



## Anti-forestalling: Where are we now?

The budget on 22 April 2009 announced the intention to restrict, from 6 April 2011, the availability of tax relief to basic rate on pension contributions for individuals whose taxable income is £150,000 or higher.

However to prevent such high earners from beefing up their pension provision in the intervening period, anti-forestalling provisions were also brought into effect. <http://www.hmrc.gov.uk/budget2009/anti-forestalling-qa.pdf>

### **From 22 April 2009**

Individuals with taxable income (not just earnings) below £150,000\* are not affected.

Individuals with taxable income of £150,000\* or more will not be affected if:

- total pension contributions up to a maximum of £20,000 per annum are paid; or
- there is a pattern of regular pension contributions (i.e. paid quarterly or more frequently) at 21 April 2009 and the frequency is not reduced and the amount of contributions is not increased; or
- pension contributions have been paid less frequently than quarterly and continue to be paid at a level not exceeding the 3-year average of those contributions for the tax years 2006/07, 2007/08 and 2008/09. This is subject to a maximum of £30,000 per annum.

Pension contributions outside these guidelines are subject to a 20% personal tax charge. This effectively limits tax relief to basic rate. For tax year 2010/11 the charge increases to 30%.

\* The £150,000 limit is deemed to be met if taxable income in the current tax year, or in either of the previous two tax years, is £150,000 or more.

**N.B.** In determining taxable income any salary sacrifice amounts made after 21 April 2009 will be included.

In the Pre-budget Report (PBR) on 9 December 2009, the Chancellor unfortunately announced further provisions which have brought in a second layer of anti-forestalling provisions for the current tax year.  
[http://www.hm-treasury.gov.uk/d/pbr09\\_consult\\_pensions\\_technote.pdf](http://www.hm-treasury.gov.uk/d/pbr09_consult_pensions_technote.pdf)

### **From 9 December 2009**

Individuals with taxable income (not just earnings) below £130,000 are not affected.

Individuals with taxable income in the band\*\* £130,000 or more but less than £150,000 will not be affected if:

- total pension contributions up to a maximum of £20,000 per annum are paid; or
- there is a pattern of regular pension contributions (i.e. paid quarterly or more frequently) at 9 December 2009 and the frequency is not reduced and the amount of contributions is not increased; or
- pension contributions have been paid less frequently than quarterly and continue to be paid at a level not exceeding the 3-year average of those contributions for the tax years 2006/07, 2007/08 and 2008/09. This is subject to a maximum of £30,000 per annum,

Pension contributions outside these guidelines are subject to a 20% personal tax charge. This effectively limits tax relief to basic rate. For tax year 2010/11 the charge increases to 30%.

\*\* The £130,000 but less than £150,000 band is deemed to be met if taxable income in the current tax year, or in either of the previous two tax years, falls within it.

**N.B.** In determining taxable income any salary sacrifice amounts made after 8 December 2009 will be included.

Where an individual is not subject to the 22 April 2009 rules (taxable income less than the £150,000 limit) but is subject to the 9 December 2009 rules (taxable income falling within the £130,000 but less than £150,000 band):

- any pension contributions paid on or after 22 April 2009 but before 9 December 2009 will not be subject to a 20% personal tax charge,
- any pension contributions paid on or after 9 December 2009, which exceed the three alternative disregard amounts, **will** be subject to a 20% personal tax charge.

*The above is only an outline of the anti-forestalling rules and full details are available from HMRC, including the two weblinks quoted above.*

### **From 6 April 2011**

The anti-forestalling rules will have run their course and a new set of rules will take over which are currently subject to consultation until 3 March 2010. In outline:

- individuals with taxable income less than £130,000 are not affected (for individuals in this category employer's pension contributions are not counted as income); and
- for everyone else, employer's pension contributions are added to taxable income for the purposes of the new rules, and where this totals £150,000 or more a taper will apply gradually reducing tax relief to basic rate for individuals where the total is £180,000 or more (higher rate for taxable income over £150,000 is 50% from 6 April 2010).