
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2017, Paragraph 22. (See end of Document for details)

SCHEDULES

SCHEDULE 4

PENSIONS: OFFSHORE TRANSFERS

PART 2

INCOME TAX ON PENSION TRANSFERS: OVERSEAS TRANSFER CHARGE

Other amendments

- 22 (1) The Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208) are amended as follows.
- (2) In regulation 1(2) (interpretation), after the definition of “HMRC” insert—
- ““onward transfer” has the meaning given by section 244A;”.
- (3) In regulation 3(2) (duty to provide information to HMRC)—
- (a) in sub-paragraph (c), after “no relevant transfer fund remains” insert “ and no ring-fenced transfer funds remain ”, and
- (b) after sub-paragraph (d) insert—
- “(da) if the payment is made to a QROPS—
- (i) whether the overseas transfer charge arises on the payment,
- (ii) if the charge does arise, the transferred value and the amount of charge the scheme manager deducted from the payment before making it,
- (iii) if the charge does not arise, why it does not, and
- (iv) the total amount or value of the member's relevant transfer fund, and ring-fenced transfer funds, remaining immediately after the payment;”.
- (4) In regulation 3, after paragraph (2) insert—
- “(2A) Paragraphs (2B) and (2C) apply where—
- (a) a recognised transfer is made to a QROPS, or
- (b) an onward transfer is made by a QROPS or former QROPS.
- (2B) Where an event occurring before the end of the relevant period for the transfer (see section 244A(4)) means that the transfer no longer counts as excluded from the overseas transfer charge or that entitlement to repayment under section 244M arises, the scheme manager of the QROPS or former QROPS must, within 90 days after the date the scheme manager is notified of the event, provide to HMRC notification of—

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- (a) the occurrence, nature and date of the event,
- (b) the transferred value of the transfer,
- (c) the amount of overseas transfer charge on the transfer,
- (d) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and
- (e) the total amount or value of the member's relevant transfer fund, and ring-fenced transfer funds, remaining immediately after the event.

This paragraph is subject to the qualification in paragraph (3A).

(2C) Where the scheme manager of the QROPS or former QROPS becomes aware that the member has at any time in the relevant period for the transfer acquired a new residential address that is neither—

- (a) in the country or territory in which the QROPS or former QROPS is established, nor
- (b) in an EEA state,

the scheme manager is to notify that address to HMRC within 3 months after the date on which the scheme manager becomes aware of it.”

(5) In regulation 3(3)(a) (reporting duty under regulation 3(2) expires after 10 years from creation of relevant transfer fund), after “beginning” insert “—

- (i) if the payment is in respect of one or more of the relevant member's ring-fenced transfer funds (whether or not it is also in respect of anything else), with the key date for that fund or (as the case may be) the later or latest of the key dates for those funds, and
- (ii) if the payment is not to any extent in respect of the relevant member's ring-fenced transfer funds.”

(6) In regulation 3, after paragraph (3) insert—

“(3A) No obligation arises under paragraph (2B) in relation to a transfer if the following conditions are met—

- (a) at the date of the transfer more than 10 years has elapsed since the key date for the ring-fenced transfer fund arising from the transfer (see paragraph 1 of Schedule 34); and
- (b) the relevant member to whom the transfer is made is a person to whom the member payment provisions do not apply.”

(7) In regulation 3(6), in the definition of “relevant member”, after “relevant transfer fund” insert “ or any ring-fenced transfer fund ”.

(8) In regulation 3AB(4), for the words from “as a result” to the end substitute “as a result of—

- (a) a transfer of the member's relevant transfer fund,
- (b) a transfer of any of the member's ring-fenced transfer funds, or
- (c) a recognised transfer,

after the date of the relevant event concerned. ”

(9) In regulation 3AC—

- (a) in paragraph (1)(a), before the “or” at the end of paragraph (i) insert—

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- “(ia) any of the member's ring-fenced transfer funds;”,
and
- (b) in the title omit “relevant”.
- (10) In regulation 3AD—
- (a) in paragraph (1)(a), before the “or” at the end of paragraph (i) insert—
“(ia) any of the member's ring-fenced transfer funds;”,
- (b) in paragraph (2), after sub-paragraph (a) insert—
“(aa) where any of the transferred sums or assets are referable to the member's UK tax-relieved fund, the value of so many of them as are referable to tax-relieved contributions, or tax-exempt provision, made under the scheme before 9 March 2017;
(ab) the value of so many of the transferred sums or assets as are referable to any of the member's ring-fenced transfer funds (if any);”,
- (c) in paragraph (2)(b) omit the “and” at the end,
- (d) in paragraph (2)(c)(i), after “fund” insert “ or any of the member's ring-fenced transfer funds ”,
- (e) in paragraph (2)(c), in the words after paragraph (ii)—
(i) omit “it is”, and
(ii) after “the date of that transfer” insert “ and the date it was requested ”,
- (f) in paragraph (2), after sub-paragraph (c) insert—
“(d) whether the overseas transfer charge arises on the transfer;
(e) if the charge does arise on the transfer—
(i) the transferred value of the transfer, and
(ii) the amount in respect of the charge deducted by the scheme manager from the transfer;
(f) if the transfer is excluded from the charge—
(i) the reason for its exclusion, and
(ii) where section 244G(2)(a) or (b) (charge paid on earlier transfer) is the reason for its exclusion, the date of the earlier transfer on which the charge was paid and the amount of charge paid on that earlier transfer; and
(g) the relevant period for the transfer (see section 244A(4)).”,
and
- (g) in the title omit “relevant”.
- (11) After regulation 3AD insert—

Information provided by member to QROPS: onward transfers

“~~3A~~(1) Paragraph (4) applies where a member of a QROPS or former QROPS makes a request to the scheme manager to make an onward transfer to a QROPS.

