Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 5

REGISTERED PENSION SCHEMES: TAX CHARGES

Annual allowance charge

227 Annual allowance charge

(1) A charge to income tax, to be known as the annual allowance charge, arises where—

(a) the total pension input amount for a tax year in the case of an individual who is a member of one or more registered pension schemes, exceeds

(b) the amount of the annual allowance for the tax year.

(2) The person liable to the annual allowance charge is the individual.

(3) The individual is liable to the annual allowance charge whether or not—

(a) the individual, and

(b) the scheme administrator of the pension scheme or schemes concerned,

are resident, ordinarily resident or domiciled in the United Kingdom.

(4) The annual allowance charge is a charge at the rate of 40% in respect of the amount by which the total pension input amount exceeds the amount of the annual allowance.

(5) That excess is not to be treated as income for any purpose of the Tax Acts.

(6) The following sections make further provision about the annual allowance charge—

section 228 (annual allowance),

section 229 (total pension input amount to be aggregate of pension input amounts for pension input periods ending in tax year),

sections 230 to 237 (pension input amounts), and

section 238 (pension input period).

(7) Schedule 36 contains (in Part 4) transitional provision about the annual allowance charge.

228 Annual allowance

(1) The annual allowance for the tax year 2006-07 is £215,000.

(2) The annual allowance for each subsequent tax year is such amount, not being less than the annual allowance for the immediately preceding tax year, as is specified by order made by the Treasury.

229 Total pension input amount

(1) The total pension input amount is arrived at by aggregating the pension input amounts in respect of each arrangement relating to the individual under a registered pension scheme of which the individual is a member.

(2) The pension input amount in respect of an arrangement—

(a) is the amount arrived at under sections 230 to 232 if it is a cash balance arrangement,

(b) is the amount arrived at under section 233 if it is any other sort of money purchase arrangement,

(c) is the amount arrived at under sections 234 to 236 if it is a defined benefits arrangement, and

(d) is the amount arrived at under section 237 if it is a hybrid arrangement.

(3) But there is no pension input amount in respect of an arrangement if, before the end of the tax year, the individual—

(a) has become entitled to all the benefits which may be provided to the individual under the arrangement, or

(b) has died.

230 Cash balance arrangements

(1) The pension input amount in respect of a cash balance arrangement is the amount of any increase in the value of the individual's rights under the arrangement during the pension input period of the arrangement that ends in the tax year.

(2) There is an increase in the value of the individual's rights under the arrangement during the pension input period if—

(a) the opening value of the individual's rights under the arrangement, is exceeded by

(b) the closing value of the individual's rights under the arrangement.

(3) The amount of the increase in the value of the individual's rights under the arrangement during the pension input period is the amount of that excess.

(4) The opening value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions (see section 277), be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the beginning of the pension input period.

(5) The closing value of the individual's rights under the arrangement is the amount which would, on the valuation assumptions, be available for the provision of benefits to or in respect of the individual under the arrangement if the individual became entitled to the benefits at the end of the pension input period.

(6) Section 231 (uprating of opening value) and section 232 (adjustments of closing value) supplement this section.

231 Cash balance arrangements: uprating of opening value

(1) This section applies for adjusting the opening value of the individual's rights as calculated under section 230(4).

(2) The opening value is to be increased by the appropriate percentage.

(3) The appropriate percentage is whichever is the greatest of—
  (a) 5%,
  (b) the percentage (if any) by which the retail prices index for the month in which the pension input period ends is higher than it was for the month in which it began, and
  (c) if provision made by regulations made by the Board of Inland Revenue applies in relation to the arrangement, the percentage to which the regulations refer.

232 Cash balance arrangements: adjustments of closing value

(1) This section applies for adjusting the closing value of the individual's rights under the arrangement as calculated under section 230(5).

(2) If, during the pension input period, the rights of the individual under the arrangement have been reduced by having become subject to a pension debit, the amount of the debit is to be added.

(3) If, during the pension input period, the rights of the individual under the arrangement have been increased by the individual having become entitled to a pension credit deriving from the same or another registered pension scheme, the amount of the credit is to be subtracted.

