

2005 No. [abcd]

INCOME TAX

The Pension Schemes (Meaning of Pension Commencement Lump Sum) Regulations 2005

<i>Made</i>	- - - -	2005
<i>Laid before the House of Commons</i>		2005
<i>Coming into force</i>	- -	6th April 2006

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by paragraph 1(6) of Schedule 29 to the Finance Act 2004(a), and now exercisable by them(b), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pension Schemes (Meaning of Pension Commencement Lump Sum) Regulations 2005, and shall come into force on 6th April 2006.

Application of these Regulations: general

2. These Regulations apply for the purposes of paragraph 1(6) of Schedule 29 to the Finance Act 2004 (regulations relating to meaning of "pension commencement lump sum").

Circumstances in which these Regulations apply

3. The circumstances in which incorrect income tax has been paid by the scheme administrator in relation to the member by way of the lifetime allowance charge are circumstances in which—

- (a) the scheme administrator has made an overpayment by way of the lifetime allowance charge in relation to the member, and
- (b) Her Majesty's Revenue and Customs refund the overpayment to the scheme administrator.

4. The circumstances in which a lump sum subsequently paid to the member is to be treated as a pension commencement lump sum even though either or both of the conditions in paragraphs (c) and (e) of paragraph 1(1) of Schedule 29 to the Finance Act 2004 are not met are circumstances in which—

- (a) Her Majesty's Revenue and Customs refund an overpayment by way of the lifetime allowance charge in relation to the member to the scheme administrator, and

(a) 2004 c. 12. Paragraph 1(6) of Schedule 29 was inserted by paragraph 34(3) 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(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that insofar as it is appropriate in consequence of section 5 a reference, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

- (b) the scheme administrator pays part or all of the overpayment to the member within the period of three months beginning with the day on which the scheme administrator receives the overpayment from Her Majesty's Revenue and Customs.

A. Commissioner

A. N. Other

[Day Month 2005]

Two of the Commissioners for Her Majesty's Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

In the Finance Act 2004 (c. 12), Part 4 makes new provision for pension schemes, and Schedule 29 falls within Part 4. The Schedule makes further provision in connection with authorised lump sums, and paragraph 1 of the Schedule is concerned with the meaning of the expression "pension commencement lump sum".

Paragraph 1(6) of Schedule 29 (inserted by paragraph 34(3) of Schedule 10 to the Finance Act 2005 (c. 7)) provides for regulations to prescribe the circumstances in which incorrect income tax has been paid by the scheme administrator in relation to the member by way of the lifetime allowance charge, and to prescribe the circumstances in which a lump sum subsequently paid to the member is to be treated as a pension commencement lump sum, even though either or both of the conditions in sub-paragraph (1)(c) and (e) of paragraph 1 of Schedule 29 are not met. The overall result is that, in the prescribed circumstances, a lump sum may be treated as a pension commencement lump sum even though it is not paid within the period of three months beginning with the day on which the member becomes entitled to it, or it is paid when the member has reached the age of 75 (or both).

These Regulations specify the relevant prescribed circumstances. The prescribed circumstances in which incorrect income tax has been paid by the scheme administrator in relation to the member by way of the lifetime allowance charge are circumstances in which the scheme administrator has made an overpayment by way of the lifetime allowance charge in relation to the member, and Her Majesty's Revenue and Customs refund the overpayment to the scheme administrator. The prescribed circumstances in which a lump sum subsequently paid to the member is to be treated as a pension commencement lump sum are circumstances in which Her Majesty's Revenue and Customs refund such an overpayment to the scheme administrator, and the scheme administrator pays part or all of the overpayment to the member within three months of receiving it.