HM Revenue & Customs

Pensions: Limiting Tax Relief for High Income Individuals

Guidance for Individuals
22 April 2009

Contents

This guidance is based on draft legislation which may be amended as it goes through the Parliamentary process. The guidance therefore is also draft and may need to be amended to reflect any such changes.

The tax rates referred to in the guidance are those in place on 22 April 2009.

Foreword

0n 22 April 2009, the Government announced new rules that apply from 22 April 2009 in relation to the availability of higher rate tax relief on pension contributions, for high income individuals.

This document provides guidance on how the new rules may affect individuals.

Chapter 1 Introduction

In his 2009 Budget the Chancellor announced changes to the tax relief available on pension savings for individuals whose income is £150,000 or higher.

The Government intends from 6 April 2011 to restrict tax relief for individuals with an annual income of £150,000 or more. Relief will be tapered away so that for those earning over £180,000 relief will be worth 20 per cent, the same as to a basic rate taxpayer.

In anticipation of that new restriction, the Government is introducing new rules to apply from 22 April 2009 to restrict higher rate tax relief on pension contributions for individuals. The restrictions will apply to people

- whose income is £150,000 or higher
- who change their normal ongoing regular pension savings, and
- whose total pension savings exceed £20,000.

This will remove the advantage to those individuals of increasing their pension contributions in excess of their normal pattern.

This guide sets out the key points that you will need to be aware of to understand whether and, if so, how the interim changes apply to you. It also lists some Questions and Answers which provide more information.

Am I likely to be affected by the changes?

The vast majority of people will not be affected by these changes.

The changes will <u>not</u> apply to you if your total annual income is less than £150,000 in any of the tax years from 2007/08 onwards.

The changes will <u>not</u> apply to you even if your total annual income was £150,000 or more if you continue as normal with your existing **regular** pension savings (including any employer contributions) and do not increase your pension savings on or after 22 April 2009.

The changes will <u>not</u> apply to you if your total annual income was £150,000 or more and you increase your pension savings provided your overall annual pension savings are less than £20,000.

Chapter 2 The 2009 Budget Changes

New rules to apply from 22 April 2009 introduce a special annual allowance charge for 2009/2010 onwards. The special annual allowance, which is set at £20,000, sets an upper limit on the amount of additional pensions savings for which full tax relief at the higher rate of tax can be given. Tax relief on additional pension savings above the amount of this allowance will be at the basic rate of tax only.

The special annual allowance charge will apply only if you have an annual income of £150,000 or more in any tax year from 2007/08 <u>and</u> you increase the level of your pension savings on or after 22 April 2009 beyond your normal, ongoing regular pension savings.

If the special annual allowance charge applies to you, then any pension contributions you make may be subject to a special annual allowance tax charge to recover tax relief given at above basic rate on the contributions.

The following examples show how the income limit will apply:

<u>A</u> has income of £55,000 in 2007/08, £58,000 in 2008/09, £59,000 in 2009/10 and £60,000 in 2010/11. Since his income is less than £150,000 in all years, he is not affected by the new special annual allowance charge.

<u>B</u> has income of £158,000 in 2009/10 and has total individual and employer pension contributions to a money purchase scheme of £15,000 in the year. Although her income exceeds the £150,000 threshold, her total contributions are less than the £20,000 special annual allowance so she is not subject to the special annual allowance tax charge.

<u>C</u> has income of £158,000 in 2010/11 and makes contributions to her personal pension scheme of £24,000 during the year of £2,000 per month, something she has done for the previous 2 years. Her income exceeds the £150,000 income threshold. Although her pension contributions are more than the £20,000 special annual allowance, they will not be subject to the special annual allowance tax charge because they only reflect her normal regular contributions.

D has income of £170,000 in 2010/11 and makes total pension contributions of £50,000 to his personal pension scheme. The contributions reflect a regular monthly contribution of £2,000 (as for previous years) and a single payment of £26,000. D's income exceeds the £150,000 income threshold and his pension contributions are more than the £20,000 special annual allowance. However, his normal regular contributions of £24,000 are not subject to the special annual allowance charge. The additional single contribution of £26,000 will be subject to the special annual allowance tax charge.

