



# Finance (No. 2) Act 2015

## 2015 CHAPTER 33

### PART 4

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Income tax*

#### **21 Pensions: special lump sum death benefits charge**

- (1) Section 206 of FA 2004 (special lump sum death benefits charge) is amended in accordance with subsections (2) to (5).
- (2) In each of subsections (1), (1A), (1B)(a) and (1C)(a) (which specify payments attracting the charge) after “paid” insert “, to a non-qualifying person,”.
- (3) In subsection (1B)(b) (payments attracting charge if paid more than 2 years after death of member under 75), before the “or” at the end of sub-paragraph (ii) insert—  
“(ia) a defined benefits lump sum death benefit,”.
- (4) In subsection (7) (sums taxed under section 206 not income for income tax purposes), at the end insert “(but see subsection (8)).”
- (5) After subsection (7) insert—
  - “(8) Where—
    - (a) a lump sum death benefit in respect of which tax is charged under this section is one paid to a non-qualifying person in the person’s capacity as a trustee, and
    - (b) a payment of any part of the lump sum is made out of a settlement to a beneficiary who is an individual,

the amount received by the beneficiary, together with so much of the tax charged under this section on the lump sum as is attributable to the amount received by the beneficiary, is income of the beneficiary for income tax purposes but the beneficiary may claim to deduct that much of that tax from

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the income tax charged on the beneficiary's total income for the tax year in which the payment is made to the beneficiary.

(9) For the purposes of this section, a person is a “non-qualifying person” in relation to payment of a lump sum if—

- (a) the person is not an individual, or
- (b) the person is an individual and the payment is made to the person in the person's capacity as—
  - (i) a trustee or personal representative,
  - (ii) a director of a company,
  - (iii) a partner in a firm, or
  - (iv) a member of a limited liability partnership,

except that a person is not a “non-qualifying person” in relation to payment of a lump sum if the payment is made to the person in the person's capacity as a bare trustee.

(10) In subsection (9)—

“bare trustee” means a person acting as trustee for—

- (a) an individual absolutely entitled as against the trustee,
- (b) two or more individuals who are so entitled,
- (c) an individual who would be so entitled but for being a minor or otherwise lacking legal capacity, or
- (d) two or more individuals who would be so entitled but for all or any of them being a minor or otherwise lacking legal capacity,

“director” is read in accordance with section 452 of CTA 2010, and references to a firm are to be read in the same way as references to a firm in Part 9 of ITTOIA 2005 (which contains special provision about partnerships).”

(6) In section 251(4) of FA 2004 (powers to impose information requirements), after paragraph (b) insert—

“(ba) requiring, in a case where a payment (“the onwards payment”) is made directly or indirectly out of a sum on whose payment tax has been charged under section 206, the person making the onwards payment to provide information of a prescribed description to the person to whom the onwards payment is made.”

(7) In paragraph 16 of Schedule 32 to FA 2004 (benefit crystallisation event 7: defined benefits lump sum death benefit is a “relevant lump sum death benefit”)—

- (a) in the first sentence, in paragraph (a), after “benefit” insert “, other than one—
  - (i) paid by a registered pension scheme in respect of a member of the scheme who had not reached the age of 75 at the date of the member's death, but
  - (ii) not paid before the end of the relevant two-year period”, and
- (b) in the second sentence, for “sub-paragraph” substitute “paragraphs (a)(ii) and”.

(8) In Part 2 of Schedule 29 to FA 2004 (interpretation of lump sum death benefit rule), in paragraph 13 (defined benefits lump sum death benefit)—

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- (a) in sub-paragraph (1) omit the second sentence (exclusion of sums paid more than 2 years after death of member under 75), and
  - (b) omit sub-paragraph (2) (interpretation of that sentence).
- (9) In consequence of subsection (8), in paragraph 33 of Schedule 16 to FA 2011—
- (a) in sub-paragraph (3) omit paragraph (c), and
  - (b) omit sub-paragraph (4).
- (10) The amendments made by this section have effect in relation to lump sums paid on or after 6 April 2016.