



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 5

REGISTERED PENSION SCHEMES: TAX CHARGES

Charges on authorised payments

204 Authorised pensions and lump sums

- (1) Schedule 31 contains provision about the taxation of pensions and lump sums which are authorised to be paid by this Part.
- (2) Schedule 36 contains (in Part 4) transitional provision about the taxation of annuities under existing retirement annuity contracts and other relevant transitional provision.

Commencement Information

- II** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

205 Short service refund lump sum charge

- (1) A charge to income tax, to be known as the short service refund lump sum charge, arises where a short service refund lump sum is paid by a registered pension scheme.
- (2) The person liable to the short service refund lump sum charge is the scheme administrator.

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The scheme administrator is liable to the short service refund lump sum charge whether or not—
- (a) the scheme administrator, and
 - (b) the person to whom the short service refund lump sum is paid, are resident^{F1}... or domiciled in the United Kingdom.
- (4) The rate of the charge is—
- (a) 20% in respect of so much of the lump sum as does not exceed [^{F2}£20,000], and
 - (b) [^{F3}50%] in respect of so much (if any) of it as exceeds that limit.
- (5) The Treasury may by order amend subsection (4) so as to—
- (a) increase or decrease either or both of the rates for the time being specified in that subsection, or
 - (b) increase the limit for the time being specified in paragraph (a) of that subsection.
- (6) Tax under this section is to be charged on the amount of the lump sum paid or, if the rules of the pension scheme permit the scheme administrator to deduct the tax before payment, on the amount of the lump sum before deduction of tax.
- (7) A short service refund lump sum is not to be treated as income for any purpose of the Tax Acts.

Textual Amendments

- F1** Words in s. 205(3) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 121](#)
- F2** Sum in s. 205(4)(a) substituted (24.3.2010 with effect for the tax year 2010-11 and subsequent tax years) by [The Taxation of Pensions Schemes \(Rates, etc\) Order 2010 \(S.I. 2010/536\)](#), [arts. 1, 3\(2\)](#)
- F3** Percentage in s. 205(4)(b) substituted (24.3.2010 with effect for the tax year 2010-11 and subsequent tax years) by [The Taxation of Pensions Schemes \(Rates, etc\) Order 2010 \(S.I. 2010/536\)](#), [arts. 1, 3\(3\)](#)

Modifications etc. (not altering text)

- C1** S. 205 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), [regs. 1\(1\), 3\(1\)\(2\)](#), [Sch. 3 Pt. 1](#)
- C2** S. 205 applied by 2003 c. 1, s. 636A(3) (as inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#)))

Commencement Information

- I2** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

^{F4}205A Serious ill-health lump sum charge

.....

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F4** S. 205A omitted (with effect in accordance with Sch. 5 para. 4 of the amending Act) by virtue of Finance Act 2016 (c. 24), Sch. 5 para. 1(2)

206 Special lump sum death benefits charge

(1) A charge to income tax, to be known as the special lump sum death benefits charge, arises where—

- (a) a pension protection lump sum death benefit,
- (b) an annuity protection lump sum death benefit,^{F5}...
- ^{F6}(c) a drawdown pension fund lump sum death benefit,^{F7}or
- (d) a flexi-access drawdown fund lump sum death benefit,

is paid ^{F8}, to a non-qualifying person,] by a registered pension scheme ^{F9}in respect of a member who had reached the age of 75 at the date of the member's death].

^{F10}(1ZA) In subsection (1) the reference to a member (and to the member's death) are to be read—

- (a) in relation to—
 - (i) a drawdown pension fund lump sum death benefit under paragraph 17(2) of Schedule 29, or
 - (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2) of Schedule 29,as a reference to a dependant (and to the dependant's death),
- (b) in relation to a flexi-access drawdown fund lump sum death benefit under paragraph 17A(3) of Schedule 29, as a reference to a nominee (and to the nominee's death), and
- (c) in relation to a flexi-access drawdown fund lump sum death benefit under paragraph 17A(4) of Schedule 29, as a reference to a successor (and to the successor's death).]

^{F11}(1A) The special lump sum death benefits charge also arises where—

- (a) a defined benefits lump sum death benefit, or
- (b) an uncrystallised funds lump sum death benefit,

is paid ^{F12}, to a non-qualifying person,] by a registered pension scheme in respect of a member who had reached the age of 75 at the date of the member's death.]

