

2014 No. 1842

INCOME TAX

The Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014

Made - - - - at 15.47 p.m. on 21st July 2014

Laid before the House of Commons 22nd July 2014

Coming into force - - 18th August 2014

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 251(1) of the Finance Act 2004(a) and now exercisable by them(b), and paragraphs 8 and 9(1) of Schedule 6 to the Finance Act 2014(c).

Citation, commencement and interpretation

1. These Regulations may be cited as the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014 and come into force on 18th August 2014.

2. In these Regulations—

“amounts A, B, C and D” means the amounts calculated in accordance with paragraphs 2 to 5 of Schedule 6 to the Finance Act 2014 (individual protection 2014);

“HMRC” means Her Majesty's Revenue and Customs;

“net appropriate amount” means the amount calculated in accordance with paragraph 1(7) of Schedule 6 to the Finance Act 2014;

“paragraph 1” means paragraph 1 of Schedule 6 to the Finance Act 2014;

“paragraph 1 notice” means a notice of intention to rely upon paragraph 1;

“the date” in relation to a pension debit means the date on which the notice of discharge of liability is issued under regulation 8(1) of the Pensions on Divorce etc. (Provision of Information) Regulations 2000(d); and

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- (a) 2004 c. 12. Subsection (2) of section 251 sets out the matters referred to in subsection (1)(a) in respect of which regulations may require persons to provide information of a prescribed description and to preserve documents for a prescribed period. Subsection (6) states that “prescribed” means prescribed by regulations.
- (b) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that insofar as it is appropriate in consequence of section 5, a reference in an enactment, however expressed, to the Commissioners of Inland Revenue is to be treated as a reference to the Commissioners for Her Majesty's Revenue and Customs.
- (c) 2014 c. 26.
- (d) S.I. 2000/1048.

“tribunal” means the First-tier Tribunal or, where determined in accordance with the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009(a), the Upper Tribunal.

Reliance on paragraph 1

- 3.—(1) Subject to paragraph (2), an individual may rely on paragraph 1 if—
- (a) the individual has given a paragraph 1 notice to HMRC, and
 - (b) HMRC have accepted that notice and issued a certificate to the individual in accordance with regulation 5.
- (2) An individual may not rely on paragraph 1 if—
- (a) HMRC have refused to accept a paragraph 1 notice in accordance with regulation 6, or
 - (b) HMRC have revoked the certificate in accordance with regulation 11.

The paragraph 1 notice

- 4.—(1) A paragraph 1 notice must include the following information—
- (a) the title, full name, address (including post code, if applicable) and date of birth of the individual giving the paragraph 1 notice,
 - (b) the national insurance number of the individual or, where the individual does not qualify for a national insurance number, the reasons for this,
 - (c) the individual’s relevant amount,
 - (d) amounts A, B, C and D for the individual,
 - (e) the date, the appropriate amount and (if relevant) the net appropriate amount of any pension debit(b) to which a relevant arrangement in relation to the individual became subject on or after 6th April 2014, and
 - (f) a declaration that paragraph 7 of Schedule 36 to the Finance Act 2004 (primary protection) does not make provision for a lifetime allowance enhancement factor in the case of the individual.
- (2) A paragraph 1 notice must—
- (a) be in a form prescribed by HMRC, and
 - (b) contain a declaration that the information provided in the notice is true and complete to the best of the knowledge and belief of the person completing the form.

Issue of certificate by HMRC

5.—(1) If HMRC accept the paragraph 1 notice, subject to paragraph (2) they must issue a certificate to the individual that includes the individual’s relevant amount and has a unique reference number.

(2) Paragraph (1) does not apply at any time when any of the provisions in paragraph 1(3) of Schedule 6 to the Finance Act 2014 applies in the case of the individual.

Refusal by HMRC to accept notice

6.—(1) HMRC may refuse to accept the paragraph 1 notice if it does not satisfy the requirements in regulation 4.

(2) If HMRC refuse to accept the paragraph 1 notice the individual may require that HMRC provide reasons for the refusal.

(a) S.I. 2009/273 (L. 1).

(b) Pension debit is defined in section 279(1) of the Finance Act 2004.

Appeal against refusal to accept notice

7.—(1) The individual may appeal against a refusal by HMRC to accept the paragraph 1 notice.

(2) The notice of appeal must be given to HMRC before the end of the period of 30 days beginning with the day on which the refusal to accept the paragraph 1 notice was given.

(3) Where an appeal under this regulation is notified to the tribunal, the tribunal must determine whether HMRC were entitled to take the view that the notice did not satisfy the requirements in regulation 4.

(4) If the tribunal allows the appeal, the tribunal may direct HMRC to accept the paragraph 1 notice and issue a certificate to the individual.

