

2011 No. 1793

INCOME TAX

The Registered Pension Schemes (Notice of Joint Liability for the Annual Allowance Charge) Regulations 2011

<i>Made</i>	- - - -	<i>20th July 2011</i>
<i>Laid before the House of Commons</i>		<i>21st July 2011</i>
<i>Coming into force</i>	- -	<i>11th August 2011</i>

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by sections 237B(5)(b) and (c) and 251(4)(a) of the Finance Act 2004(a) and now exercisable by them(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Registered Pension Schemes (Notice of Joint Liability for the Annual Allowance Charge) Regulations 2011 and shall come into force on 11th August 2011.

(2) In these Regulations—

“the further notice” means a notice given by an individual to a scheme administrator in accordance with regulation 4;

“the notice” means a notice given by an individual to a scheme administrator in accordance with section 237B(3) of the Finance Act 2004; and

“relevant tax year” means the tax year to which the notice relates.

Particulars to be included in the notice

2.—(1) An individual must include the following particulars in the notice—

- (a) the individual's title, full name and address (including post code, if applicable),
- (b) the individual's national insurance number, subject to paragraph (4),
- (c) the amount of the annual allowance charge for which the individual and the scheme administrator will be jointly and severally liable, and
- (d) the tax year in which the annual allowance charge arises.

(a) 2004 c. 12. Section 237B was inserted into the Finance Act 2004 by paragraph 15 of Schedule 17 to the Finance Act 2011 (c. 11). Section 251(4)(a) was amended by paragraph 47 of Schedule 10 to the Finance Act 2005 (c. 7). Section 251(5) sets out the persons referred to in subsection (4)(a) and subsection (6) defines “prescribed” for the purpose of section 251 as meaning prescribed by regulations.

(b) The functions of the Commissioners for Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) 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 in an enactment, however expressed, to the Commissioners of Inland Revenue is to be treated as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(2) Where the amount specified in the notice is £2,000 or less, the individual must confirm in the notice that the amount of the individual's liability to the annual allowance charge for the relevant tax year exceeds £2,000.

(3) Where the notice is given to the scheme administrator in the relevant tax year and it is anticipated that in the relevant tax year—

- (a) the individual will become entitled to all of the benefits under the pension scheme to which the notice relates (“the relevant scheme”), or
- (b) benefit crystallisation events 5, 5A or 5B(a) will occur in relation to the individual under the relevant scheme,

the individual must state in the notice the date on which it is anticipated that the event specified in sub-paragraph (a) or (b) will occur.

(4) Where the individual does not qualify for a national insurance number the individual must set out in the notice the reasons for this in place of the national insurance number.

(5) The notice must be in writing, signed and dated by the individual.

(6) Where the notice is in an electronic format, the requirement in paragraph (5) that the notice must be signed will be satisfied if the notice includes a statement that the individual has personally submitted the notice.

Declaration to be included in the notice

3.—(1) The individual must declare in the notice that the individual understands that—

- (a) the notice cannot be revoked, and
- (b) future benefits to be paid to the individual from the pension scheme will be adjusted to take account of the payment of the annual allowance charge made by the scheme administrator.

(2) The individual must declare that the amount specified in the notice has been calculated at the correct relevant rate as described in section 237B(4) of the Finance Act 2004.

Amendment to the notice

4.—(1) Where the individual's liability to the annual allowance charge in relation to the relevant tax year changes after the submission of the notice to the scheme administrator, the individual may amend the notice by sending a further notice to the scheme administrator.

(2) The further notice must comply with regulations 2 and 3.

(3) The further notice must be given to the scheme administrator no later than 31st July following the end of the period of 4 years beginning with the last day of the relevant tax year.

Acknowledgement of receipt of the notice and further notice

5. A scheme administrator must send an acknowledgement to the individual upon receipt of the notice or further notice.

Melanie Dawes
Dave Hartnett

20th July 2011

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

(a) Benefit crystallisation event 5A was inserted into section 216 of the Finance Act 2004 by paragraph 30 of Schedule 23 to the Finance Act 2006 (c. 25) and was subsequently amended by paragraph 73 of Schedule 16 to the Finance Act 2011. Benefit crystallisation 5B was inserted into section 216 of the Finance Act 2004 by paragraph 43 of Schedule 16 to the Finance Act 2011.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 17 to the Finance Act 2011 makes provision for reducing the annual allowance charge in respect of benefits paid into registered pension schemes to £50,000 for tax years 2011-12 onwards. Paragraph 15 of that Schedule inserts new sections 237A to 237F into the Finance Act 2004. They enable individuals in certain circumstances to elect for their pension scheme to pay their annual allowance charge in return for an actuarial reduction to their benefits within the scheme. These Regulations make provision for the notice which the individual must give to the scheme administrator in order to make that election.

A Tax Information and Impact Note covering this instrument was published on 9 December 2010 alongside draft legislation for the Finance (No. 3) Bill 2011 concerning the restriction of pensions tax relief. This was updated on 3 March 2011 to reflect further decisions relating to the restriction of pensions tax relief and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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STATUTORY INSTRUMENTS

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£4.00