STATUTORY INSTRUMENTS

2015 No. 1810

INCOME TAX

The Scottish Rate of Income Tax (Consequential Amendments) Order 2015

Made - - - - 20th October 2015

Coming into force in accordance with article 1

A draft of this Order was laid before and approved by the House of Commons in accordance with paragraphs 1 and 2 of Schedule 7 to the Scotland Act 1998(**1**).

The Treasury, in exercise of the powers conferred by section 80G(1A) and (2) of the Scotland Act 1998(**2**), makes the following Order:

Citation, commencement and effect

1.—(1) This Order may be cited as the Scottish Rate of Income Tax (Consequential Amendments) Order 2015 and comes into force on the day after the day on which it is made.

(2) The amendments made by this Order have effect in relation to the tax year appointed by the Treasury under section 25(5) of the Scotland Act 2012 and subsequent tax years.

Registered pension schemes: relief at source

2. The Finance Act 2004(**3**) is amended as follows.

3.—(1) Section 192(**4**) (relief at source) is amended as follows.

(2) In subsection (1) for "at the basic rate for the tax year in which the payment is made" substitute "at the relevant rate".

(3) After subsection (1) insert—

"(1A) For the purposes of this section and sections 192A and 192B "the relevant rate" is—

(**1**) 1998 c. 46. Paragraph 1 of Schedule 7 was amended by paragraph 16(10)(b) of Schedule 38 to the Finance Act 2014 (c. 26).
(**2**) Section 80G was inserted by section 25(3) of the Scotland Act 2012 (c. 11) and amended by paragraph 16 of Schedule 38 to the Finance Act 2014.
(**3**) 2004 c. 12; section 192(4) was substituted by paragraph 11 of Schedule 2 to the Finance Act 2009 (c. 10).
(**4**) Section 192(4) was substituted by paragraph 11 of Schedule 2 to the Finance Act 2009 (c. 10) and section 192(5) was repealed by Part 1 of Schedule 3 to the Income Tax Act 2007 (c. 3).

(a) if the Commissioners for Her Majesty's Revenue and Customs so notify the scheme administrator, the Scottish basic rate for the tax year in which the payment is made; and

(b) the basic rate for that tax year in all other cases.".

(4) In subsection (4) for "or the additional rate" substitute ", the Scottish higher rate, the additional rate or the Scottish additional rate".

(5) After subsection (10) insert—

"(11) Subsection (10) does not apply to prevent the giving of relief in respect of the contribution in accordance with subsection 192A.".

4. After section 192 insert—

"**Relief at source: additional relief**

192A.—(1) An individual to whom relief is given in accordance with section 192 in respect of a contribution is entitled to a tax reduction for the tax year in which the payment of the contribution is made if the conditions in subsection (2) or (4) are met.

(2) The conditions are that—

(a) the relevant rate is the basic rate for the tax year in which the payment of the contribution is made,

(b) the individual is a Scottish taxpayer for that tax year, and

(c) the Scottish basic rate for that tax year is higher than the basic rate.

(3) If the conditions in subsection (2) are met, the amount of the tax reduction is an amount equal to the difference between the amount of relief which would have been given if the relevant rate were the Scottish basic rate for the tax year in which the payment is made and the amount of relief given under section 192.

(4) The conditions are that—

(a) the relevant rate is the Scottish basic rate for the tax year in which the payment of the contribution is made,

(b) the individual is not a Scottish taxpayer for that tax year, and

(c) the basic rate for that tax year is higher than the Scottish basic rate.

(5) If the conditions in subsection (4) are met, the amount of the tax reduction is an amount equal to the difference between the amount of relief which would have been given if the relevant rate were the basic rate for the tax year in which the payment is made and the amount of relief given under section 192.

(6) A tax reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007(**5**).

Relief at source: excessive relief given

192B.—(1) If relief is given to an individual in accordance with section 192 in respect of a contribution and the conditions in subsection (2) or (4) apply, an amount of excessive relief given is treated as an amount of tax for which the individual is liable for the tax year in which the payment of the contribution is made.

(2) The conditions are that—

(**5**) Section 280(1) of the Finance Act 2004 provides that in Part 4 of that Act "ITA 2007" means the Income Tax Act 2007.

(a) the relevant rate is the basic rate for the tax year in which the payment of the contribution is made,

(b) the individual is a Scottish taxpayer for that tax year, and

(c) the Scottish basic rate for that tax year is lower than that rate.

(3) If the conditions in subsection (2) apply, the amount of excessive relief given is an amount equal to the difference between the amount of relief given and the amount of relief which would have been given if the relevant rate were the Scottish basic rate for the tax year in which the payment is made.

(4) The conditions are that—

(a) the relevant rate is the Scottish basic rate for the tax year in which the payment of the contribution is made,

(b) the individual is not a Scottish taxpayer in that tax year, and

(c) the basic rate for that tax year is lower than the Scottish basic rate.

(5) If the conditions in subsection (4) apply, the amount of excessive relief given is an amount equal to the difference between the amount of relief given and the amount of relief which would have been given if the relevant rate were the basic rate for the tax year in which the payment is made.

(6) An amount of excessive relief treated as an amount of tax under this section is added at Step 7 of the calculation in section 23 of ITA 2007.".

5.—(1) The Income Tax Act 2007(**6**)is amended as follows.

(2) In section 26(**7**) (tax reductions), in subsection (1), in paragraph (a), after "section 353(1A) of ICTA (relief for interest on loan to buy life annuity)," insert "section 192A of FA 2004 (relief at source: additional relief),".

(3) In section 30(**8**) (additional tax), in subsection (1), after "Chapter 8 of Part 10 of ITEPA2003(**9**) (high income child benefit charge)," insert "section 192B of FA 2004 (relief at source: excessive relief given),".

6. In the Registered Pension Schemes (Relief at Source) Regulations 2005(**10**), in regulation 2 (interpretation), in paragraph (2), in the definition of "net contribution", for "the basic rate" substitute "the relevant rate".

Amendments to the Finance Act 2004

7.—(1) The Finance Act 2004 is amended as follows.

(2) In section 227(**11**) (annual allowance charge), in subsection (4A)—

(a) in paragraph (a) after "the basic rate" in the first place it occurs, insert "or, in the case of a Scottish taxpayer, the Scottish basic rate";

(**6**) 2007.c. 3.
(**7**) Section 26(1)(a) was amended by paragraph 6(o)(ii) of Schedule 1 to the Finance Act 2009, paragraph 8 of Schedule 6 and paragraph 32(2)(a) of Schedule 39 to the Finance Act 2012 (c. 14), and section 11(3) of and paragraph 6 of Schedule 11 to the Finance Act 2014.
(**8**) Section 30(1) was amended by section 8(a) of and paragraph 83 of Schedule 16 to the Finance Act 2011 (c. 11), and section 6(3) of the Finance Act 2012.
(**9**) Section 1017 of the Income Tax Act 2007 provides that in that Act "ITEPA 2003" means the Income Tax (Earnings and Other Income) Act 2003 (c. 1).
(**10**) S.I. 2005/3448, amended by S.I. 2009/56. There are other amending instruments but none is relevant.
(**11**) Section 227(4A) was inserted by section 3(4) of the Finance Act 2011 and amended by paragraph 63(5) of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30).

(b) in paragraph (b) after "the higher rate" in the first place it occurs, insert "or, in the case of a Scottish taxpayer, the Scottish higher rate"; and

(c) in paragraph (c) after "the additional rate", insert "or, in the case of a Scottish taxpayer, the Scottish additional rate".

(3) In section 237B(**12**) (liability of scheme administrator for annual allowance charge), in subsection (4)—

(a) in paragraph (a)—

(i) after "the additional rate" in the first place it occurs, insert "or the Scottish additional rate"; and

(ii) after "the additional rate" in the second place it occurs, insert "or, in the case of a Scottish taxpayer, the Scottish additional rate,";

(b) in paragraph (b)—

(i) after "the higher rate" in the first place it occurs insert "or the Scottish higher rate"; and

(ii) after "the higher rate" in the second place it occurs insert "or, in the case of a Scottish taxpayer, the Scottish higher rate"; and

(c) in paragraph (c) after "basic rate" insert "or, in the case of a Scottish taxpayer, the Scottish basic rate".

(4) In section 280 (abbreviations and general index), in subsection (2) after the entry relating to "scheme sanction charge" insert—

""Scottish additional rate"	"section 6A of ITA 2007 (as applied by section 989 of that Act)"
"Scottish basic rate"	"section 6A of ITA 2007 (as applied by section 989 of that Act)"
"Scottish higher rate"	"section 6A of ITA 2007 (as applied by section 989 of that Act)"
"Scottish taxpayer"	"section 989 of ITA 2007".".

Amendments to the Income Tax (Trading and Other Income) Act 2005

8. The Income Tax (Trading and Other Income) Act 2005(**13**) is amended as follows.

9.—(1) Section 539(**14**) (relief for deficiencies) is amended as follows.

(2) In subsection (1)(b) for "the higher rate or the dividend upper rate (or both)" substitute "one or more of the higher rate, the Scottish higher rate or the dividend upper rate".

(3) In subsection (5)—

(a) after the opening sentence, insert "If the individual is a Scottish taxpayer, instead of Step 3 carry out Steps 3A and 3B.";

(b) after Step 3 insert—

"Step 3A

(**12**) Section 237B was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011.
(**13**) 2005 c. 5.
(**14**) Section 539 was substituted by paragraph 539 of Schedule 1 to the Income Tax Act 2007 and subsection (5) was amended by paragraph 58 of Schedule 1 to the Finance Act 2008 (c. 9).