

**2009 No. 2033**

**TAXES**

**The Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations 2009**

<i>Made</i>	- - - -	<i>21st July 2009</i>
<i>Laid before the House of Commons</i>		<i>23rd July 2009</i>
<i>Coming into force</i>	- -	<i>1st September 2009</i>

The Treasury make the following Regulations in accordance with the powers conferred by section 306(1)(a) and (b) and section 317(2) of the Finance Act 2004(a).

**Citation and commencement**

1. These Regulations may be cited as the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations 2009 and shall come into force on 1st September 2009.

**Amendment to the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006**

2.—(1) The Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006(b) are amended as follows.

(2) In Part 2 (general), regulation 5(2) (prescribed descriptions of arrangements) is amended as follows—

- (a) in sub-paragraph (f) omit “and”;
- (b) in sub-paragraph (g) for the full stop at the end substitute “; and”; and
- (c) after sub-paragraph (g) insert—  
“(h) regulation 18 (description 8: pensions).”.

(3) In Part 3 (prescribed arrangements), after regulation 17 insert—

**“Description 8: Pensions**

**18.** Arrangements are prescribed if—

- (a) they involve the accrual or expected accrual of benefits in a pension scheme (within the meaning of section 150 of the Finance Act 2004(c)) to or in respect of a person; and
- (b) the main benefit of those arrangements is that—

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(a) 2004 c. 12.  
(b) S.I. 2006/1543, amended by S.I. 2007/2484.  
(c) Section 150 was amended by S.I. 2007/1388.

- (i) the person would not be subject to the special annual allowance charge provided under Schedule 35 to the Finance Act 2009<sup>(a)</sup>; or
- (ii) the person incurs the special annual allowance charge but at a lesser amount than would have been incurred if the arrangements had not been entered into.”

**Time for providing information: transitional provisions**

3.—(1) Where paragraph (2) applies, the prescribed period or time (as the case may be) to be found in accordance with regulation 4 of the Tax Avoidance Schemes (Information) Regulations 2004 (time for providing information under section 308, 308A<sup>(b)</sup>, 309 or 310)<sup>(c)</sup> shall end on 31st October 2009 instead of the day on which it would end by virtue of that regulation.

(2) This paragraph applies in respect of proposals or arrangements (as the case may be) that are notifiable by virtue of regulation 18 of the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2009.

- (a) for the purposes of section 308(1) of the Finance Act 2004 if the relevant date in relation to a proposal falls within the period beginning with 23rd April 2009 and ending with 31st August 2009;
- (b) for the purposes of section 308(3) of the Finance Act 2004 if the date on which the promoter first becomes aware of any transaction forming part of the arrangements falls within the period beginning with 23rd April 2009 and ending with 31st August 2009;
- (c) for the purposes of sections 309 and 310 of the Finance Act 2004 if the date on which any transaction forming part of the arrangements is entered into falls within the period beginning with 23rd April 2009 and ending with 31st August 2009.

(3) In paragraph (2)(a) “the relevant date” has the meaning given by section 308(2) of the Finance Act 2004.

*Dave Watts*

*Frank Roy*

21st July 2009

Two of the Lords Commissioners of Her Majesty’s Treasury

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(a) 2009 c.10.  
(b) Section 308 of the Finance Act 2004 was amended by paragraph 2 of Schedule 38 to the Finance Act 2008 (c. 9) and section 308A was inserted by section 108(4) of the Finance Act 2007 (c. 11).  
(c) S.I. 2004/1864; regulation 4 has been amended by S.I. 2004/2613, S.I. 2005/1869, S.I. 2006/1544 and S.I. 2007/2153.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006 (the principal regulations) to include a description of arrangements of a pension scheme.

Regulation 2 amends regulation 5 of the principal regulations to include pensions in the arrangements prescribed for the purposes of Part 7 of the Finance Act 2004 in relation to income tax, corporation tax and capital gains tax and inserts the pensions description as regulation 18 in the principal regulations.

Regulation 3 provides a longer period by way of transitional provisions for cases where certain relevant dates fall before 31st August 2009. The relevant date means the earlier of the dates when a promoter makes a notifiable proposal available for implementation or becomes aware of any transaction forming part of notifiable arrangements implementing the notifiable proposal.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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