to the death of a person which occurred before that reduction (or before that and one or more other reductions) that section applies as if the Table in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had been in force at the time of that person’s death.”

Transitional

- 12 The reference in section 12(2A) of IHTA 1984 (inserted by paragraph 2) to a member of a registered pension scheme having omitted to exercise pension rights under the

pension scheme includes an omission before 6th April 2006 in relation to a pension scheme which on that date becomes a registered pension scheme.