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SCHEDULES

SCHEDULE 6

Section 44

TRANSITIONAL PROVISION RELATING TO NEW STANDARD LIFETIME ALLOWANCE FOR THE TAX YEAR 2014-15 ETC

PART 1

“INDIVIDUAL PROTECTION 2014”

The protection

- 1 (1) Sub-paragraph (2) applies on and after 6 April 2014 in the case of an individual—
- (a) who, on 5 April 2014, has one or more relevant arrangements (see sub-paragraph (4)),
 - (b) whose relevant amount is greater than £1,250,000 (see sub-paragraph (5)), and
 - (c) in relation to whom paragraph 7 of Schedule 36 to FA 2004 (primary protection) does not make provision for a lifetime allowance enhancement factor,
- if notice of intention to rely on it is given to an officer of Revenue and Customs before 6 April 2017.
- (2) Part 4 of FA 2004 has effect in relation to the individual as if the standard lifetime allowance were—
- (a) if the individual's relevant amount is greater than £1,500,000, the greater of the standard lifetime allowance and £1,500,000, or
 - (b) otherwise, the greater of the standard lifetime allowance and the individual's relevant amount.
- (3) But sub-paragraph (2) does not apply at any time when any of the following provisions applies in the case of the individual—
- (a) paragraph 12 of Schedule 36 to FA 2004 (enhanced protection);
 - (b) paragraph 14 of Schedule 18 to FA 2011 (fixed protection 2012);
 - (c) paragraph 1 of Schedule 22 to FA 2013 (fixed protection 2014).
- (4) “Relevant arrangement”, in relation to an individual, means an arrangement relating to the individual under—
- (a) a registered pension scheme of which the individual is a member, or
 - (b) a relieved non-UK pension scheme of which the individual is a relieved member.
- (5) An individual's “relevant amount” is the sum of amounts A, B, C and D (see paragraphs 2 to 5).

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- (6) Sub-paragraphs (7) and (8) apply if rights of an individual under a relevant arrangement become subject to a pension debit where the transfer day falls on or after 6 April 2014.
- (7) For the purpose of applying sub-paragraph (2) in the case of the individual on and after the transfer day, the individual's relevant amount is reduced (or further reduced) by the following amount—

$$X - (Y \times Z)$$

where—

X is the appropriate amount,

Y is 5% of X, and

Z is the number of tax years beginning after 5 April 2014 but ending on or before the transfer day.

(If the formula gives a negative amount, it is to be taken to be nil.)

- (8) But if the individual's relevant amount would be reduced (or further reduced) to £1,250,000 or less, sub-paragraph (2) is not to apply at all in the case of the individual on and after the transfer day.
- (9) In sub-paragraphs (6) to (8) “appropriate amount” and “transfer day”, in relation to a pension debit, have the same meaning as in section 29 of WRPA 1999 or Article 26 of WRP(NI)O 1999 (as the case may be).

Amount A (pre-6 April 2006 pensions in payment)

- 2 (1) To determine amount A—
- (a) apply sub-paragraph (2) if a benefit crystallisation event has occurred in relation to the individual during the period comprising the tax year 2006-07 and all subsequent tax years up to (and including) the tax year 2013-14;
 - (b) otherwise, apply sub-paragraph (6).
- (2) If this sub-paragraph is to be applied, amount A is—

$$25 \times \text{ARP} \times \frac{1,500,000}{\text{SLT}}$$

where—

ARP is (subject to sub-paragraph (3)) an amount equal to—

- (a) the annual rate at which any relevant existing pension was payable to the individual at the time immediately before the benefit crystallisation event occurred, or
- (b) if more than one relevant existing pension was payable to the individual at that time, the sum of the annual rates at which each of the relevant existing pensions was so payable, and

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SLT is an amount equal to what the standard lifetime allowance was at the time the benefit crystallisation event occurred.

- (3) Paragraph 20(4) of Schedule 36 to FA 2004 applies for the purposes of the definition of “ARP” in sub-paragraph (2) (and, for this purpose, in paragraph 20(4) any reference to “the time” is to be read as a reference to the time immediately before the benefit crystallisation event occurred).
- (4) If the time immediately before the benefit crystallisation event occurred falls before 6 April 2011, in sub-paragraph (3) references to paragraph 20(4) are to be read as references to that provision as it stood at the time immediately before the benefit crystallisation event occurred.
- (5) If more than one benefit crystallisation event has occurred, in sub-paragraphs (2) to (4) references to the benefit crystallisation event are to be read as references to the first benefit crystallisation event.
- (6) If this sub-paragraph is to be applied, amount A is—

