Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 1

INTRODUCTION

Introductory

149 Overview of Part 4

(1) This Part contains tax provision about pension schemes and other similar schemes.

(2) This Chapter defines some basic concepts.

(3) As for the rest of this Part—

Chapter 2 is about the registration and de-registration of pension schemes,

Chapter 3 is about the payments that may be made by registered pension schemes and related matters,

Chapter 4 deals with tax reliefs and exemptions in connection with registered pension schemes,

Chapter 5 imposes tax charges in connection with registered pension schemes,

Chapter 6 is about some schemes that are not registered pension schemes,

Chapter 7 makes provision about compliance,and

Chapter 8 contains interpretation and other supplementary provisions.

Main concepts

150 Meaning of "pension scheme"

(1) In this Part "pension scheme" means a scheme or other arrangements, comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to or in respect of persons—

(a) on retirement,

(b) on death,

(c) on having reached a particular age,

(d) on the onset of serious ill-health or incapacity, or

(e) in similar circumstances.

(2) A pension scheme is a registered pension scheme for the purposes of this Part at any time if it is at that time registered under Chapter 2.

(3) In this Part "public service pension scheme" means a pension scheme—

(a) established by or under any enactment,

(b) approved by a relevant governmental or Parliamentary person or body, or

(c) specified in an order made by the Treasury.

(4) In subsection (3) "a relevant governmental or Parliamentary person or body" means—

(a) a Minister of the Crown or a government department,

(b) the Scottish Parliament, the Scottish Parliamentary Corporate Body or a member of the Scottish Executive,

(c) the National Assembly for Wales, or

(d) the Northern Ireland Assembly, the Northern Ireland Assembly Commission, a Northern Ireland Minister, the head of a Northern Ireland department or a Northern Ireland department.

(5) In this Part "occupational pension scheme" means a pension scheme established by an employer or employers and having or capable of having effect so as to provide benefits to or in respect of any or all of the employees of—

(a) that employer or those employers, or

(b) any other employer,

(whether or not it also has or is capable of having effect so as to provide benefits to or in respect of other persons).

(6) In this Part "sponsoring employer", in relation to an occupational pension scheme, means the employer, or any of the employers, to or in respect of any or all of whose employees the pension scheme has, or is capable of having, effect so as to provide benefits.

(7) In this Part "overseas pension scheme" means a pension scheme (other than a registered pension scheme) which—

(a) is established in a country or territory outside the United Kingdom, and

(b) satisfies any requirements prescribed for the purposes of this subsection by regulations made by the Board of Inland Revenue.

(8) In this Part "recognised overseas pension scheme" means an overseas pension scheme which—

(a) is established in a country or territory prescribed, or of a description prescribed, for the purposes of this subsection by regulations made by the Board of Inland Revenue, or

(b) satisfies any requirements so prescribed.

151 Meaning of "member"

(1) In this Part "member" in relation to a pension scheme, means any active member, pensioner member, deferred member or pension credit member of the pension scheme.

(2) For the purposes of this Part a person is an active member of a pension scheme if there are presently arrangements made under the pension scheme for the accrual of benefits to or in respect of the person.

(3) For the purposes of this Part a person is a pensioner member of a pension scheme if the person is entitled to the present payment of benefits under the pension scheme and is not an active member.

(4) A person is a deferred member of a pension scheme if the person has accrued rights under the pension scheme and is neither an active member nor a pensioner member.

(5) A person is a pension credit member of a pension scheme if the person has rights under the pension scheme which are attributable (directly or indirectly) to pension credits.

152 Meaning of "arrangement"

(1) In this Part "arrangement", in relation to a member of a pension scheme, means an arrangement relating to the member under the pension scheme.

(2) For the purposes of this Part an arrangement is a "money purchase arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are cash balance benefits or other money purchase benefits.

(3) For the purposes of this Part a money purchase arrangement is a "cash balance arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are cash balance benefits.

(4) In this Part "money purchase benefits", in relation to a member of a pension scheme, means benefits the rate or amount of which is calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made under the pension scheme by the member or any other person in respect of the member or any other factor).

(5) In this Part "cash balance benefits" means benefits the rate or amount of which is calculated by reference to an amount available for the provision of benefits to or in respect of the member calculated otherwise than wholly by reference to payments made under the arrangement by the member or by any other person in respect of the member (or transfers or other credits).

(6) For the purposes of this Part an arrangement is a "defined benefits arrangement" at any time if, at that time, all the benefits that may be provided to or in respect of the member under the arrangement are defined benefits.

(7) In this Part "defined benefits", in relation to a member of a pension scheme, means benefits which are not money purchase benefits (but which are calculated by reference to earnings or service of the member or any other factor other than an amount available for their provision).

(8) For the purposes of this Part an arrangement is a "hybrid arrangement" at any time if, at that time, all of the benefits that may be provided to or in respect of the member under the arrangement are, depending on the circumstances, to be of one of any two or three of the following varieties—

(a) cash balance benefits,

(b) other money purchase benefits, and

(c) defined benefits.

(9) Where not all of the benefits that may be provided under an arrangement to or in respect of the member are of the same one of those varieties of benefits, the arrangement is to be treated for the purposes of this Part as being two or three separate arrangements one of which relates to each of the two or three varieties of benefits that may be so provided.