STATUTORY INSTRUMENTS

2005 No. 3458

INCOME TAX

The Registered Pension Schemes (Restriction of Employers' Relief) Regulations 2005

Made - - - -	*14th December 2005*
Laid before the House of Commons	*15th December 2005*
Coming into force - -	*6th April 2006*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 196A(1) of the Finance Act 2004(**a**), and now exercisable by them(**b**), make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Registered Pension Schemes (Restriction of Employers' Relief) Regulations 2005 and shall come into force on 6th April 2006.

(2) In these Regulations—

(a) "arrangement" has the meaning in section 152(1);

(b) "period of account" has the meaning in section 832(1) of the Income and Corporation Taxes Act 1988(**c**); and

(c) references to a section (without more) are to that section of the Finance Act 2004.

Scope of these Regulations

2.—(1) These Regulations apply in circumstances where—

(a) subsection (2) or (3) of section 196A applies (or both do); and

(b) the condition in paragraph (2) is not satisfied.

(2) The condition in this paragraph is that, in such of those subsections as apply—

(a) the employer-financed retirement benefits scheme referred to is a recognised overseas pension scheme within the meaning in section 150(8); and

(b) the individual referred to would be a relevant migrant member of that scheme by virtue of paragraph 4 of Schedule 33 to the Finance Act 2004, or regulations made under sub-paragraph (c) of that paragraph, modified as follows—

(i) in paragraph 4, in the words preceding sub-paragraph (a), omit "in relation to any contributions,";

(**a**) 2004 c. 12; section 196A was inserted by paragraph 39 of Schedule 10 to the Finance Act 2005 (c. 7).
(**b**) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11).
(**c**) The definition of "period of account" was inserted by section 103 of the Finance Act 2002 (c. 23)

(ii) in sub-paragraph (b) for "the time when the contributions are paid" substitute "the employer's period of account which is in question"; and

(iii) omit sub-paragraph (d).

Restriction of employers' relief in respect of contributions

3. Contributions paid by an employer under a registered pension scheme, where a member is an individual referred to in section 196A(2) or (3), shall be subject to the following restrictions on relief.

4. In respect of each arrangement relating to the individual under the scheme, calculate the individual's pension input amount (modified as follows) for the employer's period of account in which the contributions are paid, in accordance with regulations 5 to 8.

Cash balance arrangements

5.—(1) The individual's pension input amount for a period of account in respect of a cash balance arrangement shall be determined in accordance with sections 230 and 232, modified as follows.

(2) In both sections, for each of the references to the "pension input period" and the "pension input period of the arrangement that ends in the tax year" substitute references to the employer's period of account in question.

(3) In both section 230(4) and (5) at the end add "ignoring (if it be the case) the fact that payment of any benefits, or the amount of any recognised transfer, is subject to a contingency mentioned in section 196A(2) or (3)".

(4) In section 230(6) omit the reference to section 231.

(5) The amount of any relievable pension contributions paid by or on behalf of the individual under the arrangement during the period of account is to be subtracted from the closing value.

Other money purchase arrangements

6.—(1) The individual's pension input amount for a period of account in respect of a money purchase arrangement other than a cash balance arrangement shall be determined in accordance with section 233, modified as follows.

(2) Omit section 233(1)(a) and the word "and" which follows it.

(3) For the reference to the "pension input period of the arrangement that ends in the tax year" substitute a reference to the employer's period of account in question.

Defined benefits arrangements

7.—(1) The individual's pension input amount for a period of account in respect of a defined benefits arrangement shall be determined in accordance with sections 234 and 236, modified as follows.

(2) In both sections, for each of the references to the "pension input period" and the "pension input period of the arrangement that ends in the tax year" substitute references to the employer's period of account in question.

(3) In section 234(4) and (5), in each of the definitions of PB, LSB, PE and LSE at the end add "ignoring (if it be the case) the fact that payment of any benefits, or the amount of any recognised transfer, is subject to a contingency mentioned in section 196A(2) or (3)".

(4) In section 234(6) omit the reference to section 235.

(5) The amount of any relievable pension contributions paid by or on behalf of the individual under the arrangement during the period of account is to be subtracted from the closing value.

Hybrid arrangements

8.—(1) The individual's pension input amount for a period of account in respect of a hybrid arrangement shall be determined in accordance with section 237, modified as follows.

(2) Omit the references to sections 231 and 235.

(3) Sections 230, 232 to 234 and 236 shall be modified in accordance with regulation 5, 6 or 7, as the case may be.

Restriction of relief

9. Aggregate the pension input amounts for the period of account in question in respect of each arrangement relating to the individual under the scheme.

10. An amount equal to the aggregate pension input amount in respect of that individual for the period of account in question shall not be subject to relief within the meaning in section 196A(4).

D. A. Hartnett
M. J. Eland

14th December 2005 Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 196A of the Finance Act 2004 provided that Regulations could be made restricting the extent to which contributions paid by an employer under a registered pension scheme in respect of an individual are subject to tax relief in two circumstances. The first is where payment of benefits to or in respect of that individual under the scheme are payable only if benefits are not so paid under an employer-financed retirement benefits scheme. The second is where, because benefits are or may be payable to or in respect of that individual under an employer-financed retirement benefits scheme, the value of a transfer out of a registered pension scheme will or may be reduced. These Regulations restrict employers' tax relief in those two circumstances.

Regulation 1 provides for citation, commencement and interpretation. Regulation 2 provides that the Regulations apply in the circumstances described in section 196A(2) and/or (3) of the Finance Act 2004, subject to the exception described in Regulation 2(2).

Regulations 3 to 10 provide for the amount of the restriction. The method is based on the calculation of a member's pension input amount for a scheme (for the purposes of the Annual Allowance Charge) set out in sections 230 to 237 of the Finance Act 2004, with the modifications set out in the Regulations. The aggregate pension input amount is excluded from tax relief.

A regulatory impact assessment in respect of the provisions of Part 4 of the Finance Act 2004 and subordinate legislation under it was published by the Board of Inland Revenue on 8 April 2004, and is available on the Inland Revenue website at www.inlandrevenue.gov.uk/ria/simplifying-pensions.pdf or obtained by writing to HM Revenue and Customs , Capital & Savings Ministerial Correspondence Unit, 1st Floor, Ferrers House, PO Box 38, Castle Meadow Road, Nottingham, NG2 1BB.

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