



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

### CHAPTER 6

#### SCHEMES THAT ARE NOT REGISTERED PENSION SCHEMES

#### *[<sup>F1</sup>Non-UK schemes: the overseas transfer charge*

#### **[<sup>F1</sup>244C Exclusion: [<sup>F2</sup>receiving scheme in EEA state [<sup>F3</sup>or Gibraltar], and member resident in UK or EEA state]**

- (1) This section applies to a transfer to a QROPS established in an EEA state [<sup>F4</sup>or Gibraltar].
- (2) If the transfer is a recognised transfer, the transfer is excluded from the overseas transfer charge if during the relevant period—
  - (a) the member is resident in [<sup>F5</sup>a relevant territory] (whether or not the [<sup>F6</sup>same relevant territory] throughout that period), and
  - (b) there is no onward transfer—
    - (i) for which the recognised transfer is the original transfer, and
    - (ii) which is not excluded from the charge.
- (3) If the member is resident in [<sup>F5</sup>a relevant territory] at the time of the recognised transfer mentioned in subsection (2), it is to be assumed for the purposes of this section that the member will be resident in [<sup>F5</sup>a relevant territory] during the relevant period; but if, at a time before the end of the relevant period, the transfer ceases to be excluded by subsection (2) otherwise than by reason of the member's death—
  - (a) that assumption is from that time no longer to be made, and
  - (b) the charge on the transfer is treated as charged at that time.

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- (4) If the transfer is an onward transfer (“transfer B”), the transfer is excluded from the overseas transfer charge if during so much of the relevant period as is after the time of the onward transfer—
- (a) the member is resident in [<sup>F5</sup>a relevant territory] (whether or not the [<sup>F7</sup>same relevant territory] at all those times), and
  - (b) there is no subsequent onward transfer that—
    - (i) is of sums and assets which, in whole or part, directly or indirectly derive from those transferred by transfer B, and
    - (ii) is not excluded from the charge.
- (5) If the member is resident in [<sup>F5</sup>a relevant territory] at the time of transfer B, it is to be assumed for the purposes of subsection (4) that the member will be resident in [<sup>F5</sup>a relevant territory] during so much of the relevant period as is after the time of transfer B; but if, at a time before the end of the relevant period, the transfer ceases to be excluded by subsection (4) otherwise than by reason of the member's death—
- (a) that assumption is from that time no longer to be made, and
  - (b) the charge on transfer B is treated as charged at that time.]

[<sup>F8</sup>(6) In this section “relevant territory” means the United Kingdom or an EEA state.]

#### Textual Amendments

- F1** Ss. 244A-244N and cross-heading inserted (with effect in accordance with Sch. 4 para. 25 of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [Sch. 4 para. 11](#)
- F2** Words in s. 244C heading substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [12\(2\)\(a\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 244C heading inserted (18.2.2021 with effect from IP completion day) by [The Pension Schemes \(Qualifying Recognised Overseas Pension Schemes\) \(Gibraltar\) \(Exclusion of Overseas Transfer Charge\) Regulations 2021 \(S.I. 2021/89\)](#), regs. 1, [2\(2\)\(a\)](#)
- F4** Words in s. 244C(1) inserted (18.2.2021 with effect from IP completion day) by [The Pension Schemes \(Qualifying Recognised Overseas Pension Schemes\) \(Gibraltar\) \(Exclusion of Overseas Transfer Charge\) Regulations 2021 \(S.I. 2021/89\)](#), regs. 1, [2\(2\)\(b\)](#)
- F5** Words in s. 244C(2)-(5) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [12\(2\)\(b\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 244C(2) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [12\(2\)\(c\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 244C(4) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [12\(2\)\(c\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F8** S. 244C(6) inserted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [12\(2\)\(d\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

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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\(2\)](#)