E has total income of £120,000 in 2009/10 and contributes a total of £30,000 to a personal pension scheme that year. Although his income is less than £150,000 for 2009/10, because his contributions are greater than £20,000 he needs to check his income for the previous 2 tax years. His income was £110,000 in 2007/08 and £125,000 in 2008/09. E will not be affected as his relevant income is less than £150,000 even though his contributions are greater than £20,000.

In 2010/11 E's total income has risen to £170,000 and he contributes a total of £15,000 to his personal pension scheme in that year. E will not be affected as although his relevant income for 2010/11 is greater than £150,000, his contributions for that year are less than £20,000

Chapter 3 Background

Income

The special annual allowance charge affects only people with ‘relevant’ income of £150,000 or more. Broadly, for the purposes of the special annual allowance this is

- your total income before pension contributions, personal allowances and other reliefs and deductions,
- less any normal deductions for reliefs (such as trading losses) including deductions for pensions contributions but up to a maximum of £20,000,
- less any gift aid deductions as per normal

But in calculating your ‘relevant’ income you must add in any amount of employment income foregone by salary sacrifice in return for pension contributions or additional pension benefits if the agreement was put in place on or after 22 April 2009.

Individuals will be affected only if their relevant income is £150,000 or more in the tax year, or in either of the previous two tax years.

Pension Savings

This is all of your pension savings that receive UK tax relief and includes

- savings in all registered pension schemes including
  - defined benefit schemes (these are often referred to as final salary schemes because benefits are usually calculated by reference to the salary, years of service and the scheme’s accrual rate,) and
  - money purchase schemes (also known as defined contribution schemes)
  - contributions paid both by individuals and anyone on their behalf and by employers
- savings in non-UK pension schemes that benefit from UK tax relief

You work out the value of your pension savings (the pension input amount) in a specified period, (the pension input period), in a similar way as you do when comparing it against the existing annual allowance.

For money purchase arrangements, this generally means the total contributions, including any from your employer, paid in to your pension scheme during the pension input period.

For defined benefit arrangements (for example a final salary scheme), this means any increase in the value of your accrued rights during the pension input period.

Pension Input Periods

The pension input period for the special annual allowance will always be the tax year.

Normal, Ongoing, Regular Pension Savings

The special annual allowance will apply only to increases to your normal, ongoing, regular pension savings on or after 22 April 2009. Normal, ongoing regular pension savings will be known as protected pension inputs.

If you are a member of a scheme provided by your employer and your regular pension contributions go up only because you have had a pay rise or a promotion, these will be protected pension inputs.

If you are in a final salary arrangement, all your savings in this will be a protected pension input provided that the way your benefits are calculated under the scheme does not change on or after 22 April 2009.

If you have a money purchase arrangement, the protected pension input will be

- the annual amount of your total contributions (including any employer contributions) to the arrangement providing that the contributions were made at least quarterly before 22 April 2009, plus
- any increase in your contributions that was agreed before 22 April 2009

If you increase your contributions but the increase was not agreed before 22 April 2009, the increase will not be a protected pension input and will be tested against the special annual allowance.

F has an income of £200,000 and contributes £2,500 per month to his personal pension scheme in 2009/10 which is the same as he did each month in 2008/09. F's total contributions of £30,000 will be a protected pension input. As he has not increased his pension savings he does not have any non-protected pension input. He is therefore not liable to a special annual allowance charge.

G is in a final salary scheme on 22 April 2009 which pays her a pension of 1/60th of her salary for each year of service. At 6 April 2010 her salary after 5 years of service is £210,000 and by 5 April 2011 it has risen to £230,000. The rate at which she accrues her pension in the scheme does not change. This is therefore a protected pension input.

If G's only pensions savings are in this final salary scheme, the value of this is calculated by working out the difference in the capital value of her pension savings between the start of the period and the end of the period.

The calculation is as follows

Opening Value: £210,000 x 1/60 x 5 (years of service) x 10 (factor to give capital value[1]) = £175,000

Closing Value: £230,000 x 1/60 x 6 (years of service) x 10 (factor to give capital value) = £230,000

Her protected pension input is therefore £230,000 - £175,000 = £55,000. Although this is more than £20,000 she will not liable to a special annual allowance charge as she does not have any non-protected pension input.

