
STATUTORY INSTRUMENTS

2010 No. 51

The Inheritance Tax (Qualifying Non-UK Pension Schemes) Regulations 2010

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Inheritance Tax (Qualifying Non-UK Pension Schemes) Regulations 2010 and shall come into force on 15th February 2010.

(2) These Regulations shall have effect from 6th April 2006.

Interpretation

2. In these Regulations—

“pension rule 1” means pension rule 1 in section 165 of the Finance Act 2004⁽¹⁾;

“relevant scheme funds” means any sums and assets held under a pension scheme—

- (a) to which these Regulations apply, and
- (b) which would be subject to inheritance tax if the scheme did not meet the requirements for a qualifying non-UK pension scheme.

Scope of these Regulations

3. These Regulations apply to pension schemes which are established in a country or territory outside the United Kingdom.

Requirements for qualifying non-UK pension schemes

4.—(1) For the purposes of section 271A of the Inheritance Tax Act 1984 (qualifying non-UK pension scheme) a pension scheme must—

- (a) be recognised for tax purposes under the tax legislation of the country or territory in which it is established (see regulation 5) and satisfy regulation 6; or
- (b) be established by an international organisation for the purpose of providing benefits for, or in respect of, past service as an employee of the organisation and satisfy regulation 7.

(2) In this regulation “international organisation” means an organisation to which section 1 of the International Organisations Act 1968⁽²⁾ applies by virtue of an Order in Council under subsection (1) of that section.

Recognition for tax purposes

5.—(1) A scheme is recognised for tax purposes under the tax legislation of a country or territory in which it is established if it meets both Primary Condition 1 and Primary Condition 2 and either Condition A or Condition B.

(1) 2004 c. 12.

(2) 1968 c. 48; section 1(1) was amended by section 1(1) of the International Organisations Act 1981 (c. 9).

Primary Condition 1

The scheme is open to persons resident in the country or territory in which it is established.

Primary Condition 2

The scheme is established in a country or territory where there is a system of taxation of personal income under which tax relief is available in respect of pensions and—

- (a) (a) tax relief is not available to the member on contributions made to the scheme by the member or, if the member is an employee, by their employer, in respect of earnings to which benefits under the scheme relate;
- (b) (b) the scheme is liable to taxation on its income and gains and is of a kind specified in the Schedule to these Regulations; or
- (c) (c) all or most of the benefits paid by the scheme to members who are not in serious ill-health are subject to taxation.

For the purposes of this condition “tax relief” includes the grant of an exemption from tax.

Condition A

(2) The scheme is approved or recognised by, or registered with, the relevant tax authorities as a pension scheme in the country or territory in which it is established.

Condition B

(3) If no system applies for the approval or recognition by, or registration with, relevant tax authorities of pension schemes in the country or territory in which it is established—

- (a) the scheme must be resident there;
- (b) the scheme rules must provide that at least 70% of a member’s relevant scheme funds will be designated by the scheme manager for the purpose of providing the member with an income for life, or, in the case of a member who has died, so provided immediately before the member’s death; and
- (c) the pension benefits payable to the member under the scheme (and any lump sum associated with those benefits) must be payable no earlier than they would be if pension rule 1 applied.

Requirements for schemes recognised for tax purposes

6.—(1) This regulation is satisfied if paragraph (2), (3) or (4) applies.

(2) This paragraph applies if the scheme is an occupational pension scheme and there is a body in the country or territory in which it is established—

- (a) which regulates occupational pension schemes; and
- (b) which regulates the scheme in question.

(3) This paragraph applies if the scheme is not an occupational scheme and there is a body in the country or territory in which it is established—

- (a) which regulates pension schemes other than occupational pension schemes; and
- (b) which regulates the scheme in question.

(4) This paragraph applies if neither paragraph (2) nor (3) applies by reason only that no such regulatory body exists in the country or territory and—

- (a) the scheme is established in another member State, Norway, Iceland or Liechtenstein; or
- (b) the scheme is one where—

- (i) the scheme rules provide that at least 70% of a member's relevant scheme funds will be designated by the scheme manager for the purpose of providing the member with an income for life, or, in the case of a member who has died, so provided immediately before the member's death, and
- (ii) the pension benefits payable to the member under the scheme (and any lump sum associated with those benefits) are payable no earlier than they would be if pension rule 1 applied.

(5) In this regulation "occupational pension scheme" has the meaning given by section 150(5) of the Finance Act 2004.

Requirements for schemes established by international organisations

7. This regulation is satisfied if—

- (a) the scheme rules provide that at least 70% of a member's relevant scheme funds will be designated by the scheme manager for the purpose of providing the member with an income for life, or, in the case of a member who has died, so provided immediately before the member's death, and
- (b) the pension benefits payable to the member under the scheme (and any lump sum associated with those benefits) are payable no earlier than they would be if pension rule 1 applied.

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