(4) Subsection (5) applies if, during the pension input period, the rights of the individual under the arrangement have been reduced by virtue of a transfer of any sum or asset held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under, any other pension scheme that is—
  (a) a registered pension scheme, or
  (b) a qualifying recognised overseas pension scheme.

(5) The aggregate of the amount of any sums transferred and the market value of any assets transferred is to be added.

(6) Subsection (7) applies if, during the pension input period, the rights of the individual under the arrangement have been increased by virtue of a transfer of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement.

(7) The aggregate of the amount of any sums transferred and the market value of any assets transferred is to be subtracted.

(8) If, during the pension input period, a benefit crystallisation event occurs in relation to the individual and the arrangement, the amount crystallised is to be added (but this is subject to section 229(3)).

(9) If, during the pension input period, minimum payments are made under—

(a) section 8 of the Pension Schemes Act 1993 (c. 48), or

(b) section 4 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49),

in relation to the individual in connection with the arrangement, the amount paid is to be subtracted.

233 Other money purchase arrangements

(1) The pension input amount in respect of a money purchase arrangement other than a cash balance arrangement is the total of—

(a) any relievable pension contributions paid by or on behalf of the individual under the arrangement, and

(b) contributions paid in respect of the individual under the arrangement by an employer of the individual,

during the pension input period of the arrangement that ends in the tax year.

(2) The references to contributions in subsection (1)(a) and (b) do not include minimum payments under—

(a) section 8 of the Pension Schemes Act 1993, or

(b) section 4 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49),

or any amount recovered under regulations made under subsection (3) of either of those sections.

(3) When at any time contributions paid under a pension scheme by an employer otherwise than in respect of any individual become held for the purposes of the provision under an arrangement under the pension scheme of benefits to or in respect of an individual, they are to be treated as being contributions paid at that time in respect of the individual under the arrangement.

234 Defined benefits arrangements

(1) The pension input amount in respect of a defined benefits arrangement is the amount of any increase in the value of the individual's rights under the arrangement during the pension input period of the arrangement that ends in the tax year.

(2) There is an increase in the value of the individual's rights under the arrangement during the pension input period if—

(a) the opening value of the individual's rights under the arrangement, is exceeded by

(b) the closing value of the individual's rights under the arrangement.

(3) The amount of the increase in the value of the individual's rights under the arrangement during the pension input period is the amount of that excess.

(4) The opening value of the individual's rights under the arrangement is—

$$(10 \times PB) + LSB$$

where—

PB is the annual rate of the pension which would, on the valuation assumptions (see section 277), be payable to the individual under the arrangement if the individual became entitled to payment of it at the beginning of the pension input period, and

LSB is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it at that time.

(5) The closing value of the individual's rights under the arrangement is—

$$(10 \times PE) + LSE$$

where—

PE is the annual rate of the pension which would, on the valuation assumptions, be payable to the individual under the arrangement if the individual became entitled to payment of it at the end of the pension input period, and

LSE is the amount of the lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement (otherwise than by commutation of pension) if the individual became entitled to the payment of it at that time.

(6) Section 235 (uprating of opening value) and section 236 (adjustments of closing value) supplement this section.

235 Defined benefits arrangements: uprating of opening value

(1) This section applies for adjusting the opening value of the individual's rights as calculated under section 234(4) in a case where rights do not accrue to the individual under the arrangement during the pension input period.

(2) The opening value is to be increased by the appropriate percentage.

(3) The appropriate percentage is whichever is the greatest of—

(a) 5%,

(b) the percentage (if any) by which the retail prices index for the month in which the pension input period ends is higher than it was for the month in which it began, and

(c) if provision made by regulations made by the Board of Inland Revenue applies in relation to the arrangement, the percentage to which the regulations refer.

236 Defined benefits arrangements: adjustments of closing value

(1) This section applies for adjusting the closing value of the individual's rights as calculated under section 234(5).

(2) If, during the pension input period, the rights of the individual under the arrangement have been reduced by having become subject to a pension debit, the amount of the debit is to be added.