Pre 22 April 2009 (Budget day) Pension Savings

Any non regular pension savings from 6 April 2009 to 21 April 2009 will reduce your special annual allowance, but will not themselves be subject to the special annual allowance tax charge. Regular pensions savings will not be subject to the special annual allowance tax charge and also will not reduce the special annual allowance.

Increases in Pension Saving

The special annual allowance charge will affect individuals in a tax year if they have an income of £150,000 or more in that tax year or in either of the two previous tax years who increase the level of their annual pension savings.

[1] The factor of 10 used to work out the value of rights in a defined benefit scheme is set in legislation (section 234(4) Finance Act 2004).

This increase may be as a result of the individual making large additional pension contributions over and above their normal regular ongoing pension savings or by changes to the way their pension benefits are calculated. This might be, for example, where the rate at which benefits accrue in a final salary scheme changes from 1/60th of salary per year to 1/40th of salary per year but where this only applies to certain members.

Exceeding the Special Annual Allowance

If you exceed your special annual allowance, then you will have to pay a special annual allowance charge on the excess at the difference between the top rate of tax and basic rate (20% for 2009/10). This will be collected through your Self-Assessment tax return.

The amount of the excess will be either:

- the increase in your pension savings - if your normal annual pension savings at 22 April 2009 plus any contributions made before 22 April 2009 were more than £20,000, or
- your total pension savings less £20,000 - if your normal annual pension savings at 22 April 2009 plus any contributions made before 22 April 2009 were £20,000 or less.

H had normal, ongoing, regular pension contributions into his scheme in 2008/09 of £55,000. He therefore has a protected pension input of £55,000. As his protected pension input is greater than the special annual allowance of £20,000, he has no special annual allowance remaining and any non-protected pension input will be liable to the special annual allowance charge.

H pays £65,000 contributions to his scheme in 2009/10, an increase of £10,000. This increase is therefore a non-protected pension input. Higher rate tax relief on the excess will be recovered by a charge to tax at 20% on £10,000.

J paid normal, regular pension contributions into her scheme in 2008/09 of £18,000. She therefore has a protected pension input of £18,000. Her protected pension input is less than the special annual allowance of £20,000

J pays pension contributions of £32,000 in 2009/10. As J's contributions in 2008/09 were less than £20,000, her excess will be her total contributions in 2009/10 (£32,000) less the special annual allowance (£20,000) which is £12,000. J's contributions are therefore £12,000 more than the special annual allowance and higher rates of tax relief on the excess will be recovered by a tax charge on £12,000

K has a protected pension input of £5,000, so his special annual allowance is £20,000 less £5,000 = £15,000.

K increases his pension savings in 2009/10 to £16,000. The increase, which is a non-protected pension input, is £11,000. However, because this is less than his special annual allowance, he is not liable to any tax on the increase.

K increases his pension savings again in 2010/11 by a further £11,000, so that his total additional annual contribution is now £22,000 and his total contributions are £27,000. His total additional contributions are now greater than his special annual allowance of £15,000. Tax relief over the basic rate on the excess will be recovered by a charge to tax on £7,000.

L is in a final salary scheme which will provide a pension of 1/60th of her salary for each year of service. At 6 April 2010 her salary after 5 years of service is £210,000 and by 5 April 2011 it has risen to £230,000.

L therefore has a pension input amount for 2010/11 of ((£230,000 x 6/60) – (£210,000 x 5/60)) x 10 = £55,000. As the rate at which she accrues her pension in the scheme has not changed this is a protected pension input. This exceeds the special annual allowance of £20,000.

L also makes a one-off payment in October 2010 of £60,000 to a personal pension scheme. Because her normal pension savings in her final salary scheme exceed £20,000, her special annual allowance is nil, so all of this additional contribution is a non-protected pension input and will be taxed. She will therefore be liable to tax on the full £60,000.

Refunds

Because the new rules came in overnight, it is possible that some people may inadvertently exceed the new special annual allowance.

In certain circumstances, individuals can ask their scheme for a refund of their contributions, depending on the type of contributions they have made. It is down to each pension scheme to decide whether or not they want to offer this option, but the scheme must deduct tax before any contributions are refunded. Any refund will be paid as a lump sum and can only be paid in the year after the contributions were made.

