
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations modify the application of section 180(5)(b) of the Finance Act 2004 (“FA 2004”) to a pension scheme established under section 67 of the Pensions Act 2008 (“PA 2008”). Regulation 2 has retrospective effect in relation to any payments made on or after 6th April 2012 pursuant to the power contained in section 70(4) of the Finance Act 2012. Regulation 2 is wholly relieving and will not therefore increase any person’s liability to tax.

Section 180 of FA 2004 defines “scheme administration employer payments”. Such payments will be authorised employer payments under section 175 of FA 2004 and will not be subject to income tax. Section 180(5)(b) of FA 2004 prevents a payment from being a scheme administration employer payment if the payment was to acquire shares in the sponsoring employer and the total amount of shares in sponsoring employers held in the scheme is greater than 20% of the aggregate of the sums and assets in the scheme. Regulation 2 provides that section 180(5)(b) of FA 2004 is to be disregarded in the case of a pension scheme established under section 67 of PA 2008 when determining whether a payment to a sponsoring employer is a scheme administration employer payment.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm> .