- (2) But paragraph (4) does not apply if—
(a) the transfer will be excluded from the overseas transfer charge by section 244G, or

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- (b) the transfer will take place after the end of the relevant period (see section 244A(4)) for what would be the original transfer in relation to the requested onward transfer.
- (3) In this regulation “original transfer”, in relation to an onward transfer, has the meaning given by section 244A(5).
- (4) The member must provide to the scheme manager—
 - (a) the member's name, date of birth and principal residential address,
 - (b) if the member is not UK resident for income tax purposes, the date when the member last ceased to be UK resident for those purposes,
 - (c) the member's national insurance number or, where applicable, confirmation that the member does not qualify for a national insurance number,
 - (d) the name and address of the QROPS to which the transfer is to be made,
 - (e) the country or territory under the law of which that QROPS is established and regulated,
 - (f) the reference number, if any, given by the Commissioners for that QROPS,
 - (g) whether the member knows for certain that the transfer would be excluded from the overseas transfer charge by one of sections 244D, 244E and 244F, and if the member does know that for certain—
 - (i) the section concerned (if known),
 - (ii) the name and address of the member's employer whose connection with the QROPS gives rise to exclusion of the transfer from the charge,
 - (iii) the member's job title as an employee of that employer,
 - (iv) the date the member's employment with that employer began, and
 - (v) if known, that employer's tax reference for that employment, and
 - (h) the member's acknowledgement in writing that the member—
 - (i) is aware that an onward transfer to a qualifying recognised overseas pension scheme may give rise to a liability to overseas transfer charge, and
 - (ii) is aware of the circumstances in which liability arises, in which liability is excluded from the outset and in which liability is excluded only if conditions continue to be met over a period of time.
- (5) The information specified in paragraph (4) must be provided within 60 days beginning with the day the transfer request is made.
- (6) The scheme manager must send the member notification of the requirements specified in this regulation within 30 days beginning with that day.

Information provided by member to QROPS: inward and outward transfers

3AF(1) Paragraph (2) applies where—

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- (a) a recognised transfer or onward transfer is made to a QROPS, or an onward transfer is made by a QROPS or former QROPS, and
 - (b) either—
 - (i) the overseas transfer charge arises in the case of the transfer, or
 - (ii) the transfer is required by section 244B or 244C to be initially assumed to be excluded from the overseas transfer charge by that section.
- (2) Each time during the relevant period for the transfer that the member—
- (a) becomes resident in a country or territory, or
 - (b) ceases to be resident in a country or territory,
- the member must, within 60 days after the date that happens, inform the scheme manager of the QROPS or former QROPS that it has happened.
- (3) In a case where the 60 days mentioned in paragraph (2) ends with a day earlier than 30 June 2017, paragraph (2) is to be treated as requiring the information to be given no later than 30 June 2017.

Provision of information about liability for overseas transfer charge

- 3AG(1) If an onward transfer is made from a QROPS or former QROPS and the overseas transfer charge arises on the transfer, the scheme manager of the QROPS or former QROPS must within 90 days after the date of the transfer provide the member with a notice stating—
- (a) the date of the transfer,
 - (b) that overseas transfer charge arises on the transfer,
 - (c) the transferred value of the transfer,
 - (d) the amount of the charge on the transfer,
 - (e) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and
 - (f) where the scheme manager has accounted for the charge, the date the scheme manager did so.
- (2) If an onward transfer is made from a QROPS or former QROPS and the transfer is excluded from the overseas transfer charge by or under sections 244B to 244H, the scheme manager of the QROPS or former QROPS must within 90 days after the date of the transfer provide the member with a notice stating—
- (a) the date of the transfer,
 - (b) that the transfer is excluded from the overseas transfer charge,
 - (c) the provision by reason of which the transfer is excluded, and
 - (d) where that provision is section 244B or 244C—
 - (i) when the relevant period for the transfer ends, and
 - (ii) how the transfer may turn out not to be excluded as a result of the member changing country or territory of residence within the relevant period for the transfer.
- (3) Paragraph (4) applies if—
- (a) a recognised transfer is made to a QROPS, or
 - (b) an onward transfer is made by a QROPS or former QROPS.

