
PENSIONS: LIMITING TAX RELIEF FOR HIGH INCOME INDIVIDUALS (ANTI-FORESTALLING)

Who is likely to be affected?

1. Individuals with incomes of £150,000 or more who, on or after 22 April 2009, change:
 - their normal pattern of regular pension contributions; or
 - the normal way in which their pension benefits are accrued; and
 - their total pension contributions/benefits accrued ('pension savings') exceed £20,000 a year.
2. Scheme administrators of registered pension schemes and advisors with individuals who have changes to pension savings that are affected by this measure.

General description of the measure

3. The Government has announced its intention to restrict, to the basic rate of income tax, tax relief on pensions savings with effect from 6 April 2011 for people with taxable income of £150,000 or more. Legislation will be introduced in Finance Bill 2009 to prevent those potentially affected from seeking to forestall this change by increasing their pension savings in excess of their normal regular pattern, prior to that restriction taking effect.

Operative date

4. These anti-forestalling provisions will have effect for affected contributions paid under money purchase schemes on or after 22 April 2009.
5. This anti-forestalling provisions will also have effect in respect of affected increases in the rights of individual members under defined benefits pension schemes arrangements (often referred to as final salary schemes) on or after 22 April 2009.

Current law and proposed revisions

6. An individual receives relief at their marginal income tax rate on their pension savings. Although there are no limits to how much can be saved in registered pension schemes, the maximum tax relief available in any

one year for pension savings is limited to 100 per cent of a person's earnings and by what is called the annual allowance. The annual allowance for the 2009-10 tax year is £245,000 and for the 2010-11 tax year will be £255,000. Tax relief is recovered in respect of any pension savings over that allowance.

7. Finance Bill 2009 will introduce a new and additional special annual allowance and associated tax charge.
8. This new allowance and tax charge will not apply to the vast majority of individuals:
 - anyone with income of less than £150,000 for the tax year, and for both of the preceding two tax years ('the relevant tax years') will not be affected; and
 - for people with income of £150,000 or more in any of the relevant tax years, those who continue as normal with their existing pattern of regular pension savings and who do not make any additional pension savings will not be affected.
9. Those individuals who do increase their pension savings on or after 22 April 2009 over and above their normal pattern of regular pension savings will be affected only if their total pension savings in that year are over £20,000.
10. The tax charge will not apply to any normal, regular ongoing pension savings that were in place before 22 April 2009, whatever their value. It applies only to additional savings over and above this.
11. Normal, regular ongoing pension savings are defined as follows. For people contributing to a money purchase arrangement, normal, regular ongoing savings are the continuation of those contributions paid under agreements made prior to 22 April 2009 that are paid quarterly or more frequently and at a rate that does not increase.
12. For people in defined benefit schemes, normal, regular ongoing savings include any increases in pension benefits which arise under the existing pension scheme rules as at 22 April 2009. These include any increased benefits due as a result of normal pay rises and progression.
13. Any additional contributions to money purchase arrangements made between 6 April 2009 and 21 April 2009 which are over and above the normal pattern of regular contributions, will not be subject to the special annual allowance tax charge. The total value of additional contributions in this period will reduce the amount of special annual allowance available for 2009-10.
14. For defined benefit schemes the value of any changes over and above the normal increase in pension benefits as a result of changes to scheme rules, between 6 April 2009 and 21 April 2009, are not subject to the special annual allowance tax charge. The value of the change in this period will reduce the amount of special annual allowance available for 2009-10.

15. Where regular pension savings exceed £20,000, the new tax charge applies to any pension savings made on or after 22 April 2009 in excess of regular savings. Where regular pension savings are below £20,000, the tax charge applies to any excess over £20,000. The charge has the effect of restricting tax relief on the additional pension savings to basic rate.
16. The special annual allowance and associated tax charge apply to total contributions, regardless of whether these are made by the individual, their employer or by a third party and to any benefits accruing in a defined benefits scheme. The tax charge will be collected through the self assessment tax return.
17. The new special annual allowance and associated tax charge run alongside the existing annual allowance and its associated tax charge. It is possible for an individual to be liable to tax under both tax charges. Where this occurs the amount chargeable to the special annual allowance charge will be reduced by the excess over the existing annual allowance.
18. High income individuals affected by these changes may be able to claim a refund of contributions paid after 6 April 2009, depending on the nature of the pension arrangements. The refund will cancel the relevant amount of special annual allowance tax charge. The refund will be chargeable to tax on the scheme administrator at 40 per cent through the existing Accounting for Tax online process to reverse the tax reliefs that have been given on the contribution.
19. The Disclosure of Tax Avoidance Schemes (DOTAS) regime will be amended. The Descriptions Regulations (SI 2006/1543) will be amended to include a new description: arrangements where one of the main benefits of an individual entering the arrangement might be expected to be that the individual will not be subject to the special annual adjustment charge, which charge they would have been subject to had they not entered into those arrangements. The Information Regulations (SI 2004/1864) will be amended so that information will be required for any such schemes where the 'relevant date' that triggers a disclosure (normally the date the scheme is made available for implementation) falls after the 22 April 2009.

Further advice

20. Detailed information about this measure is provided in four supplementary documents, that have been published today on the HM Revenue & Customs website.
21. If you have any questions about this change, please contact Martyn Rounding on 020 7147 2821 (email: martyn.rouding@hmrc.gsi.gov.uk). If you have any questions about how the pensions tax rules operate in practice, please contact the Pension Schemes Service Helpline on 0845 600 2622.
22. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk

