Inheritance tax on pension interests etc

1 Certain pension property treated as part of estate

In IHTA 1984, before section 151 (but after the italic heading that precedes it) insert—

"150A Certain pension property treated as part of estate

(1) For the purposes of this Act, a member of a registered pension scheme, a qualifying non-UK pension scheme or a section 615(3) scheme is treated as beneficially entitled immediately before their death to so much of the property held for the purposes of the scheme as (under the terms of the scheme as they stand at that time)—

(a) must be used to pay a relevant death benefit in the event of the person's death, or

(b) may, subject to anyone's discretion, be so used.

(2) Except under subsection (1), no interest in or under a registered pension scheme, a qualifying non-UK pension scheme or a section 615(3) scheme is to be taken into account for the purposes of this Act in determining the value of the person's estate immediately before their death.

(3) If after the person's death a relevant death benefit becomes (at any time) payable to the person's spouse or civil partner, or to a charity or registered club, section 18(3) or 23(2) (exemptions disapplied in cases of delay or conditional transfer) does not limit the application of section 18(1) or 23(1) solely on the grounds—

(a) that the relevant death benefit does not become so payable immediately on the person's death, or

(b) that its becoming so payable depends on any person's discretion.

(4) Property to which a person is treated as beneficially entitled under subsection (1) is, irrespective of the assets comprised in it, not to be regarded as—

(a) relevant business property for the purposes of Chapter 1 of Part 5 (business property relief), or

(b) agricultural property for the purposes of Chapter 2 of Part 5 (agricultural property relief).

(5) In this section, "relevant death benefit" means—

(a) a pension death benefit,

(b) a lump sum death benefit, or

(c) payments made in accordance with pension rule 2 in section 165(1) of the Finance Act 2004 (continuing payments after death) or that would be made in accordance with that rule if the scheme in question were a registered pension scheme,

but does not include a dependants' scheme pension or a death-in-service benefit.

(6) In subsection (5), "death-in-service benefit" means a lump sum death benefit which under the terms of a registered pension scheme—

(a) is payable in respect of a member of the scheme in the event of the member's death, and

(b) is not payable unless the member is an active member of the scheme, and in employment of a description specified in the terms of the scheme, immediately before their death.

(7) In this section, the following have the same meaning as in Part 4 of the Finance Act 2004 (pension schemes etc)—

"active member" (see section 151(2) of that Act);

"dependants' scheme pension" (see paragraph 16 of Schedule 28 to that Act);

"lump sum death benefit" (see section 168(2) of that Act);

"pension death benefit" (see section 167(2) of that Act);

and for that purpose the definitions in that Act are to be read with any necessary modifications in relation to a qualifying non-UK pension scheme or a section 615(3) scheme."

2 Liability for tax on pension interests

In IHTA 1984, for section 210 substitute—

"210 Pension rights

(1) This section applies where any tax that is chargeable on a transfer of value made (under section 4) on a person's death is attributable to the value of any property—

(a) that is held for the purposes of a registered pension scheme, a qualifying non-UK pension scheme or a section 615(3) scheme, and

(b) to which the deceased is treated under section 150A(1) (certain pension property treated as part of estate) as having been beneficially entitled.

(2) The persons liable for the tax—

(a) include the deceased's personal representatives,

(b) in the case of a registered pension scheme, include the scheme administrator if the scheme administrator—

(i) is required to pay the tax under section 226A(3) (notice from beneficiary requiring direct payment by scheme administrator), and

(ii) fails to pay the tax before the end of the period described in section 226A(5), and

(c) in the case of a registered pension scheme or a section 615(3) scheme, do not (despite section 200(1)(c) and (d)) include the trustees of the scheme (if there are any) or any other person who holds the property for the purposes of the scheme in question.

(3) If a person mentioned in subsection (2)(c) is also the scheme administrator, subsection (2)(c) does not prevent the person from being liable for tax under subsection (2)(b) in their capacity as scheme administrator.

(4) In this section, "the scheme administrator" has the meaning given in section 270 of the Finance Act 2004."

3 Direct payment by pension scheme administrator of beneficiary's tax

In IHTA 1984, after section 226 insert—

"226A Registered pension schemes: direct payment by pension scheme administrator

(1) This section applies to an amount of tax—

(a) that is chargeable on a transfer of value made on a person's death,

(b) that is attributable to property—

(i) that is held for the purposes of a registered pension scheme, and

(ii) to which the deceased is treated under section 150A(1) (certain pension property treated as part of estate) as having been beneficially entitled, and

(c) for which a person ("the beneficiary") is liable under section 200(1)(c) (person in whom property vested after death etc).

(2) The beneficiary may give a notice to the scheme administrator requesting that the scheme administrator pay the amount of tax.

(3) The scheme administrator must pay the amount of tax specified in a notice given under subsection (2) if—

(a) the amount specified is not greater than the amount of the chargeable relevant death benefit payable (and not yet paid) to the beneficiary under the terms of the scheme,

(b) the notice complies with any requirements prescribed by the Board under section 257(1), and

(c) the amount specified is £4,000 or more.

(4) The scheme administrator may, at their discretion, pay the amount of tax specified in a notice given under subsection (2) if—

(a) the conditions in subsection (3)(a) and (b) are met, but

(b) the amount specified is less than £4,000.

(5) Where the scheme administrator is required to pay any tax under subsection (3), they must do so before the end of the period of 3 weeks beginning with the day on which they received the notice under subsection (2).

For the consequences of non-compliance with this subsection, see section 210(2)(b) (scheme administrator jointly liable for tax).

(6) Any tax paid by the scheme administrator as requested by a notice under subsection (2) is treated for the purposes of this Act as paid by the beneficiary.

(7) A reference in this section to tax for which the beneficiary is liable includes tax for which the beneficiary would be liable had the tax not already been paid by the deceased's personal representatives.

(8) It follows from subsections (6) and (7) that where tax is paid as requested by a notice under subsection (2), any claim under section 241(1) for repayment of the tax—

(a) may be made by the beneficiary;

(b) if the tax has also been paid by the deceased's personal representatives, may be made either by the beneficiary or by the personal representatives;

(c) may not be made by the scheme administrator.

(9) The terms of a registered pension scheme are void so far as they purport to prohibit the making of a payment as requested by a notice under subsection (2).

(10) In this section—

"the chargeable relevant death benefit" means the relevant death benefit by reference to which the deceased is treated under section 150A(1) as having been beneficially entitled to the property mentioned in subsection (1)(b);

"the scheme administrator" means the scheme administrator, as defined in section 270 of the Finance Act 2004, in relation to the pension scheme mentioned in subsection (1)(b);

"tax" includes interest on tax.

(11) The Treasury may by regulations change the amount for the time being mentioned in subsection (3)(c) and (4)(b).

(12) Regulations under subsection (11) are to be made by statutory instrument; and a statutory instrument containing such regulations is subject to annulment in pursuance of a resolution of the House of Commons."

4 Funding of tax by personal representatives

(1) Part 7 of IHTA 1984 (liability) is amended as follows.

(2) In section 211 (burden of tax on death), for subsection (3) substitute—

"(3) If (and so far as)—

(a) personal representatives pay an amount of tax,

(b) the amount falls to be borne by the property to whose value it is attributable (rather than as part of the general testamentary and administration expenses of the estate),

(c) that property is vested in someone other than the personal representatives ("the vestee"), and

(d) the personal representatives cannot recover the amount by deducting it from any sums payable to the vestee out of the estate (whether because any such sums are insufficient or because they have already been paid without deduction),

the vestee must repay the amount to the personal representatives."

(3) In section 212 (powers to raise tax), in subsection (1), for "or any part of it" substitute ", any property derived from that property, or any part of that property or of property derived from it".

5 Consequential amendments to IHTA 1984

(1) IHTA 1984 is amended as follows.

(2) Omit section 12A (pension drawdown fund not used up: no deemed disposition).

(3) In section 151 (treatment of pension rights etc)—

(a) for the heading substitute "Other provision about pension interests";

(b) for subsections (2) and (3) substitute—

"(3) Sections 49 to 53 (holder of interest in possession treated as directly entitled to property in which interest subsists etc) do not apply in relation to an interest in possession in property where the property is held for the purposes of a registered pension scheme, a qualifying non-UK pension scheme or a section 615(3) scheme.";

(c) omit subsection (4).

(4) Omit section 152 (cash options).

(5) In section 272 (general interpretation), in subsection (1), at the appropriate place insert—

""relevant death benefit" has the meaning given in section 150A(5);".

6 Related changes to income tax rules

(1) ITEPA 2003 is amended in accordance with subsections (2) to (5).

(2) In section 567 (amount charged to tax), in subsection (5), at the appropriate place insert—

"section 567B (deduction where inheritance tax is paid in respect of relevant death benefit);".

(3) After section 567A insert—

"567B Cases where inheritance tax is paid in respect of relevant death benefit

(1) This section applies if—

(a) there is an amount of taxable pension income ("amount TPI") for a tax year for a pension, annuity or other item of pension income,

(b) amount TPI reflects (to any extent) the payment to a person ("the beneficiary") of a relevant death benefit, and

(c) at any time on or before 31 January following the end of the tax year—

(i) the beneficiary pays an amount of inheritance tax in respect of the relevant death benefit, or

(ii) the deceased's personal representatives pay an amount of inheritance tax in respect of the relevant death benefit and pass on the burden of this payment to the beneficiary.

(2) A deduction is allowed from amount TPI equal to the lesser of—

(a) the amount of inheritance tax paid as mentioned in subsection (1)(c), and

(b) so much of amount TPI as reflects the payment to the beneficiary of the relevant death benefit.

(3) If the amount mentioned in subsection (2)(a) exceeds the amount mentioned in subsection (2)(b), the excess is to be carried forward to future tax years to be deducted under this section (when applicable) until it has all been deducted.

(4) In this section, "relevant death benefit" has the same meaning as in the Inheritance Tax Act 1984 (see section 150A(5) of that Act).

(5) For the purposes of subsection (1)(c)—

(a) inheritance tax is paid "in respect of" a relevant death benefit if the tax is attributable to the value of any property to which, by reference to the relevant death benefit, the deceased was treated as beneficially entitled immediately before their death under section 150A(1) of the Inheritance Tax Act 1984, and

(b) the deceased's personal representatives "pass on" the burden of paying an amount of inheritance tax to the beneficiary if—

(i) the personal representatives pay a sum to the beneficiary out of the deceased's estate that has been reduced by the amount of inheritance tax, or

(ii) the beneficiary reimburses the personal representatives that amount."

(4) After section 579CA insert—

"579CB Refund of overpaid inheritance tax treated as pension

If—

(a) the scheme administrator in relation to a registered pension scheme pays an amount of inheritance tax (or interest in respect of inheritance tax) as requested by a notice under section 226A(2) of the Inheritance Tax Act 1984, and

(b) some or all of the tax (or interest) paid by the scheme administrator is repaid to the beneficiary (within the meaning of section 226A of that Act) under section 241(1) of that Act, the repayment is treated for the purposes of this Chapter as a pension under the registered pension scheme (and is treated as accruing when it is made)."

(5) In section 683 (PAYE income), in subsection (3B), at the end insert "or section 579CB (inheritance tax overpaid by scheme administrator: refund treated as pension)".

(6) In FA 2004, in section 164 (authorised member payments), in subsection (1), after paragraph (e) (but before the "and" that follows it) insert—

"(ea) payments of inheritance tax made as requested by a notice under section 226A(2) of the Inheritance Tax Act 1984 (direct payment by scheme administrator of beneficiary's tax),".

7 Commencement

The amendments made by sections 1 to 6 apply in relation to transfers of value (within the meaning of IHTA 1984) occurring on or after 6 April 2027.