Refunds will be due only in the following circumstances:

- The contributions must have been paid by someone whose income means they were liable to the special annual allowance charge in the year the contributions are paid (broadly their income is over £150,000).

- The contributions were non regular contributions paid to personal pension schemes (including such schemes as retirement annuity contracts) and AVCs.

The member will already have been entitled to tax relief at their marginal rate on any contributions being refunded. The tax deducted from the refund is therefore designed to recoup the rate of tax relief given on these contributions. For contributions paid in 2009-10, tax will be deducted from refunds at 40%. Any special annual allowance charge already declared on a tax return in respect of these contributions would have to be amended.

Who is affected by the changes?

Am I affected by the changes?

The special annual allowance charge will apply to you in a tax year only if

- you have relevant income of £150,000 or more in that tax year or in either of the two previous tax years and
- you increase the level of your annual pension savings on or after 22 April 2009 over and above their normal regular pension savings pattern and
- your total pension savings (including employer contributions) for the year is more than £20,000.

You may also be affected if you made a one-off contribution from 6 to 21 April 2009.

Does it affect all Higher Rate taxpayers?

No, only those with relevant income of £150,000 or more in the tax year in question or in either of the two previous tax years, may possibly be affected.

If your relevant income is £150,000 or more, you will be affected only if

- you increase the level of your annual pension savings on or after 22 April 2009 over and above your normal regular pension savings pattern and
- your total pension savings (including employer contributions) for the year is more than £20,000.

About the Special Annual Allowance

What is the special annual allowance?

The special annual allowance is an allowance that sets an upper limit on the amount of non-regular pension savings which can receive higher rate relief. It applies only to individuals with an annual income of £150,000 or more in the tax year in question or in either of the two previous tax years.

How much is the special annual allowance?

The maximum special annual allowance will be £20,000, but is reduced by the amount of your regular normal ongoing pensions savings.

Does the new special annual allowance charge apply to everyone?

No, the new allowance will apply only to those

- who have relevant income of £150,000 or more in that tax year or in either of the two previous tax years and
- who increase the level of their annual pension savings on or after 22 April 2009 over and above their normal regular pension savings pattern and
- whose total pension savings (including employer contributions) for the year is more than £20,000.

Will all pension savings be affected by the new limit?

No. Even if you have relevant income of £150,000 or more, any normal, ongoing regular contributions or pension savings that were in place before 22 April 2009 will not be affected by this new £20,000 limit.

What do you mean by normal, ongoing, regular contributions

Normal, ongoing, regular pension contributions are your normal level of regular pension savings. It is known as 'protected pension input'.

Is there any transitional protection available?

The special annual allowance charge will not be levied on any regular, ongoing contributions or pension savings that were in place before 22 April 2009, unless you have been party to arrangements designed to avoid the charge.

Will the special annual allowance be indexed linked?

No.

My only pension scheme is final salary scheme, do the changes affect me?

The changes will affect you only if you have relevant income of £150,000 or more, and the way your scheme calculates your benefits changes on or after 22 April 2009, for example your accrual rate changes from 1/60 to 1/40.

How do I know if the new rules affect me?

Step A Is your annual income before pensions contributions less than £150,000 for the current tax and the last two tax years? Yes - If your income was less than £150,000 in all years, the new rules don't affect you. No - Go to Step B Step B Have you increased your normal ongoing regular pension savings on or after 22 April 2009? No – If you have not increased your pension savings, the new rules don't affect you. Yes - Go to Step C Step C Were your total pension savings (including any employer contributions) for the current year more than £20,000? No - If your total annual pension savings are less than £20,000, the new rules don't affect you. Yes – You may be affected by the special annual allowance

Income

What is relevant income?

Broadly, for the purposes of the special annual allowance, relevant income is

- your total income before pension contributions, personal allowances or other reliefs or deductions,
- less any normal deductions for reliefs (such as trading losses),
- less any gift aid deductions as per normal

But in calculating your ‘relevant’ income you must add in any amount of employment income foregone by salary sacrifice in return for pension contributions or additional pension benefits if the agreement was put in place on or after 22 April 2009.

<u>How do I know if I am a ‘high-income individual’ for a tax year?</u>
You calculate your relevant income for the tax year in question, say 2009/10, and if that is £150,000 or more, then you are a high-income individual for 2009/10.

