



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 5

REGISTERED PENSION SCHEMES: TAX CHARGES

Annual allowance charge

[^{F1}237B Liability of scheme administrator

- (1) This section applies if—
 - (a) the amount of the individual's liability to the annual allowance charge for a tax year exceeds £2,000, and
 - (b) the pension scheme input amount in the case of the individual in relation to a registered pension scheme for the tax year exceeds the amount of the annual allowance specified in section 228(1) for the tax year.
- (2) The pension scheme input amount in the case of the individual in relation to a pension scheme for a tax year is the aggregate of the pension input amounts for the tax year in respect of arrangements relating to the individual under the pension scheme.

[If the chargeable amount for the tax year in the individual's case is the alternative ^{F2}(2A) chargeable amount, each of the following is treated as being a reference to the amount that the annual allowance charge for the tax year would be in the individual's case if the chargeable amount were the default chargeable amount—

- (a) the reference in subsection (1)(a) to the amount of the individual's liability to the annual allowance charge for the tax year, and
- (b) the reference in subsection (3) to the annual allowance charge arising in the case of the individual.]

Changes to legislation: Finance Act 2004, Section 237B is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) The individual may give a notice to the scheme administrator of the pension scheme specifying that the individual and the scheme administrator are to be jointly and severally liable in respect of so much of the annual allowance charge arising in the case of the individual as—
- (a) does not exceed the amount of the annual allowance charge which would be chargeable on the excess mentioned in subsection (1)(b) if it were charged at the relevant rate, and
 - (b) is specified in the notice,
 (“the joint liability amount”).

- (4) In subsection (3)(a) “the relevant rate” means—

- (a) in relation to so much of the excess as does not exceed the amount (if any) on which tax is chargeable in the case of the individual for the tax year at the additional rate ^{F3}... by virtue of paragraph (c) of subsection (4A) of section 227, the additional rate ^{F4}...
- (b) in relation to so much of the excess as is not within paragraph (a) and does not exceed the amount (if any) on which tax is so chargeable at the higher rate ^{F5}... by virtue of paragraph (b) of that subsection, the higher rate ^{F6}... , and
- (c) in relation to any remaining part of the excess, the basic rate ^{F7}... .

[^{F8}But subsection (4A) applies in the case of a Scottish taxpayer][^{F9}and subsection (4B) applies in the case of a Welsh taxpayer].

[In the case of a Scottish taxpayer, the “relevant rate” in subsection (3)(a) means—

- ^{F10}(4A)
 - (a) where the only Scottish rate is the Scottish basic rate, that rate;
 - (b) where there is more than one Scottish rate—
 - (i) the highest Scottish rate in relation to so much of the excess as does not exceed the amount (if any) on which tax is chargeable in the case of the individual at that rate by virtue of section 227(4AA)(b)(ii) or (iii),
 - (ii) the next highest Scottish rate in relation to so much of the excess as is not within sub-paragraph (i) and does not exceed the amount (if any) on which tax is so chargeable by virtue of section 227(4AA)(b) (i), (ii) or (iii),
 - (iii) if there is one, the next highest Scottish rate in relation to so much of the excess as is not within sub-paragraph (i) or (ii) and does not exceed the amount (if any) on which tax is so chargeable by virtue of section 227(4AA)(b)(i), (ii) or (iii),

and so on.]

[In the case of a Welsh taxpayer, the “relevant rate” in subsection (3)(a) means—

- ^{F11}(4B)
 - (a) in relation to so much of the excess as does not exceed the amount (if any) on which tax is chargeable in the case of the individual for the tax year at the Welsh additional rate by virtue of paragraph (c) of subsection (4AB) of section 227, the Welsh additional rate,
 - (b) in relation to so much of the excess as is not within paragraph (a) and does not exceed the amount (if any) on which tax is so chargeable at the Welsh higher rate by virtue of paragraph (b) of that subsection, the Welsh higher rate, and
 - (c) in relation to the remaining part of the excess, the Welsh basic rate.]

- (5) The notice—

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- (a) must be given [^{F12}in accordance with the time limit in section 237BA] (but subject to subsection (6)),
 - (b) must be made in such manner and form, and contain such particulars, as may be prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs, and
 - (c) may be amended by giving the scheme administrator notice in accordance with provision made by regulations made by the Commissioners for Her Majesty's Revenue and Customs but may not be revoked.
- (6) [^{F13}A notice may not be given after] the individual becomes actually entitled to all of the individual's benefits under the pension scheme ^{F14}... or benefit crystallisation event 5, 5A or 5B occurs ^{F14}... in relation to the individual and the pension scheme, ^{F15}....
- (7) On receipt by the scheme administrator of the notice the scheme administrator and the individual become jointly and severally liable to pay the joint liability amount, but subject to sections 237C and 237D and to any amendment made to the notice in accordance with regulations under subsection (5)(c).
- (8) The scheme administrator is liable under subsection (7) whether or not—
- (a) the individual, and
 - (b) the scheme administrator,
- are resident^{F16}... or domiciled in the United Kingdom.
- (9) Where (but for this subsection) a notice could be given to a scheme administrator of a pension scheme but, before it is given, there is a transfer of all of the sums or assets—
- (a) held for the purposes of, or
 - (b) representing accrued rights under,
- [^{F17}arrangements relating to the individual under the pension scheme] so as to become held for the purposes of, or to represent rights under, another registered pension scheme, the notice may not be given to that scheme administrator but may instead be given to the scheme administrator of that other pension scheme.
- (10) The Treasury may by regulations make provision modifying the operation of this section in other cases in which there is a transfer of any of the sums or assets—
- (a) held for the purposes of, or
 - (b) representing accrued rights under,
- the pension scheme so as to become held for the purposes of, or to represent rights under, another registered pension scheme.
- (11) The Treasury may by order amend paragraph (a) of subsection (1) so as to increase the sum for the time being specified in that paragraph.]

Textual Amendments

- F1** Ss. 237A-237F inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 15](#)
- F2** S. 237B(2A) inserted (17.12.2014) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 68](#)
- F3** Words in s. 237B(4)(a) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Scotland Act 2016 \(Income Tax Consequential Amendments\) Regulations 2017 \(S.I. 2017/468\)](#), [regs. 1\(1\)](#), [5\(2\)\(a\)\(i\)](#)

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- F4** Words in s. 237B(4)(a) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **5(2)(a)(ii)**
- F5** Words in s. 237B(4)(b) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **5(2)(b)(i)**
- F6** Words in s. 237B(4)(b) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **5(2)(b)(ii)**
- F7** Words in s. 237B(4)(c) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **5(2)(c)**
- F8** Words in s. 237B(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **5(3)**
- F9** Words in s. 237B(4) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Devolved Income Tax Rates (Consequential Amendments) Order 2019 (S.I. 2019/201), arts. 1(1), **8(2)**
- F10** S. 237B(4A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **5(4)**
- F11** S. 237B(4B) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Devolved Income Tax Rates (Consequential Amendments) Order 2019 (S.I. 2019/201), arts. 1(1), **8(3)**
- F12** Words in s. 237B(5)(a) substituted (24.2.2022) by Finance Act 2022 (c. 3), s. **9(2)**
- F13** Words in s. 237B(6) substituted (with effect in accordance with art. 8 of the amending S.I.) by The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 (S.I. 2015/80), arts. 1, **17(a)(i)**
- F14** Words in s. 237B(6) omitted (with effect in accordance with art. 8 of the amending S.I.) by virtue of The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 (S.I. 2015/80), arts. 1, **17(a)(ii)**
- F15** Words in s. 237B(6) omitted (with effect in accordance with art. 8 of the amending S.I.) by virtue of The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 (S.I. 2015/80), arts. 1, **17(a)(iii)**
- F16** Words in s. 237B(8) 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. 129**
- F17** Words in s. 237B(9) substituted (with effect in accordance with art. 9 of the amending S.I.) by The Finance Act 2004 (Registered Pension Schemes and Annual Allowance Charge) (Amendment) Order 2015 (S.I. 2015/80), arts. 1, **17(b)**

Modifications etc. (not altering text)

- C1** S. 237B(5)(a) applied (with modifications) (19.7.2011) by Finance Act 2011 (c. 11), **Sch. 17 para. 32**
- C2** S. 237B applied (with modifications) (6.4.2023) by The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 (S.I. 2023/113), regs. 1(2), **9** (with reg. 1(3)) (as amended (14.9.2023) by The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **24** (with reg. 1(3)))
- C3** S. 237B applied (with modifications) (6.4.2023) by The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 (S.I. 2023/113), regs. 1(2), **8** (with reg. 1(3)) (as amended (14.9.2023) by The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023 (S.I. 2023/912), regs. 1(2), **23(a)(c)** (with reg. 1(3)))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)