



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

### CHAPTER 5

#### REGISTERED PENSION SCHEMES: TAX CHARGES

##### *Annual allowance charge*

#### **[<sup>F1</sup>228A Carry forward of unused annual allowance**

- (1) This section applies if the individual has unused annual allowance available for the tax year (“the current tax year”).
- (2) The annual allowance for the current tax year in the case of the individual is to be treated as increased by the amount of the unused annual allowance available for the current tax year.
- (3) The individual has unused annual allowance available for the current tax year if—
  - (a) the amount of the annual allowance (before any increase under this section) for the immediately preceding tax year exceeded the total pension input amount in the case of the individual for that tax year, or
  - (b) the amount of the annual allowance (before any such increase) for either or both of the two tax years immediately preceding that immediately preceding tax year exceeded the total pension input amount in the case of the individual for the tax year concerned and the excess (or, where there is an excess for both of those tax years, the excess for both tax years) has not been used up,or both.
- (4) Subsection (3)—

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- (a) does not apply in relation to a tax year preceding the current tax year unless the individual was a member of a registered pension scheme at some time during that tax year, but
  - (b) subject to that, applies in relation to such a tax year even if the total pension input amount in the case of the individual for that tax year was nil (in which case the excess within paragraph (a) or (b) of that subsection is the whole amount of the annual allowance before any increase under this section).
- (5) The amount of the unused annual allowance available for the current tax year is the aggregate of—
- (a) any excess within subsection (3)(a), and
  - (b) so much of any excess within subsection (3)(b) as has not been used up.
- (6) An amount of an excess within subsection (3)(b) for a tax year has been “used up” if—
- (a) for a tax year falling between that tax year and the current tax year (an “intervening tax year”), the total pension input amount in the case of the individual exceeded the annual allowance (apart from any increase under this section), and
  - (b) the amount of the excess had effect by virtue of this section to reduce (or eliminate) the annual allowance charge for the intervening tax year in the case of the individual.
- (7) In calculating for the purposes of subsection (6) the amount of which of the excesses for different tax years had effect to reduce or eliminate the annual allowance charge for an intervening tax year, an amount of the excess for an earlier tax year is to be taken to have done so before that for a later tax year.
- [ If, for a tax year preceding the current tax year, the chargeable amount in the <sup>F2</sup>(8) individual's case was the alternative chargeable amount—
- (a) a reference in subsection (3)(a) or (b), (4)(b) or (6)(a) to the annual allowance for that preceding tax year is a reference to the alternative annual allowance for that preceding tax year (see section 227B(2)), and
  - (b) a reference in subsection (3)(a) or (b), (4)(b) or (6)(a) to the total pension input amount in the case of the individual for that preceding tax year is a reference to the defined-benefit input sub-total in the case of the individual for that preceding tax year (see section 227B(3) to (5)).
- (9) Subsection (3) does not apply in relation to a tax year—
- (a) preceding the current tax year, and
  - (b) ending not later than 5 April 2015,
- if, at any time in that preceding tax year, section 165(3A) or 167(2A) applied to an arrangement relating to the individual.]]

#### Textual Amendments

- F1** S. 228A inserted (with effect in accordance with Sch. 17 Pt. 2 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 para. 5](#)
- F2** Ss. 228A(8)(9) inserted (17.12.2014) (with effect in accordance with Sch. 1 para. 67(2) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 1 para. 67\(1\)](#)

