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SCHEDULES

SCHEDULE 4

PENSIONS: OFFSHORE TRANSFERS

PART 2

INCOME TAX ON PENSION TRANSFERS: OVERSEAS TRANSFER CHARGE

Further amendments in Part 4 of FA 2004.

- 12 Part 4 of FA 2004 is further amended as follows.
- 13 (1) Section 169 (recognised transfers, and definition and obligations of a QROPS) is amended as follows.
- (2) In subsection (2) (what makes a recognised overseas pension scheme a QROPS), after paragraph (b) insert—
- “(ba) the scheme manager has confirmed to an officer of Revenue and Customs that the scheme manager understands the scheme manager's potential liability to overseas transfer charge and has undertaken to such an officer to operate the charge including by meeting the scheme manager's liabilities to the charge.”
- (3) After subsection (2) insert—
- “(2A) Regulations may make provision as to—
- (a) information that is to be included in, or is to accompany, a notification under subsection (2)(a);
- (b) the way and form in which such a notification, or any required information or evidence, is to be given or provided.”
- (4) After subsection (4) insert—
- “(4ZA) Regulations may require a member, or former member, of a QROPS or former QROPS to give information of a prescribed description to the scheme manager of a QROPS or former QROPS.”
- (5) In subsection (4A) (inclusion of supplementary provision in regulations under subsection (4)), after “(4)” insert “ or (4ZA) ”.
- (6) After subsection (4B) insert—
- “(4C) Provision under subsection (2A)(b) or (4A)(a) may, in particular, provide for use of a way or form specified by the Commissioners.”
- (7) After subsection (7) insert—
- “(7A) Regulations may, in a case where—

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- (a) any of the sums and assets transferred by a relevant overseas transfer represent rights in respect of a pension to which a person has become entitled under the transferring scheme (“the original pension”), and
 - (b) those sums and assets are, after the transfer, applied towards the provision of a pension under the other scheme (“the new pension”),
- provide that the new pension is to be treated, to such extent as is prescribed and for such of the purposes of this Part as are prescribed, as if it were the original pension.

(7B) For the purposes of subsection (7A), a “relevant overseas transfer” is a transfer of sums or assets held for the purposes of, or representing accrued rights under, a relevant overseas scheme (“the transferring scheme”) so as to become held for the purposes of, or to represent rights under—

- (a) another relevant overseas scheme, or
- (b) a registered pension scheme,

in connection with a member of that pension scheme.

(7C) In subsection (7B) “relevant overseas scheme” means—

- (a) a QROPS, or
- (b) a relevant non-UK scheme (see paragraph 1(5) of Schedule 34).

(7D) Regulations under subsection (7A) may—

- (a) apply generally or only in specified cases, and
- (b) make different provision for different cases.”

(8) In subsection (8) (interpretation)—

- (a) in the opening words, after “subsections (4) to (6)” insert “, (7A) to (7D)”, and
- (b) in the definition of “relevant requirement”, at the end insert “, or
- (c) a requirement to pay overseas transfer charge, or interest on overseas transfer charge, imposed by regulations under section 244L(2) or by an assessment under such regulations.”

14 After Chapter 5 insert—

“CHAPTER 5A

REGISTERED PENSION SCHEMES ESTABLISHED OUTSIDE THE UNITED KINGDOM

242A Meaning of “non-UK registered scheme”

In this Chapter “non-UK registered scheme” means a registered pension scheme established in a country or territory outside the United Kingdom.

242B Meaning of “UK-relieved funds”

- (1) For the purposes of this Chapter, the “UK-relieved funds” of a non-UK registered scheme are sums or assets held for the purposes of, or representing accrued rights under, the scheme—

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- (a) that (directly or indirectly) represent sums or assets that at any time were held for the purposes of, or represented accrued rights under, a registered pension scheme established in the United Kingdom,
 - (b) that (directly or indirectly) represent sums or assets that at any time formed the UK tax-relieved fund under a relevant non-UK scheme of a relieved member of that scheme, or
 - (c) that—
 - (i) are held for the purposes of, or represent accrued rights under, an arrangement under the scheme relating to a member of the scheme who on any day has been an accruing member of the scheme, and
 - (ii) in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, are to be taken to have benefited from relief from tax.
- (2) In this Chapter “relevant contribution” has the meaning given by regulation 14ZB(8) of the Information Regulations.
- (3) Paragraphs (7) and (8) of regulation 14ZB of the Information Regulations (meaning of “accruing member”) apply for the purposes of this section as for those of that regulation.
- (4) “The Information Regulations” means the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567).”
- 15 In section 254(6) (regulations about accounting for tax by scheme administrators), after paragraph (b) insert—
- “(ba) repayments under section 244M to scheme administrators,”.
- 16 In section 255(1) (power to make provision for assessments), after paragraph (d) insert—
- “(da) liability of the scheme administrator of a registered pension scheme, or the scheme manager of a qualifying recognised overseas pension scheme or of a former such scheme, to the overseas transfer charge,”.
- 17 In section 269(1)(a) (appeal against decision on discharge of liability), before “section 267(2)” insert “ section 244N (discharge of liability to overseas transfer charge), ”.
- 18 In Schedule 32 (benefit crystallisation events: supplementary provision), after paragraph 2 insert—

“Avoiding double counting of refunded amounts of overseas transfer charge

- 2A (1) This paragraph applies where an amount of overseas transfer charge is repaid (whether or not under section 244M) to the scheme administrator of one of the relevant pension schemes.
- (2) The amount crystallised by the first benefit crystallisation event that occurs in respect of the individual and a benefited scheme after receipt of the repayment is to be reduced (but not below nil) by the amount of the repayment.
- (3) If the amount of the repayment exceeds the reduction under subparagraph (2), the excess is to be set sequentially until exhausted against

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the amounts crystallised by subsequent benefit crystallisation events occurring in respect of the individual and a benefited scheme.

- (4) In sub-paragraphs (2) and (3) “benefited scheme” means—
- (a) the scheme to which the repayment is made, and
 - (b) any other pension scheme if as a result of a recognised transfer, or a chain of two or more recognised transfers, sums or assets representing the repayment are held for the purposes of, or represent rights under, that other scheme.”

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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. 33(10) inserted by 2019 c. 1 s. 68(4)
- s. 39(5A) inserted by 2019 c. 1 s. 68(5)
- s. 58A inserted by 2019 c. 1 s. 68(3)