

Status: Point in time view as at 01/04/2009.

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004,
Cross Heading: Meaning of “qualifying” overseas pension scheme. (See end of Document for details)*

SCHEDULES

SCHEDULE 33

OVERSEAS PENSION SCHEMES: MIGRANT MEMBER RELIEF

Meaning of “qualifying” overseas pension scheme

- 5 (1) For the purposes of this Schedule an overseas pension scheme is a qualifying overseas pension scheme if—
- (a) the scheme manager has given to the Inland Revenue notification that it is an overseas pension scheme and has provided any such evidence that it is an overseas pension scheme as the Inland Revenue may require,
 - (b) the scheme manager has undertaken to the Inland Revenue to inform the Inland Revenue if it ceases to be an overseas pension scheme,
 - (c) the scheme manager has undertaken to the Inland Revenue to comply with any prescribed benefit crystallisation information requirements imposed on the scheme manager, and
 - (d) the overseas pension scheme is not excluded from being a qualifying overseas pension scheme by sub-paragraph (3).
- (2) In sub-paragraph (1)(c) “prescribed benefit crystallisation information requirements” means requirements imposed by or under regulations made by the Board of Inland Revenue to provide to the Inland Revenue any information relating to events that are benefit crystallisation events in relation to members of the pension scheme who have at any time been relevant migrant members of the pension scheme.
- (3) An overseas pension scheme is excluded from being a qualifying overseas pension scheme if the Inland Revenue has decided that—
- (a) there has been a failure to comply with any prescribed benefit crystallisation information requirements imposed on the scheme manager and the failure is significant, and
 - (b) by reason of the failure it is not appropriate that relief from tax should be given in respect of contributions under the pension scheme,
- and has notified the person or persons appearing to be the scheme manager of that decision (but subject to sub-paragraph (5) and paragraph 6).
- (4) A failure to comply with prescribed benefit crystallisation information requirements is significant if—
- (a) the amount of information which has not been provided is substantial, or
 - (b) the failure to provide the information is likely to result in serious prejudice to the assessment or collection of tax.
- (5) The Inland Revenue —
- (a) may at any time after an overseas pension scheme becomes excluded from being a qualifying overseas pension scheme decide that the pension scheme is to cease to be so excluded, and

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(b) must notify the scheme manager of the decision.

Commencement Information

I1 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](#)

- 6 (1) This paragraph applies where an overseas pension scheme is excluded from being a qualifying overseas pension scheme by a decision of the Inland Revenue under paragraph 5(3).
- (2) The scheme manager may appeal against the decision.
- ^{F1}(3)
- ^{F1}(4)
- (5) An appeal under this paragraph against a decision must be brought within the period of 30 days beginning with the day on which the notification of the decision was given.
- (6) [^{F2}If an appeal under this paragraph is notified to the tribunal, the tribunal] must consider whether the overseas pension scheme ought to have been excluded from being a qualifying overseas pension scheme.
- (7) If [^{F3}the tribunal decides] that the overseas pension scheme ought to have been excluded from being a qualifying overseas pension scheme, [^{F3}the tribunal must] dismiss the appeal.
- (8) If [^{F4}the tribunal decides] that the overseas pension scheme ought not to have been excluded from being a qualifying overseas pension scheme, the pension scheme is to be treated as having remained a qualifying overseas pension scheme (but subject to any further appeal ^{F5}...).

Textual Amendments

- F1** Sch. 33 para. 6(3)(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 435\(2\)](#)
- F2** Words in Sch. 33 para. 6(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 435\(3\)](#)
- F3** Words in Sch. 33 para. 6(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 435\(4\)](#)
- F4** Words in Sch. 33 para. 6(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 435\(5\)\(a\)](#)
- F5** Words in Sch. 33 para. 6(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 435\(5\)\(b\)](#)

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](#)

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