
STATUTORY INSTRUMENTS

2023 No. 912

The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023

PART 3

Benefits

Lifetime allowance excess lump sum: lump sum already paid

16.—(1) Paragraphs (2) to (5) apply where—

- (a) an individual has been paid a lump sum that, disregarding the operation of the relevant rectification provisions, is a lifetime allowance excess lump sum⁽¹⁾, and
- (b) as a result of the operation of a relevant rectification provision, the condition in paragraph 11(a) of Schedule 29 to FA 2004 (unavailability of lifetime allowance⁽²⁾) has ceased to be met in relation to all or part of the lump sum (“the excess amount”).

(2) The excess amount—

- (a) is to be treated as falling, and is to be treated as always having fallen, within section 164(1) of FA 2004 (authorised member payments), and
- (b) is to be treated as being, and is to be treated as always having been, a lifetime allowance excess lump sum for the purposes of Part 9 of ITEPA 2003.

(3) The individual becoming entitled to the excess amount is to be treated as a benefit crystallisation event in relation to that individual.

(4) The amount crystallised for the purposes of that benefit crystallisation event is the amount of the excess amount.

(5) No liability to income tax arises in respect of 25% of the excess amount.

(6) In respect of 75% of the excess amount—

- (a) the second lifetime allowance charge condition in section 214(3) of FA 2004 (lifetime allowance charge) is to be treated as met,
- (b) that amount is to be treated as the basic amount for the purposes of section 215(3)(a) of FA 2004 (amount of charge), and
- (c) the lifetime allowance charge which arises is to be charged at the rate of 40%.

(1) By virtue of regulation 2(2)(b), “lifetime allowance excess lump sum” is defined in paragraph 11 of Schedule 29 to FA 2004.
(2) By virtue of regulation 2(2)(b), “lifetime allowance” is defined in section 218 of FA 2004. Section 218 was amended by paragraph 2 of Schedule 18 to FA 2011, section 48(1) to (3) of, and paragraph 6 of Schedule 22 to, FA 2013, section 19(1) to (5) of FA 2016 and section 19 of F(No. 2)A 2023.