$$25 \times \text{ARP}$$

where ARP is (subject to sub-paragraph (7)) an amount equal to—

- a the annual rate at which any relevant existing pension is payable to the individual at the end of 5 April 2014, or
 - b if more than one relevant existing pension is payable to the individual at the end of 5 April 2014, the sum of the annual rates at which each of the relevant existing pensions is so payable.
- (7) Paragraph 20(4) of Schedule 36 to FA 2004 applies for the purposes of the definition of “ARP” in sub-paragraph (6) (and, for this purpose, in paragraph 20(4) any reference to “the time” is to be read as a reference to 5 April 2014).
 - (8) In this paragraph “relevant existing pension” means (subject to sub-paragraph (9)) a pension, annuity or right—
 - (a) which was, at the end of 5 April 2006, a “relevant existing pension” as defined by paragraph 10(2) and (3) of Schedule 36 to FA 2004, and
 - (b) the payment of which the individual had, at the end of 5 April 2006, an actual (rather than a prospective) right to.
 - (9) If—
 - (a) before 6 April 2014, there was a recognised transfer of sums or assets representing a relevant existing pension, and
 - (b) those sums or assets were, after the transfer, applied towards the provision of a scheme pension (“the new scheme pension”),the new scheme pension is also to be a “relevant existing pension” (including for the purposes of this sub-paragraph).

Amount B (pre-6 April 2014 benefit crystallisation events)

- 3 (1) To determine amount B—

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- (a) identify each benefit crystallisation event that has occurred in relation to the individual during the period comprising the tax year 2006-07 and all subsequent tax years up to (and including) the tax year 2013-14,
- (b) determine the amount which was crystallised by each of those benefit crystallisation events (applying paragraph 14 of Schedule 34 to FA 2004 if relevant), and
- (c) multiply each crystallised amount by the following fraction—

$$\frac{1,500,000}{\text{SLT}}$$

where SLT is an amount equal to what the standard lifetime allowance was at the time the benefit crystallisation event in question occurred.

- (2) Amount B is the sum of the crystallised amounts determined under sub-paragraph (1) (b) as adjusted under sub-paragraph (1)(c).

Amount C (uncrystallised rights at end of 5 April 2014 under registered pension schemes)

- 4 Amount C is the total value of the individual's uncrystallised rights at the end of 5 April 2014 under arrangements relating to the individual under registered pension schemes of which the individual is a member as determined in accordance with section 212 of FA 2004.

Amount D (uncrystallised rights at end of 5 April 2014 under relieved non-UK pension schemes)

- 5 (1) To determine amount D—
 - (a) identify each relieved non-UK pension scheme of which the individual is a relieved member at the end of 5 April 2014, and
 - (b) in relation to each such scheme—
 - (i) assume that a benefit crystallisation event occurs in relation to the individual at the end of 5 April 2014, and
 - (ii) in accordance with paragraph 14 of Schedule 34 to FA 2004, determine what the untested portion of the relevant relieved amount would be immediately before the assumed benefit crystallisation event.
- (2) Amount D is the sum of the untested portions determined under sub-paragraph (1) (b)(ii).

Interpretation

- 6 (1) Expressions used in this Part of this Schedule and Part 4 of FA 2004 have the same meaning in this Part as in that Part.
- (2) In particular, references to a relieved non-UK pension scheme or a relieved member of such a scheme are to be read in accordance with paragraphs 13(3) and (4) and 18 of Schedule 34 to FA 2004.

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PART 2

REGULATIONS

- 7 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend Part 1 of this Schedule.
- (2) Regulations under this paragraph may (for example) add to the cases in which paragraph 1(2) is to apply.
- (3) Regulations under this paragraph must not increase any person's liability to tax.
- (4) Regulations under this paragraph may include provision having effect in relation to a time before the regulations are made; but the time must be no earlier than 6 April 2014.
- 8 (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision specifying how any notice required to be given to an officer of Revenue and Customs under Part 1 of this Schedule is to be given.
- (2) In sub-paragraph (1) the reference to Part 1 of this Schedule is to that Part as amended from time to time by regulations under paragraph 7.
- 9 (1) Regulations under paragraph 7 or 8 may include supplementary or incidental provision.
- (2) The powers to make regulations under paragraphs 7 and 8 are exercisable by statutory instrument.
- (3) A statutory instrument containing regulations under paragraph 7 or 8 is subject to annulment in pursuance of a resolution of the House of Commons.

PART 3

OTHER PROVISION

Amendment of section 219(5A) of FA 2004

- 10 (1) In section 219 of FA 2004 (availability of individual's lifetime allowance) in subsection (5A) after “effect” insert “ where the previous benefit crystallisation event occurred before 6 April 2014 ”.
- (2) The amendment made by this paragraph is treated as having come into force on 6 April 2014.

Amendment of section 98 of TMA 1970

- 11 (1) Column 2 of the Table at the end of section 98 of TMA 1970 (special returns: penalties) is amended as follows.
- (2) After the entry for section 228 of TIOPA 2010 insert—

“Regulations under paragraph 16 of Schedule 18 to the Finance Act 2011.”

- (3) After the entry for regulations under section 61(5) of FA 2012 insert—

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“Regulations under paragraph 3 of Schedule 22 to the Finance Act 2013.

Regulations under paragraph 8 of Schedule 6 to the Finance Act 2014.”

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