

## Amendments 30 to 56 to Clause 18 Schedule 4: Offshore transfers

### Summary

1. Clause 18 and Schedule 4 make changes to the rules relating to the overseas transfer charge, which applies to certain transfers to qualifying recognised overseas pension schemes. These amendments clarify the operation of the overseas transfer charge and ensure that the tax rules relating to the overseas transfer charge do not extend further than intended. They restrict the time periods in relation to the overseas transfer charge, clarify how the charge operates, ensure all scheme operators have and provide the necessary information and amounts transferred are subject to the lifetime allowance only once.

### Details of the amendments

2. Amendment 30 amends sub-paragraph 2(2) of the Schedule to provide that the power in new sub-paragraph 1(6F) of Schedule 34 to Finance Act (FA) 2004 for HM Revenue & Customs (HMRC) to make regulations so that certain sums or assets are not included in a ring-fenced transfer fund, is extended to cover transferred sums or assets as set out in sub-paragraph 1(6C) of Schedule 34.
3. Amendment 31 inserts new sub-paragraph 5(5) of the Schedule to provide HMRC with the power to make regulations to determine that something other than a payment can reduce a member's relevant transfer fund.
4. Amendments 32 and 33 amends paragraph 11 of the Schedule so that the inserted new subsection 244A(4) of FA 2004 correctly defines a relevant period which starts on 5 April of any year.
5. Amendments 34 to 37 amend paragraph 11 of the Schedule so that inserted new subsections 244B(2)(b), 244B(4)(b), 244C(3)(b) and 244C(5)(b) of FA 2004 remove the reference to accounting provisions which are not needed.
6. Amendments 38 and 39 amend paragraph 11 of the Schedule so that the exclusion from the overseas transfer charge in inserted new subsection 244G(2) of FA 2004 covers all instances where the charge has been paid, not just at the time of the transfer.
7. Amendment 40 amends paragraph 11 of the Schedule so that when determining the value of amounts tested against an individual's lifetime allowance, new subsection 244K(10) of FA 2004 provides for the overseas transfer charge to not be taken into account in all cases, rather than only when a lifetime allowance charge

arises.

8. Amendment 41 amends paragraph 11 of the Schedule to remove new subsection 244M(6) of FA 2004, which provides that if a repaid amount of overseas transfer charge is then transferred to a QROPS, that amount should not be tested against the lifetime allowance on the basis of a transfer to a QROPS, as amendment 42 encompasses this provision.
9. Amendment 42 inserts new paragraph 17A of the Schedule. This paragraph inserts new paragraph 2A to Schedule 32 to FA 2004 to prevent a repaid amount of overseas transfer charge from being tested against an individual's lifetime allowance more than once.
10. New sub-paragraph 2A(1) applies in all cases where an amount of overseas transfer charge is repaid to the scheme administrator.
11. New sub-paragraph 2A(2) provides that when there is an amount to be tested against the individual's lifetime allowance under the scheme that has received the repayment, it is reduced by the amount of the repayment.
12. New sub-paragraph 2A(3) provides that if, under sub-paragraph 2A(2), the repayment exceeds the amount to be tested, then the remaining amount of the repayment is to be set against future tests against the individual's lifetime allowance under a benefited scheme.
13. New sub-paragraph 2A(4) defines a benefited scheme as either the scheme to which the repayment of overseas transfer charge is made or a pension scheme to which a recognised transfer (or chain of transfers) of sums or assets is made that represents a repayment of overseas transfer charge.
14. Amendment 43 amends paragraph 20 of the Schedule by inserting new sub-paragraph (1A), which inserts new regulation 14 in the Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454).
15. New regulation 14 provides a time limit and the information that must be provide when a scheme administrator receives information that overseas transfer charge should be repaid.
16. New regulation 14(1) and (2) provide that a scheme administrator has 60 days to make a claim for a repayment of overseas transfer charge from the time they become aware of the entitlement to a repayment.
17. New regulation 14(3) provides that to make a claim the scheme administrator must provide HMRC with
  - details of the member,
  - details of the transfer,
  - the date of payment of overseas transfer charge,