^{F13}(1B) The special lump sum death benefits charge also arises where—

- (a) a lump sum death benefit is paid ^{F14}, to a non-qualifying person,] by a registered pension scheme in respect of a member of the scheme who had not reached the age of 75 at the date of the member's death,
- (b) the lump sum death benefit is—
 - (i) a drawdown pension fund lump sum death benefit under paragraph 17(1) of Schedule 29,
 - (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(1) of Schedule 29,[a defined benefits lump sum death benefit,]or^{F15}(^{F15}ia)
 - (iii) an uncrystallised funds lump sum death benefit, and

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (c) the lump sum death benefit is not paid before the end of the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the member's death and the day on which the scheme administrator could first reasonably have been expected to have known of it.
- (1C) The special lump sum death benefits charge also arises where—
- (a) a lump sum death benefit is paid [^{F16}, to a non-qualifying person,] by a registered pension scheme on the death of a dependant, nominee or successor of a deceased member of the scheme,
 - (b) the dependant, nominee or successor (“the beneficiary”) had not reached the age of 75 at the date of the beneficiary's death,
 - (c) the lump sum death benefit is—
 - (i) a drawdown pension fund lump sum death benefit under paragraph 17(2) of Schedule 29, or
 - (ii) a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2), (3) or (4) of Schedule 29, and
 - (d) the lump sum death benefit is not paid before the end of the period of two years beginning with the earlier of the day on which the scheme administrator of the scheme first knew of the beneficiary's death and the day on which the scheme administrator could first reasonably have been expected to have known of it.]
- (2) The person liable to the special lump sum death benefits charge is the scheme administrator.
- (3) The scheme administrator is liable to the special lump sum death benefits charge whether or not—
- (a) the scheme administrator, and
 - (b) the person to whom the lump sum death benefit is paid,
- are resident^{F17}... or domiciled in the United Kingdom.
- (4) The rate of the charge is [^{F18}45%] in respect of the lump sum death benefit.
- (5) The Treasury may by order increase or decrease the rate for the time being specified in subsection (4).
- (6) Tax under this section is to be charged on the amount of the lump sum paid or, if the rules of the pension scheme permit the scheme administrator to deduct the tax before payment, on the amount of the lump sum before deduction of tax.
- [^{F19}(7) A lump sum death benefit in respect of which income tax is charged under this section is not to be treated as income for any purpose of the Tax Acts [^{F20}(but see subsection (8)).]]
- [^{F21}(8) Where—
- (a) a lump sum death benefit in respect of which tax is charged under this section is one paid to a non-qualifying person in the person's capacity as a trustee, and
 - (b) a payment of any part of the lump sum is made out of a settlement to a beneficiary who is an individual,
- the amount received by the beneficiary, together with so much of the tax charged under this section on the lump sum as is attributable to the amount received by the beneficiary, is income of the beneficiary for income tax purposes but the beneficiary may claim to deduct that much of that tax from the income tax charged on the

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

beneficiary's total income for the tax year in which the payment is made to the beneficiary.

(9) For the purposes of this section, a person is a “non-qualifying person” in relation to payment of a lump sum if—

- (a) the person is not an individual, or
- (b) the person is an individual and the payment is made to the person in the person's capacity as—
 - (i) a trustee or personal representative,
 - (ii) a director of a company,
 - (iii) a partner in a firm, or
 - (iv) a member of a limited liability partnership,

except that a person is not a “non-qualifying person” in relation to payment of a lump sum if the payment is made to the person in the person's capacity as a bare trustee.

(10) In subsection (9)—

“bare trustee” means a person acting as trustee for—

- (a) an individual absolutely entitled as against the trustee,
- (b) two or more individuals who are so entitled,
- (c) an individual who would be so entitled but for being a minor or otherwise lacking legal capacity, or
- (d) two or more individuals who would be so entitled but for all or any of them being a minor or otherwise lacking legal capacity,

“director” is read in accordance with section 452 of CTA 2010, and references to a firm are to be read in the same way as references to a firm in Part 9 of ITTOIA 2005 (which contains special provision about partnerships).]

