



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 5

REGISTERED PENSION SCHEMES: TAX CHARGES

Unauthorised payments charge

210 Surchargeable unauthorised member payments

- (1) This section identifies which unauthorised member payments made by a registered pension scheme [^{F1}to or in respect of a person who is or has been a member of] the pension scheme are surchargeable.
- (2) If the surcharge threshold is reached before the end of the period of 12 months beginning with a reference date, each unauthorised member payment made [^{F2}to or in respect of the person] in the surcharge period is surchargeable.
- (3) The surcharge period is the period—
 - (a) beginning with the reference date, and
 - (b) ending with the day on which the surcharge threshold is reached.
- (4) The first reference date is the date on which the pension scheme first makes an unauthorised member payment [^{F3}to or in respect of the person].
- (5) Each subsequent reference date is the date, after the end of the previous reference period, on which the pension scheme next makes an unauthorised member payment [^{F4}to or in respect of the person].

Changes to legislation: Finance Act 2004, Section 210 is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) The previous reference period is the period of 12 months beginning with the previous reference date or, if the surcharge threshold is reached in that period, is the surcharge period ending with the date on which it was reached.
- (7) The surcharge threshold is reached if the unauthorised payments percentage reaches 25%.
- (8) The unauthorised payments percentage is the aggregate of the percentages of the pension fund used up by each unauthorised member payment made by the pension scheme [^{F5}to or in respect of the person] on or after the reference date.
- (9) The percentage of the pension fund used up on the occasion of an unauthorised member payment is—

$$\frac{\text{UMP}}{\text{VR}} \times 100$$

where—

UMP is the amount of the unauthorised member payment, and

VR is an amount equal to the [^{F6}aggregate of the value of the member's rights under arrangements relating to the member under the pension scheme when the unauthorised payment is made (or, if the unauthorised member payment is made after the member has died or has otherwise ceased to be a member of the pension scheme, at the date when the member died or otherwise ceased to be a member).]

- (10) The value of the member's rights under [^{F7}an arrangement on any] date is the aggregate of—
- (a) the value of the member's crystallised rights under the arrangement on that date, calculated in accordance with section 211, and
 - (b) the value of the member's uncrystallised rights under the arrangement on that date, calculated in accordance with section 212.

Textual Amendments

- F1** Words in s. 210(1) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(2\)](#)
- F2** Words in s. 210(2) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(3\)](#)
- F3** Words in s. 210(4) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(3\)](#)
- F4** Words in s. 210(5) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(3\)](#)
- F5** Words in s. 210(8) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(3\)](#)
- F6** Words in s. 210(9) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(4\)](#)
- F7** Words in s. 210(10) substituted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 161(2), [Sch. 23 para. 16\(5\)](#)

Changes to legislation: Finance Act 2004, Section 210 is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Commencement Information

- II** 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:

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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\(2\)](#)