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STATUTORY INSTRUMENTS

2010 No. 2939

INCOME TAX

The Finance Act 2009, Schedule 35 (Special Annual Allowance Charge) (Cessation of Effect) Order 2010

Made - - - - *9th December 2010*

Coming into force - - *10th December 2010*

The Treasury make the following Order in exercise of the power conferred by paragraph 21(2) of Schedule 35 to the Finance Act 2009(a):

Citation and commencement

1. This Order may be cited as the Finance Act 2009, Schedule 35 (Special Annual Allowance Charge) (Cessation of Effect) Order 2010 and comes into force on the day after the day on which it is made.

Cessation of effect

2.—(1) Schedule 35 to the Finance Act 2009(b) (special annual allowance charge) ceases to have effect after the tax year 2010–11 subject to paragraph (2).

(2) Paragraph 18 of Schedule 35 (taxation of contributions refund lump sums) continues to have effect for the tax year 2011–12 only and the provisions of Schedule 35 continue to have effect for the purposes of that paragraph for that tax year.

9th December 2010

Michael Fabricant
Angela Watkinson
Two of the Lords Commissioners of Her Majesty's Treasury

(a) 2009 c.10.

(b) Schedule 35 was amended by S.I. 2010/429, S.I. 2010/572.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order switches off Schedule 35 to the Finance Act 2009, which introduced the special annual allowance charge (SAAC), with effect from the tax year 2011–12. The SAAC is an income tax charge on pension contributions and benefits accrued in excess of the special annual allowance as provided for in the Schedule.

Schedule 35 also provides that “high-income individuals”, as defined in the Schedule, may ask their schemes to refund pension contributions that they have paid which may otherwise create a liability to the SAAC. The repayment is not treated as an unauthorised payment (and is consequently not liable to the unauthorised member payment charge and other associated charges) under Part 4 of the Finance Act 2004 (c.10) but it is subject to an income tax charge on the scheme pursuant to paragraph 18 of Schedule 35. The charge recoups the tax relief given to the individual in respect of the repaid contributions.

Article 2(1) provides that Schedule 35 ceases to have effect after the tax year 2010–11. Article 2(2) provides for paragraph 18 of that Schedule to continue to have effect for the tax year 2011–12.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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