

2005 No. 3454

INCOME TAX

**The Registered Pension Schemes (Accounting and Assessment)
Regulations 2005**

<i>Made</i>	- - - -	<i>14th December 2005</i>
<i>Laid before the House of Commons</i>		<i>15th December 2005</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred upon them by sections 254(4)(b), (6) and (7) and 255 of the Finance Act 2004(a) make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Registered Pension Schemes (Accounting and Assessment) Regulations 2005 and shall come into force on 6th April 2006.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Finance Act 2004;

“ITEPA” means the Income Tax (Earnings and Pensions) Act 2003(b);

“TMA” means the Taxes Management Act 1970(c).

(2) In these Regulations a reference to a numbered case is a reference to the case bearing that number in Table 2.

The particulars required to be included in returns under section 254

3. If the scheme administrator is liable to income tax in respect of a charge listed in column 1 of Table 1, the return under section 254 of the Act must include the particulars in respect of that liability specified in column 2.

(a) 2004 c. 12. The functions of the Commissioners of Inland Revenue, including those under which this instrument is made, were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11).

(b) 2003 c. 1.

(c) 1970 c. 9.

Table 1

<i>Column 1: charge</i>	<i>Column 2: specified particulars</i>
Charge under section 207 of the Act (authorised surplus payments charge).	<ol style="list-style-type: none"> 1. The number of employers to whom an authorised surplus payment was made. 2. The name, registered address and, if appropriate, company registration number of each employer to whom an authorised surplus payment was made. 3. The date the authorised surplus payment was made. 4. The amount of tax due and payable in respect of each authorised surplus payment.
Charge under section 214 of the Act (lifetime allowance charge).	<ol style="list-style-type: none"> 1. The number of individuals liable to a lifetime allowance charge. 2. The name, date of birth, address and national insurance number of each individual liable to a lifetime allowance charge. 3. The date of the benefit crystallisation event in relation to the lifetime allowance charge. 4. The amount of tax due in respect of each chargeable amount as constitutes a lump-sum amount and each chargeable amount as constitutes a retained amount.
Charge under section 242 of the Act (de-registration charge).	The date the registration of the registered pension scheme was withdrawn.

The making of assessments

4.—(1) In the cases listed in column 1 of Table 2 an officer of Revenue and Customs must issue an assessment to tax to the assessable person specified in column 2.

Table 2

<i>Column 1</i>	<i>Column 2: assessable person</i>
Case 1: a charge to tax arises under section 208 of the Act (unauthorised payments charge) and the person liable to the charge is a company.	The person liable to the charge under section 208(2) of the Act.
Case 2: a charge to tax arises under section 209 of the Act (unauthorised payments surcharge) and the person liable to the charge is a company.	The person liable to the charge under section 209(3) of the Act.
Case 3: a charge to tax arises under section 217(2) of the Act (lifetime allowance charge on receipt of a lump sum death benefit).	The person liable under section 217(2) of the Act.
Case 4: a charge to tax arises under section 239 of the Act (scheme sanction charge).	The scheme administrator, or the person or persons liable to the scheme sanction charge under section 239(3) of the Act.
Case 5: the correct tax due under section 254 of the Act has not been paid on or before the due date.	The scheme administrator.

Case 6: section 272 of the Act (trustees etc. liable as scheme administrator) applies.	The person specified as assuming liability under section 272(4) of the Act.
Case 7: section 273 of the Act (members liable as scheme administrator) applies.	The person liable under section 273(2) of the Act.
Case 8: a charge to tax arises under section 394(2) of ITEPA (a) (employer-financed retirement benefits scheme).	The person who is, or persons who are, the responsible person in relation to an employer-financed retirement benefits scheme under section 394(2) of ITEPA.

(2) Subject to paragraph (3), tax assessed under this regulation is payable within 30 days after the issue of the notice of assessment.

(3) Tax assessed under cases 1 and 2 is payable on the day following the expiry of nine months from the end of the accounting period in which the unauthorised payment was made or, if later, within 30 days after the issue of the notice of assessment.

(4) An assessment under case 3 may be made at any time not later than six years after an officer of Revenue and Customs is notified of the relevant lump sum death benefit, but cannot be made later than 20 years after 31st January following the end of the tax year in which the relevant lump sum death benefit was paid.

(5) Any tax assessable under one or more cases of Table 1 may be included in one assessment if the tax so included is all due on the same date.

Interest on tax due under section 254 or assessed under regulation 4

5.—(1) Tax which—

- (a) becomes due and payable in accordance with section 254(5) of the Act, or
- (b) is assessed under regulation 4,

carries interest at the prescribed rate from the reckonable date until payment (“the interest period”).