For example, if your relevant income for 2009/10 is less than £150,000, then you work out your relevant income for each of the two previous tax years (2007/08 and 2008/09).

- If in <u>either</u> of those years, it is £150,000 or more, then you <u>are</u> a high-income individual in 2009/10.
- If in <u>both</u> of those years, it is less than £150,000, then you are <u>not</u> a high-income individual in 2009/10.

<u>M’s</u> income is £145,000 in 2009/10. His income in 2007/08 was £155,000 and in 2008/09 £148,000. Because his relevant income was greater than £150,000 in 2007/08, he will be a high-income individual in 2009/10, and may be subject to the special annual allowance charge.

<u>What happens if I give up part of my salary for a larger pension contribution from my employer (salary sacrifice) to bring my earnings below £150,000?</u>
Any salary sacrifice agreed on or after 22 April 2009 to increase pension contributions or provide additional pension benefits will, for the purposes of relevant earnings, be disregarded. Your income will be your pay before the salary sacrifice took place.

<u>I do not know my income until well after the end of the tax year, how will I know if it affects me?</u>
The special annual allowance will apply only to those with a relevant income of £150,000 or more in 2009/10 and 2010/11 or either of the two previous tax years and who increased their rate of pension savings on or after 22 April 2009. If your income is below this or you do not increase your pension savings you will not be affected. For the vast majority of people, the allowance will not apply.

Once you know your relevant income, and if the special annual allowance applies to you and you have exceeded it, you have two options. You can pay the special annual allowance tax charge or your scheme may be able to refund your excess contributions, depending on its scheme rules.

How the Special Annual Allowance Works

<u>My relevant income is more than £150,000: how does the special annual allowance work?</u>

You will need to consider the special annual allowance charge only if you increase your pension savings on or after 22 April 2009 and your total pension savings, including any increases are greater than £20,000.

If your normal, ongoing, regular pension savings before 22 April 2009 were greater than the special annual allowance of £20,000 and you increase your savings on or after 22 April, then you will be liable to a special annual allowance tax charge on all your additional pensions savings. For 2009/10, the rate will be 20%.

If your normal ongoing regular contributions are less than the special annual allowance of £20,000 then you will be liable to a special annual allowance tax charge on your total savings less the special annual allowance of £20,000.

See examples H & J above for examples of how the special allowance works.

<u>I have Enhanced Protection, does the new allowance apply to me?</u>

If you have relevant income of £150,000 or more, even if you have Enhanced Protection, you will still be subject to the special annual allowance if you increase your pension savings on or after 22 April 2009.

<u>How does the special annual allowance interact with the existing annual allowance?</u>

The new special annual allowance will run alongside the existing annual allowance. Although unlikely, it is possible for an individual to be liable to tax under either the existing annual allowance or the new special annual allowance or under both.
To ensure that tax relief is not recovered twice, where an individual exceeds both allowances, the special allowance charge will be reduced by the excess over the annual allowance.

Normal, Ongoing, Regular Pension Contributions

What do you mean by normal, ongoing, regular contributions

Normal, ongoing, regular pension contributions are your normal level of regular pension savings. It is known as 'protected pension input'.

What is a protected pension input?

If you have relevant income of £150,000 or more, it is only any increase in your savings over your normal savings that is tested against the additional annual allowance.

Broadly a protected pension input will be

- for any money purchase arrangement - the annual amount of your total contributions to the arrangement providing that the contributions were made at least quarterly before 22 April 2009 and any increase in your contributions that was agreed before 22 April 2009
- for any final salary arrangement - all your savings in this will be a protected pension input provided that the way your benefits are calculated under the scheme does not change after 22 April 2009.
- most new pension savings on or after 22 April 2009 where you change employment and join your new employer's existing pension scheme or where your current employer's scheme is changed for all employees.

In addition, any pension savings from 6 April 2009 to 21 April 2009 will reduce your special annual allowance, but will not themselves be subject to the special annual allowance tax charge.

What is a non-protected pension input?

Any pension savings other than protected pension inputs.

What do you mean by regular pension saving for final salary schemes?

