

SCHEDULES

SCHEDULE 28

INHERITANCE OF TAX-RELIEVED PENSION SAVINGS

Amendments of IHTA 1984

10 After section 151C insert—

“151D Unauthorised payment where person dies over 75 with pension or annuity

(1) This section applies where—

- (a) a member of a registered pension scheme, or a dependant of such a member, dies after reaching the age of 75;
- (b) immediately before death the member or dependant has under the pension scheme an actual right to payments under a relevant pension or relevant annuity or a prospective right to payments under a relevant pension; and
- (c) at any time after the death a relevant unauthorised payment is made by the pension scheme.

(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 difference between—

- (a) the amount of the relevant unauthorised payment; and
- (b) the amount of any liability to income tax which has arisen under Part 4 of the Finance Act 2004 by virtue of the making of the relevant unauthorised payment.

(4) In this section—

“dependant” has the meaning given by paragraph 15 of Schedule 28 to the Finance Act 2004;

“dependants' annuity” has the same meaning as in that Part 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);

“lifetime annuity” has the same meaning as in that Part of that Act (see paragraph 3 of that Schedule);

“relevant annuity” means a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme;

“relevant pension” means a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result

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of the application of sums or assets held for the purposes of the pension scheme;

“relevant unauthorised payment” means an unauthorised payment (within the meaning of Part 4 of the Finance Act 2004: see section 160(5) of that Act) which—

- (a) consists of the payment of a lump sum in respect of the dead member or dependant; or
- (b) is treated as made by virtue of the operation of section 172B of that Act by reason of the death; and

“scheme pension” has the same meaning as in Part 4 of that Act (see paragraph 2 of Schedule 28 to that Act).

151E Rate or rates of charge under section 151D

- (1) Tax charged under section 151D above shall be charged at the rate or rates at which it would be charged if the amount on which it is charged, and any amount on which tax was previously charged under that section in relation to the death of the member or dependant, were part of the value transferred by the transfer of value made on the death of the member or dependant.
- (2) The rate or rates at which tax is charged on that amount shall be determined as if that amount had formed the highest part of that value.
- (3) Subsection (4) below applies where, before the time when the unauthorised payment is made, there have been one or more reductions of tax by virtue of the coming into force of a substitution of a new Table in Schedule 1 to this Act since the death of the member or dependant.
- (4) The rate or rates at which tax is charged under section 151D above is to be determined as if the new Table effecting the reduction of tax (or the most recent reduction of tax) (“the applicable Table”) had been in force at the time of the death of the member or dependant, but subject to subsections (5) and (8) below.
- (5) The nil-rate band maximum in the applicable Table is to be treated for the purposes of this section as reduced by the used-up percentage of the difference between—
 - (a) that nil-rate band maximum, and
 - (b) the nil-rate band maximum which was actually in force at the time of the death of the member or dependant.
- (6) For the purposes of subsection (5) above “the used-up percentage” is—

$$100 - \left(\frac{E}{\text{NRBM}} \times 100 \right)$$

where—

E is the amount by which M is greater than VT under section 8A(2) above in the case of the member or dependant; and

NRBM is the nil-rate band maximum at the time of the death of the member or dependant.

- (7) The following provisions apply where—

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- (a) tax is charged under section 151D above, and
 - (b) immediately before the death of the member or dependant, the member or dependant had a spouse or civil partner (“the survivor”).
- (8) If the survivor died before the time when the unauthorised payment is made, tax is charged as if the personal nil-rate band maximum of the member or dependant were appropriately reduced.
- (9) In subsection (8) above—
- “the personal nil-rate band maximum of the member or dependant” is the nil rate band maximum in the applicable Table, increased in accordance with section 8A above where that section effected an increase in that nil-rate band maximum in the case of the member or dependant (as a survivor of another deceased person), and
- “appropriately reduced” means reduced by the amount (if any) by which the amount on which tax was charged at the rate of nil per cent. on the death of the survivor was increased by reason of the operation of section 8A above by virtue of the position of the member or dependant.
- (10) If the survivor did not die before the time when the unauthorised payment is made, tax is to be charged on the death of the survivor as if the percentage referred to in section 8A(3) above in the case of the member or dependant were that specified in subsection (11) below.
- (11) That percentage is—

$$\frac{AE}{ANRBM} \times 100$$

where—

AE is the adjusted excess, that is the amount by which M would be greater than VT under section 8A(2) above in the case of the member or dependant if—

- (a) the amount on which tax is charged under section 151D above were included in the value transferred by the chargeable value made on the death of the member or dependant, and
- (b) the nil-rate band maximum at the time of the death were ANRBM; and

ANRBM is the adjusted nil-rate band maximum, that is the nil-rate band maximum in the applicable Table (as reduced under subsection (5) above where that subsection applies).”