(2) The “prescribed rate” means the rate applicable under section 178 of the Finance Act 1989(b) for the purposes of section 86 of TMA(c).

(3) In relation to each of the cases listed in column 1 of Table 3, the “reckonable date” is specified in column 2.

Table 3

<i>Column 1</i>	<i>Column 2: reckonable date</i>
Tax due under section 254 of the Act.	The due date under section 254(5) of the Act.
Tax assessed under case 1 or 2.	The day following the expiry of nine months from the end of the accounting period in which the unauthorised payment was made.
Tax assessed under case 3.	31st January following the end of the tax year in which the relevant lump sum death benefit was paid.
Tax assessed under case 4.	31st January following the end of the tax year in which the scheme sanction charge arose.
Tax assessed under case 5.	The due date under section 254(5) of the Act.
Tax assessed under case 6 or 7.	The date the tax was due before sections 272 or

(a) 2003 c.1. Section 394(2) was amended by section 236(6) of the Finance Act 2004.

(b) 1989 c. 26, to which there are amendments not relevant to these Regulations.

(c) Section 86 was substituted by section 110(1) of the Finance Act 1995 (c. 4) and amended by section 131 of, and paragraph 3 of Schedule 18 to, the Finance Act 1996 (c. 18).

	273 of the Act applied in relation to the pension scheme.
Tax assessed under case 8.	31st January following the end of the tax year in which the benefit within section 393 of ITEPA is received.

(4) Paragraph (1) applies even if the reckonable date is a non-business day as defined by section 92 of the Bills of Exchange Act 1882(a).

(5) Any change made to the prescribed rate during the interest period applies to the unpaid amount from the date of the change.

The making of amended returns

6. If the scheme administrator becomes aware—

- (a) that anything which ought to have been included in a return made under section 254 of the Act for any period has not been so included,
- (b) that anything which ought not to have been included in a return made under section 254 of the Act for any period has been so included, or
- (c) that any other error has occurred in a return made under section 254 of the Act for any period,

the scheme administrator must immediately make an amended return to an officer of Revenue and Customs for that period.

Adjustments, repayments and interest on tax overpaid

7.—(1) If the correct tax due under section 254 of the Act has not been paid on or before the due date or if an amended return is made under regulation 6, an officer of Revenue and Customs may make such adjustments or repayments as may be required for securing that the resulting liabilities to tax (including interest on unpaid or overpaid tax) whether of the scheme administrator or of any other person are the same as they would have been if the correct tax had been paid or if a correct return had been made.

(2) Tax overpaid which is repaid to the scheme administrator or any other person carries interest at the prescribed rate from the later of the due date and the date on which the tax was paid until the date of repayment (“the interest period”).

(3) The “prescribed rate” means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of the Income and Corporation Taxes Act 1988(b).

(4) Any change made to the prescribed rate during the interest period applies to the overpaid amount from the date of the change.

Modifications and application of TMA

8.—(1) Section 9(1A)(c) of TMA (tax not to be assessed by a self-assessment) applies with the following modifications in relation to an assessment to tax under case 3, 6 or 7.

- (2) At the end of paragraph (a) delete “or”.
- (3) After paragraph (b) insert—

(a) 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).
(b) 1988 c. 1. Section 824 was amended by paragraph 7 of Schedule 13 to the Finance Act 1988 (c. 4), sections 110(5), 111(4), 158(2) and 179(1) of, and Parts 4, 8 and 10 of Schedule 17 to, the Finance Act 1989 (c. 26), sub-paragraphs (1) and (52) of paragraph 14 of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12), paragraph 41 of Schedule 19 to the Finance Act 1994 (c. 9), section 92(2), (3) and (4) of the Finance Act 1997 (c. 16), section 41(2) and (3) of the Finance Act 1999 (c. 16), and section 90(2) and (3) of the Finance Act 2001 (c. 9).
(c) Section 9(1A) was amended by section 722 of, and paragraphs 123 and 125 of Schedule 6 to, the Income Tax (Earnings and Pensions) Act 2003 and paragraph 1 of Schedule 35 to Finance Act 2004.

- “(c) is chargeable on a person under section 217(2) of the Finance Act 2004 (liability to lifetime allowance charge by reason of the payment of a relevant lump sum death benefit),
- (d) is chargeable on a person or persons under section 272 of the Finance Act 2004 (trustees etc. liable as scheme administrator), or
- (e) is chargeable on a person or persons under section 273 of the Finance Act 2004 (members liable as scheme administrator).”.

9.—(1) Section 29(1)(a)(a) of TMA (assessment where loss of tax discovered) applies with the following modification in relation to an assessment to tax under case 1, 2 or 3.

(2) After “any income” insert—

“, unauthorised payments under section 208 of the Finance Act 2004 or surchargeable unauthorised payments under section 209 of that Act or relevant lump sum death benefit under section 217(2) of that Act”.