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- (4) Where an event occurring before the end of the relevant period for the transfer (see section 244A(4)) means that the transfer no longer counts as excluded from the overseas transfer charge or that entitlement to repayment under section 244M arises, the scheme manager of the QROPS or former QROPS must, within 90 days after the date the scheme manager is notified of the event, provide the member with a notice stating—
- (a) the amount of overseas transfer charge on the transfer,
 - (b) whether, and to what extent, the scheme manager has accounted, or intends to account, for the charge, and
 - (c) where the scheme manager has accounted for the charge, the date the scheme manager did so.

Accounting for overseas transfer charge on onward transfers

3AH(1) Paragraph (2) applies where—

- (a) overseas transfer charge arises on an onward transfer from a QROPS or former QROPS,
 - (b) the scheme manager has notified HMRC of the transfer or, where applicable, of the event triggering payability of the charge on the transfer, and
 - (c) HMRC have provided the scheme manager with an accounting reference for paying the charge on the transfer.
- (2) The scheme manager must pay the charge to HMRC using the accounting reference.
- (3) Payment of the charge is due at the end of the 91 days beginning with the date of issue of the accounting reference.

Assessments of unpaid overseas transfer charge on onward transfers

- 3AI (1) Where the correct amount of overseas transfer charge due from a scheme manager under regulation 3AH on an onward transfer has not been paid by the time it is due, an officer of Revenue and Customs must issue an assessment to tax to the scheme manager.
- (2) Tax assessed under this regulation is payable within 30 days after the issue of the notice of assessment.

Interest on overdue overseas transfer charge

3AJ (1) Tax which—

- (a) becomes due and payable in accordance with regulation 3AH, or
 - (b) is assessed under regulation 3AI,
- carries interest at the prescribed rate from the due date under regulation 3AH until payment (“the interest period”).
- (2) Paragraph (1) applies even if the due date is a non-business day as defined by section 92 of the Bills of Exchange Act 1882.
- (3) The “prescribed rate” means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 86 of TMA.

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- (4) Any change made to the prescribed rate during the interest period applies to the unpaid amount from the date of the change.

Adjustments, repayments and interest on overpaid charge

3AK(1) If the correct tax due under regulation 3AH has not been paid on or before the due date, an officer of Revenue and Customs may make such adjustments or repayments as may be required for securing that the resulting liabilities to tax (including interest on unpaid or overpaid tax) whether of the scheme manager or of any other person are the same as they would have been if the correct tax had been paid.

- (2) Tax overpaid which is repaid to the scheme manager or any other person carries interest at the prescribed rate from the later of the due date and the date on which the tax was paid until the date of repayment (“the interest period”).
- (3) The “prescribed rate” means the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 824 of the Income and Corporation Taxes Act 1988.
- (4) Any change to the prescribed rate during the interest period applies to the overpaid amount from the date of the change.

Claims for repayments of charge on subsequent excluding events

3AL(1) Repayment under section 244M (repayments of overseas transfer charge) to the scheme manager of a QROPS or former QROPS is conditional on making a claim to HMRC.

- (2) Such a claim in respect of overseas transfer charge on a transfer—
- (a) must be in writing,
 - (b) must be made no later than 12 months after the end of the relevant period for the transfer, and
 - (c) must provide the following information—
 - (i) the member's name, date of birth and principal residential address,
 - (ii) the date of the transfer and, if different, the date of the event triggering payability of the charge on the transfer,
 - (iii) the date on which the scheme manager accounted for the charge on the transfer,
 - (iv) why the charge on the transfer has become repayable, and
 - (v) the amount in respect of which the claim is made.”
- (12) In regulation 3B (information on cessation of a QROPS), after “relevant transfer fund”, in both places, insert “, or ring-fenced transfer fund, ”.
- (13) In regulation 3C (correction of information)—
- (a) in paragraph (3)(a)(i), after “existence” insert “ or, where the information relates to a ring-fenced transfer fund in respect of the relevant member, more than 10 years has elapsed beginning with the date on which that ring-fenced transfer fund came into existence ”, and

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- (b) in paragraph (3)(b), at the end insert “ and there are no ring-fenced transfer funds ”.
- (14) In regulation 5(1) (application of provisions providing for penalties)—
- (a) after “3(2),” insert “ (2B) or (2C), ”, and
 - (b) before “or 3C(1)” insert “ , 3AE(6), 3AG ”.
- (15) The amendments made by this paragraph—
- (a) are, so far as they insert new regulations 3AE(1) to (5) and 3AF, to be treated as having been made by the Commissioners for Her Majesty's Revenue and Customs under the powers to make regulations conferred by section 169(4ZA) of FA 2004,
 - (b) are, so far as they insert new regulations 3AE(6) and 3AG and amend regulations 3 to 3AD and 3B to 5, to be treated as having been made by the Commissioners under the powers to make regulations under section 169(4) of FA 2004 (see section 169(4), (4A), (4B) and (4C) of that Act),
 - (c) are, so far as they insert new regulations 3AH to 3AK, to be treated as having been made by the Commissioners under the applicable powers to make regulations conferred by section 244L of FA 2004, and
 - (d) are, so far as they insert new regulation 3AL, to be treated as having been made by the Commissioners under the powers to make regulations conferred by section 244M(7) of FA 2004.

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