NHS Pensions - FACT – Special Annual Allowance

The Finance Act 2009 restricts the availability of higher rate tax relief on pension scheme contributions with effect from April 2009 to 5 April 2011 for people with a taxable income of £130,000 or more.

Special Annual Allowance (SAA)

These additional measures were introduced ahead of the 2011 reduction to the Annual Allowance and were called the ‘Anti-Forestalling’ measures.

Therefore, a SAA of £20,000 (or up to a maximum of £30,000 in some cases – see below) applies from 22 April 2009. This allowance is significantly less than the annual allowance already in force but only affects very high earners.

Further information on this topic can be found at www.hmrc.gov.uk/manuals

Pre – Budget Report 2009

The 2009 pre-budget report announced that, from 9 December 2009, those with a ‘relevant income’ of £130,000 or more will also be subject to the special annual allowance rules. However, the legislation for this has not yet been passed.

In respect of this lower limit, any contributions above normal regular amounts made on or after 9 December 2009 can render the individual subject to the special annual allowance tests.

Further information on the proposed changes can be found at http://www.hm-treasury.gov.uk

Who may have been affected?

Those members who had a ‘relevant income’ of over £130,000 and who have paid additional contributions to the NHS Pension Scheme or to other pension arrangements on or after 22 April 2009.

What should I do if I think I had an affected member?

If you, after reading all the relevant information, believe you had an affected member, or a member confirms that they were affected then you, or the member, need to ask NHS Pensions to provide a "Special Annual Allowance Valuation". The request should be clearly marked as such to ensure the appropriate response is sent.

Further information can be found at www.hmrc.gov.uk/manuals

Important note: These valuations cannot be used in respect of "Carry Forward" for the reduced Annual Allowance effective from 6 April 2011.

Special Annual Allowance Charge (SAAC)

There is a special annual allowance charge where all the following are met:

- The individual has 'relevant income' of £150,000 or more
- The individual increases their pension contributions and/or benefit accrual from 22 April 2009 beyond their normal regular amount
- The individual's 'total adjusted pension input*' is more than their special annual allowance

This test is in addition to the Annual Allowance limit. Exceptionally, if a charge for both the Annual Allowance and the Special Annual Allowance occurs, there are measures to reduce the overall tax paid, to prevent double charging. The pension input is assessed in a similar way to the input for the Annual Allowance. There are differences and these are outlined below.

Special Annual Allowance - Exclusions

Additional protection is usually given to benefits already being accrued for arrangements set up before 22 April 2009, so that these arrangements can remain in place and are not subject to the Special Annual Allowance limit. These are called 'Protected Pension Input Amounts'. Any inputs made in the period 6 April 2009 – 21 April 2009 are excluded, and these are called 'pre 22 April 2009 pension input amounts' by HMRC.

However, 'Protected Pension Input Amounts' and 'pre-22 April 2009 pension input amounts' do still have a bearing on an individual's special annual allowance.

The allowance gets reduced by the amount of the protected pension input amounts and pre-22 April 2009 pension input amounts. This can have the effect of reducing the allowance to nil if these amounts are more than, or equal to, the special annual allowance.

Total Adjusted Pension Input

These are pension inputs made only in the tax years 2009/10 and 2010/11. This is calculated in the same way as a normal **pension input amount** would be arrived at (see Annual Allowance Factsheet) except that:

- The input period is always the tax year
- The circumstances in which the input amount is ignored are more limited
- For 2009/10, any input for the period 6 April 2009 – 21 April 2009 inclusive can be deducted. However, this amount will reduce the amount of the individual's SAA

Important Note: In the NHS Pension Scheme 1995 and 2008, the **pension input amount** is derived by comparing the increase in the member's benefit, and not the amount of the contributions paid into the arrangement.

Inputs to the NHS Pension Scheme in the tax year in which the member dies can normally be ignored. Similarly if ill health retirement applies then such contributions in that tax year can usually be ignored.

Relevant income is much wider than the definition of pensionable income and is, broadly speaking, income chargeable to income tax (Section 23, First Stage - Income Tax Act 2007). Scheme members are responsible for establishing their own relevant income.

If a member queries their relevant income they should be referred to either HMRC, their tax adviser or financial adviser.

For information relevant income includes:

- Earnings from employment
- Earnings from self-employment/partnerships
- Most pensions income (including state and personal pension income)
- Interest on most savings
- Dividend income from shares
- Rental income
- Income received by an individual from a trust

Total income is taken for the tax year from all sources before personal allowances or any other reliefs or deductions.

Relevant income is calculated in a particular way and certain losses can be deducted, further details of how this operates in practice can be found at www.hmrc.gov.uk/manuals

The relevant income is examined not only in the tax year to which the contribution relates, but also in the preceding two tax years. If the relevant income in the tax year in question is less than £150,000, the preceding two tax years should also be tested. If either of those tax years produce relevant income of £150,000 or more, then the relevant income for the tax year in question is assumed to be £150,000, and therefore subject to the special annual allowance tests.

Special Annual Allowance Charge: Further Information

The individual scheme member is liable to the charge. The SAAC is 20% on the excess in the tax year 2009/10.

The application of the SAAC effectively recovers the higher rate tax relief on certain additional pension savings. This effectively reduces the tax relief on the contribution to basic rate tax relief at 20% for 2009/10.

However, for the tax year 2010/11 the Finance Act 2009 does not specify the amount of the charge to apply.

The SAAC is triggered when both of the following are exceeded:

- The Special Annual Allowance (NB this can be £20,000 or up to £30,000 – see increased Special Annual Allowance).
- The 'total adjusted pension input'

The SAAC is collected through the members self-assessment return. The SAAC is applied to the extent that the total adjusted pension input exceeds the individual's special annual allowance.

For deferred members who rejoin the 1995 Section have a protected input amount www.hmrc.gov.uk/manuals refers.

Infrequent Money Purchase Contributions & Increased Special Annual Allowance

There is an increased special annual allowance of up to £30,000 available on some contributions paid to a money purchase arrangement such as the NHS AVC arrangements from Prudential, Standard Life and Equitable Life.

To be considered for eligibility for an increased special annual allowance, contributions in the tax years 2006/07, 2007/08 and 2008/09 must have:

- Been paid less frequently than on a quarterly basis and
- Averaged over £20,000 per year

The amendment may enable individuals earning £150,000 or more to protect and retain full tax relief on the 3-tax year average mentioned above, up to a maximum of £30,000.

HMRC Requirements

Any SAA charge should be declared in an individuals tax return. The individual member needs to disclose this to HMRC. There is no requirement on pension providers or their employers to do this for their members. Employers should not attempt to calculate the SAA charge on behalf of scheme members/employees.

The SAA rules are complex and if an individual requires assistance, they should be referred to an Accountant, Independent Financial Adviser or HMRC. HMRC's helpline number is 0845 600 2622 and their web address is www.hmrc.gov.uk