10.—(1) Section 34(1)(b) of TMA (ordinary time limit of six years) applies with the following modifications in relation to an assessment to tax under case 8.

(2) For “income tax or” substitute “income tax,”.

(3) After “capital gains tax” insert—

“or to tax chargeable under section 394(2) of the Income Tax (Earnings and Pensions) Act 2003”.

11.—(1) Section 36(1)(c) of TMA (fraudulent or negligent conduct) applies with the following modifications in relation to an assessment to tax under case 8.

(2) For “income tax or” substitute “income tax,”.

(3) After “capital gains tax” insert “ or to tax chargeable under section 394(2) of the Income Tax (Earnings and Pensions) Act 2003”.

12. In relation to any assessment under case 5—

- (a) section 34 of TMA applies notwithstanding that the assessment may relate to a quarter or other period which is not a year of assessment, and
- (b) for the purposes of section 36 of TMA any such assessment relates to the year of assessment in which the quarter or other period ends.

Modification of Schedule 18 to the Finance Act 1998

13.—(1) Schedule 18 to the Finance Act 1998(d) (company tax returns, assessments and related matters) applies with the following modification in relation to an assessment to tax under case 8.

(2) In paragraph 1 after “as if it was corporation tax” insert—

“but does not include any tax which is chargeable on the person who is (or persons who are) the responsible person in relation to an employer-financed retirement benefits scheme under section 394(2) of the Income Tax (Earnings and Pensions) Act 2003”.

D. A. Hartnett
M. J. Eland

14th December 2005

Two of the Commissioners for Her Majesty’s Revenue and Customs

- (a) Section 29(1)(a) was substituted by sections 191 and 199 of the Finance Act 1994 (c. 9) and amended by paragraph 12 of Schedule 19 to the Finance Act 1998 (c. 36).
- (b) Section 34(1) was amended by paragraph 17 of Schedule 19 to the Finance Act 1998.
- (c) Section 36(1) was substituted by section 149(1) and (7) of the Finance Act 1989 (c. 26) and amended by paragraph 18 of Schedule 19 to the Finance Act 1998.
- (d) 1998 c. 36, the amendment to paragraph 1 of Schedule 18 is not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provisions in relation to the making of assessments and related matters in connection with charges to tax under Part 4 of the Finance Act 2004 (c. 12) (“the Act”) in respect of pension schemes which are or have been registered under that Part of that Act.

Regulation 1 provides for citation and commencement.

Regulation 2 provides for interpretation.

Regulation 3 specifies the particulars required to be included in a return under section 254 in relation to certain types of charge.

Regulation 4 specifies the cases in which the Inland Revenue must issue an assessment.

Regulation 5 provides for interest on tax due under section 254 of the Act or assessed under these Regulations.

Regulation 6 provides for the scheme administrator to make an amended return in the event of an error in a return under section 254 of the Act.

Regulation 7 makes provisions in connection with adjustments, repayments and interest on tax overpaid.

Regulations 8 to 12 provide for the application with modifications of provisions of the Taxes Management Act 1970 (c. 9) (“TMA”) in relation to certain assessments made under these Regulations.

Regulation 8 modifies section 9(1A) of TMA to exclude the self-assessment provisions in relation to tax assessed where a charge arises under section 217(2) (lifetime allowance charge on receipt of a lump sum death benefit), section 272 (trustees etc. liable as scheme administrator) or section 273 (members liable as scheme administrator) of the Act.

Regulation 9 modifies section 29(1)(a) of TMA to permit an assessment where a loss of tax is discovered in relation to an unauthorised payment under section 208, a surchargeable unauthorised payment under section 209 or a lifetime allowance charge under section 217(2) of the Act.

Regulation 10 modifies section 34(1) of TMA to apply the ordinary six year time limit to assessments in relation to a charge in respect of an employer-financed retirement benefits scheme under section 394(2) of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (“ITEPA”).

Regulation 11 modifies section 36(1) of TMA to apply the extended time limit in cases of fraud or negligence to assessments in relation to a charge under section 394(2) of ITEPA.

Regulation 12 applies sections 34 and 36 of TMA to assessments under section 254 of the Act.

Regulation 13 modifies Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns, assessments and related matters) to exclude the operation of that Schedule in relation to an assessment in respect of a charge under section 394(2) of ITEPA.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004 and subordinate legislation under it was published by the Board of Inland Revenue on 8 April 2004, and is available on the Inland Revenue website at www.inlandrevenue.gov.uk/ria/simplifying-pensions.pdf or (for hard copies) by writing to the Ministerial Correspondence Unit, Capital and Savings 1st Floor Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.

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