



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

### CHAPTER 5

#### REGISTERED PENSION SCHEMES: TAX CHARGES

##### *Scheme sanction charge*

#### **239 Scheme sanction charge**

- (1) A charge to income tax, to be known as the scheme sanction charge, arises where in any tax year one or more scheme chargeable payments are made by a registered pension scheme.
- (2) The person liable to the scheme sanction charge is the scheme administrator.
- (3) But<sup>F1</sup>—
  - (a) in the case of a payment treated by virtue of section 161(3) and (4) (payments under investments acquired with scheme assets) as having been made by a pension scheme which has been wound up, the person liable to the scheme sanction charge is the person who was, or each of the persons who were, the scheme administrator immediately before the pension scheme was wound up<sup>F2</sup>, and
  - (b) in the case of a payment of a lump sum to a member where the conditions in paragraphs 1(1)(b) and (d) and 1B(2)(a) to (g) of Schedule 29 are met, the person liable to the scheme sanction charge so far as relating to any part of the lump sum within the permitted maximum is the scheme administrator of the registered pension scheme to which the transfer mentioned in paragraph 1B(2)(g) of Schedule 29 is made.]

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Scheme sanction charge. (See end of Document for details)*

[<sup>F3</sup>(3A) For the purposes of subsection (3)(b) “the permitted maximum”, in the case of a lump sum paid to an individual, is the amount that in accordance with paragraph 2 of Schedule 29 would be the permitted maximum for that lump sum if the individual became entitled at the time the lump sum is paid to the pension at that time expected to be the pension in connection with which the lump sum is paid.]

(4) A person liable to the scheme sanction charge is liable whether or not—

- (a) that person, and
  - (b) any other person who is liable to the scheme sanction charge,
- are resident<sup>F4</sup>... or domiciled in the United Kingdom.

(5) The following sections make further provision about the scheme sanction charge—  
 section 240 (amount of charge), and  
 section 241 (scheme chargeable payment).

[<sup>F5</sup>(6) This section is subject to provision made by regulations under section 273ZA (income and gains from taxable property).]

#### Textual Amendments

- F1** Words in s. 239(3) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(1\)\(a\)](#), 15
- F2** S. 239(3)(b) and preceding word inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(1\)\(b\)](#), 15
- F3** S. 239(3A) inserted (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(2\)](#), 15
- F4** Words in s. 239(4) 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. 130](#)
- F5** S. 239(6) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 8](#)

#### Modifications etc. (not altering text)

- C1** S. 239 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. 239 modified by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [art. 18](#) (as amended (19.3.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 5 paras. 12\(4\)\(5\)](#), 15)

#### 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

## 240 Amount of charge

(1) The scheme sanction charge for any tax year is a charge at the rate of 40% in respect of the scheme chargeable payment, or the aggregate of the scheme chargeable payments, made by the pension scheme in the tax year.

(2) But if—

- (a) the scheme chargeable payment is an unauthorised payment, or any of the scheme chargeable payments are unauthorised payments, and
- (b) tax charged in relation to that payment, or any of those payments, under section 208 (unauthorised payments charge) has been paid,

a deduction is to be made from the amount of tax that would otherwise be chargeable for the tax year by virtue of subsection (1).

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*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2004, Cross Heading: Scheme sanction charge. (See end of Document for details)

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- (3) The amount of the deduction is the lesser of—
- (a) 25% of the amount of the scheme chargeable payment, or of the aggregate amount of such of the scheme chargeable payments as are tax-paid, and
  - (b) the amount of the tax which has been paid under section 208 in relation to the scheme chargeable payment, or in relation to such of the scheme chargeable payments as are tax-paid.

[<sup>F6</sup>(3A) The Treasury—

- (a) may by order amend subsection (1) so as to vary the rate of the scheme sanction charge, and
- (b) may by order amend subsection (3)(a) so as to vary the percentage mentioned there.

(3B) An order under subsection (3A) may make provision for there to be different rates or percentages in different circumstances.]

- (4) A scheme chargeable payment is “tax-paid” if the whole or any part of the tax chargeable in relation to it under section 208 has been paid.

**Textual Amendments**

**F6** S. 240(3A)(3B) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 2 para. 16](#)

**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

**241 Scheme chargeable payment**

- (1) In this Part “scheme chargeable payment”, in relation to a registered pension scheme, means—
- (a) an unauthorised payment by the pension scheme, other than one which is exempt from being scheme chargeable, and
  - <sup>F7</sup>(aa) .....
  - (b) a scheme chargeable payment which the pension scheme is to be treated as having made by section 183 or 185 (unauthorised borrowing)<sup>F8</sup>, and
  - (c) a scheme chargeable payment which the pension scheme is to be treated as having made by section 185A (income from taxable property) or 185F (gains from taxable property)].
- (2) An unauthorised payment is exempt from being scheme chargeable if—
- (a) it is treated as having been made by section 173 (use of scheme assets to provide benefits) and the asset used to provide the benefit in question is not a wasting asset,
  - (b) it is a compensation payment (see section 178),
  - (c) it is made to comply with an order of a court or of a person or body with power to order the making of the payment,
  - (d) it is made on the ground that a court or any such person or body is likely to order the making of the payment (or would be were it asked to do so), or

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- (e) it is of a description prescribed by regulations made by the Board of Inland Revenue.
- (3) “Wasting asset” has the same meaning as in section 44 of TCGA 1992.
- (4) Schedule 36 contains (in Part 3) transitional provision about scheme chargeable payments.

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**Textual Amendments**

- F7** S. 241(1)(aa) omitted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 74](#)
- F8** S. 241(1)(c) and word inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\)](#), s. 158(2), [Sch. 21 para. 9](#)

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**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

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2004, Cross Heading:  
Scheme sanction charge.