#### Modifications etc. (not altering text)

- C1** S. 228A applied (with modifications) (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 17 paras. 29, 30](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 166(1)(aa) inserted by 2024 c. 3 Sch. 9 para. 17(2)(a)
- s. 204(3) inserted by 2024 c. 3 Sch. 9 para. 2
- s. 232(8E) inserted by 2024 c. 3 Sch. 9 para. 4(4)
- s. 236(8E) inserted by 2024 c. 3 Sch. 9 para. 5(4)
- s. 236ZA inserted by S.I. 2024/357 art. 2(2)
- s. 244G(5) inserted by 2024 c. 3 Sch. 9 para. 51(4)
- s. 244J(1A) inserted by 2024 c. 3 Sch. 9 para. 55(2)
- s. 244K(1A) substituted for s. 244K(1) by 2024 c. 3 Sch. 9 para. 57(3)
- s. 244K(3A) inserted by 2024 c. 3 Sch. 9 para. 57(6)
- s. 244K(7A)(7B) inserted by S.I. 2024/356 reg. 3(5)
- s. 244AA-244AC substituted for s. 244A by 2024 c. 3 Sch. 9 para. 45
- s. 244IA-244IC inserted by 2024 c. 3 Sch. 9 para. 54
- s. 244ID inserted by S.I. 2024/356 reg. 3(2)
- s. 244JA inserted by 2024 c. 3 Sch. 9 para. 56
- s. 256(1)(g)-(i) inserted by 2024 c. 3 Sch. 9 para. 100(3)(e)
- s. 278A278B inserted by 2024 c. 3 Sch. 9 para. 23
- Sch. 11 para. 4(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(a)(ii)
- Sch. 11 para. 8(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(b)(ii)
- Sch. 11 para. 12(1)(a)(v) inserted by 2024 c. 3 s. 35(3)(c)(ii)
- Sch. 29 para. 3B inserted by 2024 c. 3 Sch. 9 para. 26(8)
- Sch. 29 para. 3C and cross-heading inserted by 2024 c. 3 Sch. 9 para. 26(9)
- Sch. 29 para. 12A inserted by 2024 c. 3 Sch. 9 para. 36
- Sch. 29 para. 4A(8) inserted by 2024 c. 3 Sch. 9 para. 63(4)
- Sch. 29 para. 3C(2) omitted by S.I. 2024/356 reg. 3(10)(b)
- Sch. 29 para. 3C(3) omitted by S.I. 2024/356 reg. 3(10)(b)
- Sch. 29 para. 3C(5)(b) and word omitted by S.I. 2024/356 reg. 3(10)(c)(ii)
- Sch. 29 para. 2A-2D substituted for Sch. 29 para. 3 by 2024 c. 3 Sch. 9 para. 26(5)
- Sch. 29 para. 13(1)(d) word inserted by 2024 c. 3 Sch. 9 para. 37(2)
- Sch. 29 para. 3C(1)(b) words inserted by S.I. 2024/356 reg. 3(10)(a)
- Sch. 29 para. 3C(5)(a) words inserted by S.I. 2024/356 reg. 3(10)(c)(i)
- Sch. 29 para. 13(1)(d) words omitted by 2024 c. 3 Sch. 9 para. 37(3)
- Sch. 32 para. A1A2 and cross-headings inserted by 2024 c. 3 Sch. 9 para. 13(4)
- Sch. 33 para. 4(4) inserted by 2024 c. 3 Sch. 9 para. 59(2)(b)
- Sch. 33 para. 5(6) inserted by 2024 c. 3 Sch. 9 para. 59(3)(c)
- Sch. 33 para. 4(1)(d) word inserted by 2024 c. 3 Sch. 9 para. 59(2)(a)
- Sch. 34 para. 5ZA inserted by 2024 c. 3 Sch. 9 para. 60(3)
- Sch. 34 para. 12A and cross-heading inserted by 2024 c. 3 Sch. 9 para. 64(3)
- Sch. 36 para. 6A and cross-heading inserted by 2024 c. 3 Sch. 9 para. 67
- Sch. 36 para. 11(5) inserted by 2024 c. 3 Sch. 9 para. 69(5)
- Sch. 36 para. 11A(5) inserted by 2024 c. 3 Sch. 9 para. 70(4)
- Sch. 36 para. 15(2A) inserted by 2024 c. 3 Sch. 9 para. 73(3)
- Sch. 36 para. 19(1A)(1B) inserted by 2024 c. 3 Sch. 9 para. 76(3)
- Sch. 36 para. 19(7) inserted by 2024 c. 3 Sch. 9 para. 76(7)
- Sch. 36 para. 20(1)(b) and word inserted by 2024 c. 3 Sch. 9 para. 77(2)(b)
- Sch. 36 para. 20(1A) inserted by 2024 c. 3 Sch. 9 para. 77(3)
- Sch. 36 para. 20A-20G and cross-headings inserted by 2024 c. 3 Sch. 9 para. 78
- Sch. 36 para. 29A inserted by 2024 c. 3 Sch. 9 para. 85
- Sch. 36 para. 29A omitted by S.I. 2024/356 reg. 3(14)

- Sch. 36 para. 12(3A)-(3H) substituted for Sch. 36 para. 12(3) by [2024 c. 3 Sch. 9 para. 71\(2\)](#)
- Sch. 36 para. 19(2)(2A) substituted for Sch. 36 para. 19(2) by [2024 c. 3 Sch. 9 para. 76\(4\)](#)
- Sch. 36 para. 20(1)(a) words in Sch. 36 para. 20(1) renumbered as Sch. 36 para. 20(1)(a) by [2024 c. 3 Sch. 9 para. 77\(2\)\(a\)](#)