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# Pension Anti-Forestalling Rules Addendum

## 'Anti-Forestalling Measures' – Who is affected?

The Chancellor has imposed 'anti-forestalling' measures to prevent individuals gaining any advantage by increasing contributions prior to 6 April 2011. The situation for higher earners contributing to pensions at the current time is set out by these 'anti-forestalling' measures, which will apply until the new rules come into force in the 2011/12 tax year.

Those affected by the 'anti-forestalling' rules are individuals who have a 'relevant income' at or above £130,000 (it was previously £150,000 from 22nd April 2009 – see below) in the current or the previous two tax years.

Individuals caught by these rules will be subject to the below restrictions.

- **Altering** regular pension contributions or an **amendment to defined benefit accrual**?
- Makes pension contributions and/or employer contributions (or accruals through a defined benefits scheme) of more than **£20,000 per annum**
- Pays/receives contributions **less frequently than quarterly** (including single lump sum payments)
- **Total contributions** (regular and irregular) exceed £20,000 per annum (or up to £30,000 if the average of irregular contributions exceeds £20,000 pa in the last three consecutive years before 6 April 2009).

## Late Finance Bill Amendment on Higher Rate Tax Relief

The government made a minor concession on higher rate tax relief for pension contributions in the face of intense lobbying.

**In the current tax year and in 2010/11**, the original rules introduced with effect from 22nd April 2009 would have allowed people with relevant incomes of £150,000 or more to benefit from higher rate tax relief on pension contributions (from all sources) of up to £20,000. This limit could be exceeded if regular (quarterly or more frequent) contributions to pension arrangements that were in force before 22 April 2009 were over £20,000.

In his 2009 Pre-Budget Statement, the Chancellor announced that the scope of the pension anti-forestalling rules introduced from 22 April 2009 will be extended **from 9 December 2009** to cover those with relevant **income of £130,000 or more (from £150,000 previously).**

The Finance Act 2009 introduced special annual allowance rules from 22 April 2009 to cap tax breaks on pension provision for high income individuals with relevant income of £150,000 or more.

In his 2009 Pre-Budget Statement, the Chancellor announced that these rules will be extended from 9 December 2009 to cover those with relevant income of £130,000 or more. **There are, however, some differences in how the rules apply to those with relevant income in the £130,000 to £149,999 bracket**:

- The extended special annual allowance rules will only apply to **pension provision made after 8 December 2009**;
- **An individual's protected pension input amount will be based on their normal regular pension provision in place on 8 December 2009;**
- Salary or bonus sacrificed in return for employer pension contributions will only be included in the calculation of the individual's relevant income where the sacrifice agreement was entered into after 8 December 2009.

The Chancellor also announced a related change **increasing the rate of the special annual allowance tax** charge from **20% up to 30%** in some circumstances from 6 April 2010 to reflect the introduction of a **50% rate of income tax**.

The precise tax charge for a high income individual on pension provision above their special annual allowance will depend on the rate(s) of income tax they pay. The tax rate applied, known as the "appropriate rate", will be based on the difference between their income tax rate and the basic 20% rate of income tax.

### Protected Pension Inputs

For any amount paid in excess of £20,000 the Special Annual Allowance Tax Charge of 20% applies, thereby clawing back any higher rate tax relief.

There are two exceptions to the Special Annual Allowance rule to allow for cases where contributions have been paid in previous years which are continuing,

1. **Regular Pension Savings** (Protected Pension Inputs)

2. **Irregular Pension Savings** (Protected Pension Inputs – Increased Special Annual Allowance)

The Irregular Pension Savings rule, is designed to benefit those who do not pay regular pension contributions because of the nature of their employment (e.g, the self employed, company directors and those who receive a significant portion of their income as an annual bonus).

The **average of all gross pension contributions** paid over the 3 tax years **2006/07, 2007/08 and 2008/09** is taken. Where this is between £20,000 and £30,000, the Special Annual Allowance is increased to the average, and full tax relief can continue to be granted on this level. Any higher amount will be subject to the **special annual allowance tax charge of 20%.**

**If all these conditions are fulfilled, then instead of the special annual allowance being £20,000, an individuals special annual allowance will be the calculated three-year average, subject to a maximum of £30,000. Any higher amount paid will be subject to the 20% tax charge.**

At best, the change may mean that an extra £10,000 contribution could escape the special annual allowance charge, implying a maximum tax saving over the original proposals of £2,000 in 2009/10.

### Future Rules for Higher Income Earners

Future plans indicate that higher rate tax relief will be withdrawn for those with incomes above £150,000 with effect from 6 April 2011. The full details of how this will be applied have yet to be set out, however it is likely that relief will be reduced by tapering amounts so that those with the highest incomes will only receive basic rate tax relief (20%) on their pension contributions going forwards.