- the reason for repayment of overseas transfer charge ,and
  - the amount claimed.
18. New regulation 14(4) provides an extended period for the claim to be made if the scheme administrator becomes aware of the repayment before 14 November 2017. In that case the claim can be made no later than 14 November 2017.
  19. Amendment 44 amends sub-paragraph 20(2) of the Schedule to specify that the change made in sub-paragraph 20(1), and not the whole paragraph, is treated as made under the power in section 254 of FA 2004 as amendment 43 makes a provision in paragraph 20 which is not made under that power.
  20. Amendment 45 amends paragraph 20 of the Schedule by inserting a new sub-paragraph confirming that the amendment in sub-paragraph 20(1A) of the Schedule is treated as made under the relevant powers in section 244M(8) of FA 2004.
  21. Amendment 46 amends paragraph 21 of the Schedule to ensure that the 10-year reporting period in regulation 3(3)(a) of the Pension Schemes (Information Requirements for Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pension Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208) relating to payments out of transferred funds applies to payments out of ring-fenced transfer funds as well as relevant transfer funds.
  22. New regulation 3(3)(a)(i) provides that the 10-year reporting period starts on the key date of the ring-fenced transfer fund, and if the payment is out of more than one ring-fenced transfer fund, then it is the later or latest of the key dates.
  23. New regulation 3(3)(a)(ii) provides that if the payment is not in respect of a ring-fenced transfer fund then the current legislation applies, that is, the 10-year reporting period starts on the date the relevant transfer fund came into existence.
  24. Amendment 47 amends paragraph 21 of the Schedule to clarify that the member does not have to provide information to the scheme manager in relation to the overseas transfer charge if the transfer takes place after the end of the relevant period.
  25. Amendment 48 amends paragraph 21 of the Schedule by inserting new regulation 3AEA in S.I. 2006/208.
  26. New regulation 3AEA(1) and (2) provide that where there has been a transfer from a registered pension scheme to a QROPS or between QROPS and the overseas transfer charge arises on the transfer or the transfer is assumed to be excluded from the charge, the member must tell the scheme manager if they change their country of residence during the relevant period (defined in section 244A of FA 2004) within 60 days of the change.
  27. New regulation 3AEA(3) extends the reporting period to 30 June 2017 if the 60-day period for reporting a change under regulation 3AEA(2) ends before 30 June 2017.
  28. Amendment 49 amends paragraph 21 of the Schedule by inserting new regulation 3AK in S.I. 2006/208.

29. New regulation 3AK(1) provides that a scheme manager of a QROPS or former QROPS has to make a claim to receive a repayment of overseas transfer charge.
30. New regulation 3AK(2) provides that the claim must be in writing, made within 12 months of the end of the relevant period (as defined in section 244A of FA 2004) for the transfer and that the scheme manager must provide HMRC with
- details of the member,
  - details of the transfer,
  - the date of payment of overseas transfer charge,
  - the reason for repayment of overseas transfer charge ,and
  - the amount claimed.
31. Amendment 50 amends sub-paragraph 21(14) of the Schedule by confirming that new regulation 3AEA of S.I. 2006/208 is treated as made under the relevant powers in section 169(4ZA) of FA 2004.
32. Amendment 51 amends sub-paragraph 21(14) of the Schedule by inserting a new sub-paragraph to confirm that new regulation 3AK of S.I. 2006/208 is treated as made under the relevant powers in section 244M(8) of FA 2004
33. Amendments 52 and 53 amend paragraph 23(5) of the Schedule so that the inserted new regulation 11BB of the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567), which sets out the information members must provide to scheme administrators in relation to the overseas transfer charge, applies to transfers that have been subject to overseas transfer charge as well as those that are assumed to be excluded from the charge.
34. Amendment 54 amends paragraph 23(5) of the Schedule by inserting a new paragraph in regulation 11BB of S.I. 2006/567 to extend the reporting period to 30 June 2017 if the 60-day period for reporting a change under regulation 11BB(2) ends before 30 June 2017.
35. Amendment 55 amends paragraph 24(4) of the Schedule to provide that the amendments in regulation 11BA of S.I. 2006/567 apply to transfers requested on or after 9 March 2017.
36. Amendment 56 amends paragraph 24(5) of the Schedule to confirm that the revised date for reporting overseas transfer charges applies only if the charge would be due at an earlier date.

## Background note

37. Clause 18 and Schedule 4 to Finance (No.2) Bill 2017 published on 20 March 2017 introduced the overseas transfer charge. This new charge limits the circumstances in which overseas pension transfers to qualifying recognised overseas pension schemes

(QROPS) can be made free of UK tax up to the lifetime allowance. From 9 March 2017 the overseas transfer charge will apply to transfers to QROPS unless:

- people leave the UK and take their pension savings with them to their new country of residence,
- both the individual and the pension savings are in different countries within the European Economic Area, or
- the transfer is to a pension scheme of the individual's employer.

38. Scheme administrators of registered pension schemes and scheme managers of QROPS or former QROPS are jointly and severally liable to the tax with the individual making the transfer. However, the charge does not apply to transfers requested or made before the charge was introduced on 9 March 2017.

39. These amendments ensure that the charge is restricted so that it operates as intended, amounts refunded are not re-tested against the individual's lifetime allowance in all cases, not just when a lifetime allowance charge arises and that information requirements are extended so that individuals, scheme administrators and scheme managers are required to provide the information needed in relation to the overseas transfer charge.