Final salary (defined benefit) schemes where the benefits provided are based on an accrual rate and length of service, for example your pension is $1/60^{th}$ of your final salary, multiplied by the number of years of service. Providing, for example, the accrual rate used to calculate the value of your rights in the usual way under the scheme does not increase, then this would count as regular pension saving, even if your salary increases.

See example G above for an example of regular saving in a final salary scheme.

What do you mean by regular pension saving for money purchase schemes?

A *money purchase (defined contribution) scheme* is one where the benefits provided are based on the total contributions for the individual member plus investment growth. Providing that contributions are made at least quarterly and the rate or amount of regular contributions does not change (unless the change was agreed before 22 April 2009), then contributions will be regular pension saving and will be a protected pension input.

N has agreed to contribute 8% of her annual salary to a personal pension. In 2008/09 her salary was £240,000. Contributions are paid monthly and are £1,600 per month. In 2009/10 her salary increases to £264,000, but she continues as agreed before 22 April 2009 to contribute 8% of her salary. The contributions are now £1,760 per month. This will be regular pension saving and the contributions of £1,760 per month will be a protected pension input.

P contributed £500 per month to her personal pension scheme in 2008/09. She has previously agreed with the pension provider that she will increase her contributions every year by 10% until further notice. In 2009/10 her contributions are increased in line with this agreement to £550 per month. This will be regular pension saving and the £550 contributions per month will be a protected pension input. In 2010/11, P decides to increase her contributions to £650 per month. This increase is greater than 10%. The maximum she could receive as a protected pension input would be £550 + 10% = £605 per month. The difference of £45 per month does not count as regular pension saving and is not a protected pension input.

Do regular contributions include annual contributions?

No, to be a regular contribution these must have been paid at least quarterly before 22 April 2009.

Do my contributions have to be to the same scheme(s) as last year?

Yes, normally to count as a protected pension input, contributions must continue to be made to the same scheme.

If you have changed employment, or your employer has changed your scheme, your pension contributions may be protected.

I have already paid an extra one off contribution of £50k in this tax year before the Budget. Will this be a problem?

Your special annual allowance will be reduced by the amount of any lump sum contributions made before 22 April 2009, but the contributions will not themselves be subject to the special annual allowance tax charge.

Q earns £180,000 a year and contributes £1,000 per month to her personal pension on the last day of each month. She also makes a one-off payment of £10,000 to her scheme on 15 April 2009. Her special annual allowance is reduced by the £12,000 regular contributions to her personal pension, and it is further reduced by her one-off payment of £10,000, leaving no special annual allowance for 2009/10. Although her total contributions are greater than £20,000 and she has made a change to her pensions savings, she is not liable to the special annual allowance charge on the £2,000 excess caused by the pre 22 April one-off contribution. However as she has used up all her special annual allowance, if Q makes any more new pensions savings in the remainder of 2009/10, the new savings will be subject to the special annual allowance charge.

I have requested an extra one off payment of £50k before the Budget this year but it hasn't been paid yet, will this be a problem?

If your relevant income is less than £150,000, you will receive higher rate relief in 2009/10 as normal.

If your relevant income is £150,000 or more, the payment will reduce your special annual allowance, and some or all of the contribution may be subject to the special annual allowance tax charge, depending on what other pensions savings you have.

I was going to put my accumulated ISA savings into a personal pension and then retire?

This will be a non-protected pension input unless you made a similar level of contributions last year on at least a quarterly basis.

Calculation of Pension Inputs/Savings

What is meant by pension savings?

This is all your pension savings that receive UK tax relief that are made in a specified period, in this case the tax year. The way this is calculated will depend on the type of arrangement you have, for example whether you have a final salary or money purchase arrangement.

How are money purchase pension savings calculated?

This is the total of all contributions in the tax year by you, or other people on your behalf, or your employer.

How are final salary pension savings calculated?

This is the capital value of your pension as the start of one tax year, compared to its value the previous year. The capital value of the change in the value of your pension is worked out by calculating the pension you are entitled to at the start and end of the tax year and multiplying these amounts by 10. You then deduct one from the other. Any separate lump sum that can be paid should be added to this.