Incorrect information given in, or in connection with, the paragraph 1 notice

8. If the individual realises that any information given in the paragraph 1 notice or given to HMRC in connection with that notice was incorrect or has become incorrect, the individual must provide HMRC with the correct information without undue delay.

Requirement to notify HMRC of a pension debit

9. If HMRC accept the paragraph 1 notice the individual must—

- (a) inform HMRC of the date, the appropriate amount and (if relevant) the net appropriate amount of any pension debit to which their rights under a relevant arrangement become subject, and
- (b) provide that information before the end of the period of 60 days beginning with the date of the pension debit.

Replacement of a certificate by HMRC

10.—(1) HMRC may issue a certificate, replacing the previous certificate, if they have reason to believe that—

- (a) information given in, or in connection with, the paragraph 1 notice was incorrect or has become incorrect, or
- (b) the individual's rights under a relevant arrangement have become subject to a pension debit.

(2) A certificate issued in accordance with regulation 10(1) must include the individual's relevant amount and have a unique reference number.

Revocation of a certificate by HMRC

11. HMRC may revoke a certificate if they—

- (a) have reason to believe that any of the conditions in paragraph 1(1) of Schedule 6 to the Finance Act 2014 have not been met,
- (b) have reason to believe that by virtue of a pension debit paragraph 1(2) of that Schedule has ceased to apply in the case of the individual as a consequence of paragraph 1(8) of that Schedule, or
- (c) have given a taxpayer notice to the individual under Part 1 of Schedule 36 to the Finance Act 2008^(a) (power to obtain information and documents from taxpayer) in connection with paragraph 1 and the individual does not reply to that notice within the time specified in the notice.

(a) 2008 c. 9; taxpayer notice is defined in paragraph 1(2) of Schedule 36.

Appeal against replacement or revocation of a certificate

12.—(1) The individual may require HMRC to provide reasons for replacing or revoking the certificate.

(2) Paragraphs (1) and (2) of regulation 7 apply to a decision to replace or revoke the certificate as they apply to a refusal to accept the paragraph 1 notice.

(3) Where an appeal under this regulation is notified to the tribunal, the tribunal must determine whether HMRC replaced or revoked the certificate in accordance with regulations 10(1) or 11.

(4) If the tribunal allows the appeal, the tribunal may direct HMRC to issue a certificate to the individual.

Preservation of documents

13.—(1) If HMRC accept the paragraph 1 notice, the individual must preserve all documents relating to the calculation of the individual's relevant amount and amounts A, B, C and D for a period of six years beginning with the day on which the individual gives notification to HMRC.

(2) Where HMRC have issued a certificate the individual must preserve the certificate until no further benefit crystallisation event^(a) can occur in relation to the individual. The requirement to preserve the certificate ceases where the certificate has been replaced or revoked.

Personal representatives

14. If an individual dies, anything under these Regulations which could have been done by the individual may be done by the individual's personal representatives.

*Ruth Owen
Jim Harra*

At 15.47 p.m. on 21st July 2014
Customs

Two of the Commissioners for Her Majesty's Revenue and

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 214 to 226 of the Finance Act 2004 (c. 12) provide for the application of the lifetime allowance charge. Section 48 of the Finance Act 2013 (c. 29) has reduced the level of the lifetime allowance, which applies to determine whether the lifetime allowance charge is applicable, to £1,250,000 from tax year 2014-15 onwards.

Part 1 of Schedule 6 to the Finance Act 2014 (c. 26) introduces transitional provisions which provide protection from the lifetime allowance charge (“individual protection 2014”) for those who may already have built up pension savings in excess of £1,250,000 in the expectation that the lifetime allowance would remain at £1,500,000. These Regulations provide how individuals may give notice to Her Majesty's Revenue and Customs (“HMRC”) that they intend to rely on individual protection 2014 and make provision for supplementary and incidental matters.

Regulations 3 and 4 make provision about giving that notice. If HMRC accept a notice they must issue a certificate, except in specified circumstances (regulation 5). Regulation 6 sets out the circumstances in which HMRC may refuse to accept a notice and regulation 7 sets out how the individual may appeal against that decision.

Regulations 8 and 9 require that individuals inform HMRC if incorrect information has been given in a notice, or their rights under a relevant arrangement become subject to a pension debit.

(a) Benefit crystallisation event is defined in section 216 of the Finance Act 2004.

Regulations 10 and 11 set out the circumstances in which, following acceptance of a notice, HMRC may replace or revoke a certificate. Regulation 12 sets out how the individual may appeal against replacement or revocation.

Regulation 13 deals with the preservation of documents. Regulation 14 enables personal representatives to act in place of an individual.

A Tax Information and Impact Note was published on 10 June 2013 and updated on 10 December 2013 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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