(3) If, during the pension input period, the rights of the individual under the arrangement have been increased by the individual having become entitled to a pension credit deriving from the same or another registered pension scheme, the amount of the credit is to be subtracted.

(4) Subsection (5) applies if, during the pension input period, there is a transfer relating to the individual of any sum or asset held for the purposes of, or representing accrued rights under, the arrangement so as to become held for the purposes of, or to represent rights under, any other pension scheme that is—

(a) a registered pension scheme, or

(b) a qualifying recognised overseas pension scheme.

(5) The aggregate of the amount of any sums transferred and the market value of any assets transferred is to be added.

(6) Subsection (7) applies if, during the pension input period, there is a transfer relating to the individual of any sums or assets held for the purposes of, or representing accrued rights under, any pension scheme so as to become held for the purposes of, or to represent rights under, the arrangement.

(7) The aggregate of the amount of any sums transferred and the market value of any assets transferred is to be subtracted.

(8) If, during the pension input period, a benefit crystallisation event occurs in relation to the individual and the arrangement, the amount crystallised is to be added (but this is subject to section 229(3)).

(9) If, during the pension input period, minimum payments are made under—

(a) section 8 of the Pension Schemes Act 1993 (c. 48), or

(b) section 4 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49),

in relation to the individual in connection with the arrangement, the amount paid is to be subtracted.

237 Hybrid arrangements

(1) The pension input amount in respect of a hybrid arrangement is the greater or greatest of such of input amounts A, B and C as are relevant input amounts.

(2) An input amount is a relevant input amount in the case of a hybrid arrangement if, in any circumstances, the benefits that may be provided to or in respect of the individual under the arrangement may be benefits of the variety mentioned in the definition of that input amount.

(3) Input amount A is what would be the pension input amount under sections 230 to 232 if the benefits provided to or in respect of the individual under the arrangement were cash balance benefits.

(4) Input amount B is what would be the pension input amount under section 233 if the benefits provided to or in respect of the individual under the arrangement were other money purchase benefits.

(5) Input amount C is what would be the pension input amount under sections 234 to 236 if the benefits provided to or in respect of the individual under the arrangement were defined benefits.

238 Pension input period

(1) In the case of an arrangement under a registered pension scheme the following are pension input periods—
  (a) the period beginning with the relevant commencement date and ending with the earlier of a nominated date and the anniversary of the relevant commencement date, and
  (b) each subsequent period beginning immediately after the end of a period which is a pension input period (under paragraph (a) or this paragraph) and ending with the appropriate date.

(2) "The relevant commencement date" means—
  (a) in the case of a cash balance arrangement or a defined benefits arrangement, or a hybrid arrangement the only benefits under which may be cash balance benefits or defined benefits, the date on which rights under the arrangement begin to accrue to or in respect of the individual,
  (b) in the case of a money purchase arrangement other than a cash balance arrangement, the first date on which a contribution within section 233(1) is made, and
  (c) in the case of a hybrid arrangement not within paragraph (a), whichever is the earlier of the date mentioned in that paragraph and the date mentioned in paragraph (b).

(3) "Nominated date" means—
  (a) in the case of a money purchase arrangement other than a cash balance arrangement, such date as the individual or scheme administrator nominates, and
  (b) in the case of any other arrangement, such date as the scheme administrator nominates.

(4) A nomination for the purposes of subsection (3)—
  (a) if by the individual, is to be made by notice to the scheme administrator, and
  (b) if by the scheme administrator, is to be made by notice to the individual.

(5) If more than one date is nominated for the purposes of subsection (3)—
  (a) in relation to the period beginning with the relevant commencement date, or
  (b) in relation to a tax year following that in which the pension input period beginning with that date ends,

the date nominated first is the nominated date.

(6) "The appropriate date" means the earlier of—
  (a) a nominated date falling in the tax year immediately after that in which the last pension input period ended, and
  (b) the anniversary of the date on which that period ended.

(7) Once the individual has become entitled to all the benefits which may be provided to the individual under an arrangement, the last pension input period in the case of the arrangement is to be treated as having ended when that was first so.