



# Finance Act 2011

## 2011 CHAPTER 11

### PART 4

#### PENSIONS

#### **65 Benefits under pension schemes**

Schedule 16 contains provision about the benefits available under pension schemes and related matters.

#### **66 Annual allowance charge**

Schedule 17 contains provision about the annual allowance charge.

#### **67 Lifetime allowance charge**

Schedule 18 contains provision about the lifetime allowance charge.

#### **68 Borrowing by section 67 pension scheme**

- (1) Section 182 of FA 2004 (unauthorised borrowing) does not cause a section 67 pension scheme to be not authorised to borrow an amount for the purposes of meeting costs of establishing, administering or managing the pension scheme.
- (2) Accordingly, in the case of a section 67 pension scheme, references in sections 182 and 183 of FA 2004 to amounts previously borrowed do not include any amount previously borrowed for those purposes.
- (3) For the purposes of this section neither—
  - (a) borrowing an amount for making investments for the purposes of a pension scheme, nor
  - (b) borrowing an amount for making deposits with a view to deriving income for the purposes of a pension scheme (otherwise than prior to applying the amount

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for meeting costs of establishing, administering or managing the pension scheme),

is to be taken to be borrowing the amount for the purposes of meeting costs of establishing, administering or managing the pension scheme.

- (4) In this section “section 67 pension scheme” means a pension scheme which is established under section 67 of the Pensions Act 2008.
- (5) Section 163(2) of FA 2004 (meaning of “borrowing”) applies for the interpretation of this section.
- (6) This section is treated as having come into force on 6 April 2011.

## **69 Exemption from tax on interest on unpaid relevant contributions**

- (1) ITTOIA 2005 is amended as follows.
- (2) In section 369(3)(e) (exemptions from income tax charge on income), after “loans,” insert “unpaid relevant contributions,”.
- (3) After section 753 insert—

### **“753A Interest on unpaid relevant contributions**

- (1) No liability to income tax arises in respect of interest paid in compliance with a requirement in a compliance notice or an unpaid contributions notice to pay interest in respect of unpaid relevant contributions.
- (2) In this section—
  - “compliance notice” means a notice under section 35 of the Pensions Act;
  - “the Pensions Act” means the Pensions Act 2008 or the Pensions (No.2) Act (Northern Ireland) 2008;
  - “unpaid contributions notice” means a notice under section 37 of the Pensions Act;
  - “unpaid relevant contributions” has the same meaning as in section 38(2)(a) of the Pensions Act.”

## **70 Power to make further provision about section 67 pension scheme**

- (1) The Treasury may by regulations make provision for and in connection with—
  - (a) the application of the relevant taxes in relation to a pension scheme established under section 67 of the Pensions Act 2008, and
  - (b) the application of the relevant taxes in relation to any person in connection with such a pension scheme.
- (2) The provision that may be made by regulations under this section includes provision imposing any of the relevant taxes (as well as provisions for exemptions or reliefs).
- (3) The relevant taxes are—
  - (a) income tax,
  - (b) capital gains tax,
  - (c) corporation tax, and

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- (d) inheritance tax.
- (4) Regulations under this section may include provision having effect in relation to any time before they are made if the provision does not increase any person's liability to tax.
- (5) Regulations under this section may include—
  - (a) provision amending any enactment or instrument, and
  - (b) consequential, supplementary and transitional provision.
- (6) Regulations under this section are to be made by statutory instrument.
- (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

## **71 Tax provision consequential on Part 1 of Pensions Act 2008 etc**

- (1) The Treasury may by regulations make provision in relation to any of the relevant taxes in consequence of Part 1 of the Pensions Act 2008 or Part 1 of the Pensions (No.2) Act (Northern Ireland) 2008.
- (2) The provision that may be made by regulations under this section includes provision imposing any of the relevant taxes (as well as provisions for exemptions or reliefs).
- (3) The relevant taxes are—
  - (a) income tax,
  - (b) capital gains tax,
  - (c) corporation tax,
  - (d) inheritance tax,
  - (e) value added tax,
  - (f) stamp duty land tax,
  - (g) stamp duty, and
  - (h) stamp duty reserve tax.
- (4) Regulations under this section may include provision having effect in relation to any time before they are made if the provision does not increase any person's liability to tax.
- (5) Regulations under this section may make different provision for different cases.
- (6) Regulations under this section may include—
  - (a) provision amending any enactment or instrument, and
  - (b) consequential, supplementary and transitional provision.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

## **72 Foreign pensions of UK residents**

- (1) In Part 2 of TIOPA 2010 (double taxation relief), in Chapter 3 (miscellaneous provisions), after section 130 insert—

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### **“130A Interpreting provision about UK taxation of pensions etc**

- (1) Subsection (3) applies if double taxation arrangements make the provision, however expressed, mentioned in subsection (2).
- (2) The provision is that pensions and other similar remuneration which—
  - (a) arise outside the United Kingdom, and
  - (b) are paid to persons who are resident in the United Kingdom, are not to be subject to United Kingdom tax.
- (3) That provision does not prevent a pension or other similar remuneration of a person resident in the United Kingdom being chargeable to income tax if—
  - (a) the pension or other similar remuneration is paid out of sums or assets that were the subject of a relevant transfer or related sums or assets, and
  - (b) the relevant transfer or any transaction forming part of that transfer was, or formed part of, a tax avoidance scheme.
- (4) But nothing in subsection (3) prevents credit being allowed under Chapter 2 of this Part (double taxation relief by way of credit) against any tax so charged.
- (5) In determining whether a pension or other similar remuneration is paid out of sums or assets within subsection (3)(a), it is to be assumed that it is paid out of such sums or assets in priority to any other sums or assets.
- (6) A “relevant transfer”, in respect of any sums or assets, is a transaction or series of transactions as a result of which—
  - (a) the sums or assets are transferred out of a pension scheme, and
  - (b) the sums or assets or related sums or assets (or both) are transferred into the pension scheme under which the pension or other similar remuneration is paid.
- (7) A scheme is a “tax avoidance scheme” if the main purpose, or one of the main purposes, of any party to the scheme in entering into the scheme is to secure an income tax advantage for any person under this Part by virtue of provision mentioned in subsection (2) made by double taxation arrangements.
- (8) For the purposes of subsection (7)—
  - (a) “scheme” includes any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving a single transaction or two or more transactions,
  - (b) it does not matter whether or not the double taxation arrangements were in existence at the time the tax avoidance scheme was entered into or given effect to, and
  - (c) “income tax advantage” is to be construed in accordance with section 572A(3) to (5) of ITA 2007.
- (9) In this section—

“pension” and “other similar remuneration” have the same meaning as in the Model Tax Convention on Income and on Capital published (from time to time) by the Organisation for Economic Co-operation and Development;

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“pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150 of that Act);

“related sums or assets”, in relation to other sums or assets (“the original sums or assets”), means sums or assets which arise, or (directly or indirectly) derive, from the original sums or assets or from sums or assets which so arise or derive.”

- (2) The amendment made by this section has effect in relation to the tax year 2011-12 and subsequent tax years (and it does not matter whether the tax avoidance scheme was entered into or effected before, or on or after, 6 April 2011).

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