R is in a defined benefit scheme and accrues pension at the rate of 1/60th of their salary for each year of service. His salary at the end of 2008/09 after 15 years of service is £180,000 therefore the capital value of his pension is 15/60 x £180,000 x 10 = £450,000. He is also entitled to a separate lump sum which accrues at a rate of 3/60. This is therefore currently worth £135,000 and is added to the £450,000 to give a total capital value for 2008/09 of £585,000.

In 2009/10 R's salary increases to £186,000 and he has now completed 16 years of service. He is also now entitled to a larger lump sum of £148,800. His capital value for 2009/10 is therefore 16/60 x £186,000 x 10 = £496,000 plus £148,800 = £644,800.

The value of R's defined benefit savings for 2009/10 would be £644,800 less £585,000, which equals £59,800.

This is a protected pension input amount as there has been no material change to the way R's benefits have been calculated in 2009/10. R does not have to pay any special annual allowance charge.

<u>I am in a final salary scheme: if I get a large pay rise will I be affected?</u>

The extra benefits resulting from your pay rise will not be subject to the special annual allowance charge, unless you have relevant income of £150,000 or more, and the way your scheme calculates your benefits changes after 22 April 2009, for example your accrual rate changes from 1/60th to 1/40th. Increases in salary do not affect the way benefits are calculated.

<u>I am in a final salary scheme but I have to make contributions myself: doesn't the valuation method mean my contributions have been counted twice?</u>

If your scheme is a final salary scheme no account is taken of yours or your employer's contributions in the period. Pension savings are calculated by looking at the increase in the value of your pension rights between the beginning of the period and the end of the period.

<u>Do I have to include employer contributions when working out my pension savings?</u>

If your scheme is a money purchase scheme, you must include all contributions made by you or on your behalf, including those by any employer. If your scheme is a defined benefit/final salary scheme, pension savings are calculated by looking at the increase in the value of your pension rights between the beginning of the period and the end of the period, rather than by reference to the total amount of contributions.

<u>I don't have information about my service and accrual rate, where do I get this from?</u>

You should contact your pension scheme – they are obliged to provide the information on request.

Do contributions to a defined benefits arrangement count for the special annual allowance?

No, but the value of the increase in your rights under the arrangement is taken into account instead of taking into account the amount of contributions you or your employer pay towards those benefit rights.

Exceeding the special annual allowance

What happens if my contributions/accruals exceed the special annual allowance?

If your relevant income is £150,000 or more and your total pensions savings are greater than £20,000 and you make additional contributions over and above your normal pattern of savings, you will need to report the amount by which your pension saving has exceeded your special annual allowance (which is £20,000 less your normal pensions savings) on your self assessment tax return. This will ensure that you pay the right amount of the special annual allowance tax charge that is due in respect of your non-protected pension input amounts.,

How do I pay the special annual allowance tax charge?

You will need to report any amount over your special annual allowance (which is £20,000 less your normal pensions savings) on your self assessment tax return. This will ensure that you pay the right amount of the special annual allowance tax charge that is due in respect of your non-protected pension input. The tax will be collected through the normal self assessment payment process.

My normal, regular contribution totals £30,000: does this mean I can put in an additional £20,000?

No, if your normal, regular contributions are greater than £20,000, your special annual allowance is reduced to nil. Any additional contributions/accruals will exceed the special annual allowance and be subject to the tax charge.

What is the tax rate for excess pension savings?

Pension savings over your special annual allowance are subject to a tax charge. This is designed to restrict relief on the excess to basic rate, so for 2009-10 the rate will be 20%.

Can I use any reliefs, losses or deductions to reduce the tax charge?

No, the tax charge is free standing and you cannot reduce the amount brought into charge by losses or other deductions, and neither can you reduce the tax due by tax credit of any kind.

Will I need to put something on my tax return?

Yes, the Pensions Savings Tax Charges part of the self assessment return and associated help sheet will have special boxes and guidance to show you what to put where. This will ensure that you pay the right amount of tax charge that is due in respect of your non-protected pension input amounts.

What are the penalties if I don't put any excess on my self assessment return?

If you exceed the new allowance and don't enter the details correctly on your tax return you may be subject to the normal penalties for submitting an incorrect return.

Change of employment

What happens if I join a new company and join their occupational scheme?

Providing that your benefits are accruing on the same basis as others in the scheme then these will normally be protected pension inputs.

What happens if I join a new company and join their personal pension scheme?