Textual Amendments

- F5** Word in s. 206(1)(b) omitted (17.12.2014) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 13\(a\)](#)
- F6** S. 206(1)(c) substituted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 41\(2\)](#)
- F7** S. 206(1)(d) and preceding word inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 13\(b\)](#)
- F8** Words in s. 206(1) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(2\)](#)
- F9** Words in s. 206(1) inserted (17.12.2014) (with application in accordance with s. 2(5) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [s. 2\(2\)](#)
- F10** S. 206(1ZA) inserted (17.12.2014) (with application in accordance with Sch. 2 para. 20 of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 17\(2\)](#)
- F11** S. 206(1A) inserted (with effect in accordance with Sch. 16 paras. 85, 103 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 41\(3\)](#)
- F12** Words in s. 206(1A) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(2\)](#)
- F13** S. 206(1B)(1C) inserted (17.12.2014) (with application in accordance with Sch. 2 para. 20 of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 17\(3\)](#)
- F14** Words in s. 206(1B)(a) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(2\)](#)
- F15** S. 206(1B)(b)(iia) inserted (with effect in accordance with s. 21(10) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 21\(3\)](#)

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- F16** Words in s. 206(1C)(a) inserted (with effect in accordance with s. 21(10) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), s. 21(2)
- F17** Words in s. 206(3) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of Finance Act 2013 (c. 29), Sch. 46 para. 123
- F18** Word in s. 206(4) substituted (17.12.2014) (with application in accordance with s. 2(5) of the amending Act) by Taxation of Pensions Act 2014 (c. 30), s. 2(3)
- F19** S. 206(7) substituted (17.12.2014) (with application in accordance with Sch. 2 para. 20 of the amending Act) by Taxation of Pensions Act 2014 (c. 30), Sch. 2 para. 17(4)
- F20** Words in s. 206(7) inserted (with effect in accordance with s. 21(10) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), s. 21(4)
- F21** S. 206(8)-(10) inserted (with effect in accordance with s. 21(10) of the amending Act) by Finance (No. 2) Act 2015 (c. 33), s. 21(5)

Modifications etc. (not altering text)

- C3** S. 206 modified (6.4.2006) by The Registered Pension Schemes (Splitting of Schemes) Regulations 2006 (S.I. 2006/569), regs. 1(1), 3(1)(2), Sch. 3 Pt. 1
- C4** S. 206 applied by S.R. 1995/95, reg. 89A(10) (as inserted (N.I.) (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2006 (S.R. 2006/410), regs. 1(2), 16)

Commencement Information

- I3** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

207 Authorised surplus payments charge

- (1) A charge to income tax, to be known as the authorised surplus payments charge, arises where an authorised surplus payment is made to a sponsoring employer by an occupational pension scheme that is a registered pension scheme.
 - (2) The person liable to the authorised surplus payments charge is the scheme administrator.
 - (3) The scheme administrator is liable to the authorised surplus payments charge whether or not—
 - (a) the scheme administrator, and
 - (b) the sponsoring employer,
 are resident^{F22} ... or domiciled in the United Kingdom.
 - (4) The rate of the charge is 35% in respect of the authorised surplus payment.
 - (5) The Treasury may by order increase or decrease the rate for the time being specified in subsection (4).
 - (6) Subsection (1) does not apply to any authorised surplus payment—
 - (a) to the extent that (if this section had not been enacted) the sponsoring employer would have been exempt, or entitled to claim exemption, from income tax or corporation tax in respect of it, or
 - (b) if the sponsoring employer is a charity.
- [^{F23}(6A) Subsection (1) does not apply to an authorised surplus payment to the extent that the payment is funded (directly or indirectly) by a surrender of (or an agreement to

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

surrender) benefits or rights which results in the registered pension scheme being treated as making an unauthorised payment under section 172A.

- (6B) Terms used in subsection (6A) which are defined in section 172A have the same meaning as they have in that section.]
- (7) An authorised surplus payment in respect of which income tax is charged under this section is not to be treated as income for any purpose of the Tax Acts.
- (8) Schedule 36 contains (in Part 4) transitional provisions about the authorised surplus payments charge.

Textual Amendments

- F22** Words in s. 207(3) omitted (with effect in accordance with Sch. 46 para. 132 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 124](#)
- F23** S. 207(6A)(6B) inserted (with effect in accordance with Sch. 7 para. 12 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 11](#)

Modifications etc. (not altering text)

- C5** S. 207 modified (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), regs. 1(1), 3(1)(2), [Sch. 3 Pt. 1](#)

Commencement Information

- I4** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

Status:

Point in time view as at 15/09/2016.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations.