

Finance Act, 2008

Section 90 - Spreading of relief on indirect contributions

1) In Part 4 of FA 2004 (pension schemes etc), after section 199 insert- "199A Indirect contributions (1) This section applies where an employer ("E")- (a) pays contributions under a registered pension scheme ("the original scheme") in a chargeable period, and (b) would (apart from subsection (4)) be entitled in the next chargeable period to an amount of relief in respect of a payment within subsection (2), and the avoidance condition is met. (2) A payment is within this subsection if all or part of the payment is intended to facilitate the payment of pension contributions under the original scheme or a substitute scheme by a person other than E. (3) The avoidance condition is that- (a) section 197 would apply if, in the chargeable period mentioned in subsection (1)(b), E paid pension contributions under the original scheme of the amount of the relevant relief, and (b) the purpose, or one of the purposes, of facilitating the payment of pension contributions by a person other than E is to enable pension contributions to be paid without that section applying. (4) For the purposes of the spreading provisions, the amount of the relevant relief is to be treated as the amount of a pension contribution paid by E under the original scheme in the chargeable period mentioned in subsection (1)(b). (5) The "relevant relief" is the relief to which the employer would (apart from subsection (4)) be entitled in that chargeable period in respect of- (a) the payment within subsection (2), or (b) where only part of the payment is intended to facilitate the payment of pension contributions as mentioned in that subsection, that part of the payment. (6) A "substitute scheme" is any registered pension scheme- (a) to which there is a relevant transfer in the period of 2 years ending with the day on which the payment within subsection(2) is made, or (b) to which it is envisaged that a relevant transfer will or may be made after that day. (7) A relevant transfer is a recognised transfer from the original scheme of more than 30% of the aggregate of- (a) in a case within subsection (6)(a), the amount of the sums and the market value of the assets held for the purposes of, or representing accrued rights under, the original scheme immediately before the transfer, and (b) in a case within subsection (6)(b), the amount of those sums and the market value of those assets on the day on which the payment is made. (8) If there is a transfer from a substitute scheme to another registered pension scheme which would have been a relevant transfer had it been a transfer from the original scheme at the time the relevant transfer was made, that other scheme is also a substitute scheme. (9) In subsection (1)(b) the reference to relief in respect of a payment within subsection (2) includes relief for a liability in respect of the making of the payment by a person other than E. (10) In this section references to E being entitled to an amount of relief are to an amount- (a) being deductible in computing the amount of the profits of E for the purposes of Part 2 of ITTOIA 2005 (trading income) or Case I or II of Schedule D, (b) being expenses of management of E for the purposes of section 75 of ICTA (expenses of management: companies with investment business), or (c) being brought into account at Step 1 in section 76(7) of ICTA (expenses of insurance companies) in respect of E. (11) In this section- "the spreading provisions" means sections 197 and 198 and this section, and "chargeable period" has the meaning given by section 197." (2) The amendment made by this section has effect in relation to payments within section 199A(2) of FA 2004 made on or after 10 October 2007, except for such payments made pursuant to a contract entered into before 9 October 2007. 91 Inheritance etc of tax-relieved pension savings Schedule 28 contains provision about the inheritance etc of tax-relieved pension savings.