Providing that the scheme is a Group Personal Pension and your benefits are accruing on the same basis as others in the scheme, then these will normally be protected pension inputs.

What happens if I leave my current employer and start contributing to my own personal pension scheme?

This will be new pension savings and will not count as protected pension input.

Additional Voluntary Contributions / Added Years

What about Additional Voluntary Contributions (AVCs) to my employer's scheme?

Providing that the AVC contributions were being made at least quarterly to the AVC arrangement before 22 April 2009, and the level of these contributions doesn't change after this date unless the increase was agreed before 22 April 2009, these will be protected pension inputs.

Can I still buy added years?

Providing your arrangement to buy the added years was in place before 22 April 2009 and you don't change the rate contributions are made at, this will be a protected pension input. But if you enter into a new agreement on or after 22 April 2009 to purchase new added years, or enhance the arrangement you are in to purchase more added years, this will be a non-protected pension input.

I also pay additional voluntary contributions to top up my final salary scheme, how is this increase for these calculated?

That depends on the type of arrangement they are being paid to

- count them as a money purchase arrangement if the top-up is building up a separate pension fund
- count them as a defined benefit arrangement if you are buying added years of pension rights.

If you are unsure of what type of arrangement they are being paid into, contact your pension scheme administrator.

Input Periods

When can the pension input periods for the special annual allowance run from?

The pension input period for the special annual allowance will always be the tax year.

Why can't the input periods be the same as for the annual allowance?

If the pension input period was not aligned to the tax year, this would allow individuals to have three input periods covering two tax years, and they would therefore be able to put in an additional £20,000 over that intended.

Refunds

I have put more into my pension scheme than the special annual allowance, can I get my contributions back?

Depending on your scheme rules and the nature of your pension savings, if you are a high-income individual, you may be able to have any excess contributions paid after Budget Day refunded less the tax relief you have had on the contributions. This tax charge will be deducted by the scheme administrator.

As the special annual allowance applies from 2009/10, you can only ask for refunds for contributions made in tax years 2009/10 onwards.

Can anyone get a refund of their contributions?

No: only individuals with income of £150,000 or more may be able to get a refund of their contributions. Refunds may only be paid of non-regular contributions made to personal pensions, or as part of additional voluntary contributions. All refunds will be paid after deducting 40% tax.

Refunds can be made only for contributions made in the tax years 2009/10 onwards.

When can a refund be made?

A refund can be made only in the tax year after the tax year in which the contribution was made. The first such refund cannot be made until the tax year 2010/11

How do I get a refund of my contributions?

You will need to contact your pension scheme provider to see if they offer this option.

Do schemes have to pay a refund?

No, it is down to individual schemes to decide whether or not to offer this option.

I have been given a refund by my pension scheme, but have already reported the excess on my tax return. What do I need to do?

It may be necessary to amend your self assessment return if you have already filed one reporting the excess over the special annual allowance.

Existing Annual Allowance

Does the existing annual allowance still apply?

Yes, there are no changes to the existing annual allowance and this will continue to apply as it did prior to the announcement. The annual allowance for 2009/10 is £245,000.

To ensure that tax relief is not clawed back twice, where an individual exceeds both allowances, the special allowance charge will be reduced by the excess over the annual allowance.

Avoidance

<u>My adviser says he has a clever way to reduce my income below the threshold – what are the consequences if I get involved?</u>

Depending on how your adviser is suggesting this is achieved, you may end being with tax relief restricted to basic rate on some or all of your normal regular ongoing contributions, which would otherwise have been relieved at higher rates of tax.

HMRC will look very closely at all arrangements designed to avoid the tax. We will pursue any such arrangements vigorously and apply the full breadth of sanctions allowed under the law.

Chapter 5 Further Information

Further information on the special annual allowance is available in the technical guidance which is also available on the HMRC 2009 Budget web pages at http://www.hmrc.gov.uk/budget2009/

Further information on the existing pensions tax rules is available in the HMRC Registered Pension Schemes Manual, which is available on the HMRC web pages at www.hmrc.gov.uk/manuals/rpsmmanual/index.htm.

If this guidance does not provide the information you need, you should contact the HMRC Pension Schemes Services Helpline on 0845 600 2622 (Monday to Friday 9.00 – 17.00)