



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 9

PENSION INCOME

CHAPTER 1

INTRODUCTION

565 Structure of Part 9

The structure of this Part is as follows— Chapter 2—

- (a) imposes the charge to tax on pension income, and
- (b) provides for deductions to be made from the amount of income chargeable;

Chapters 3 to 15 set out the types of income which are charged to tax under this Part and, for each type of income, identify—

- (a) the amount of income chargeable to tax for a tax year, and
- (b) the person liable to pay any tax charged;

[^{F1}Chapter 15A makes provision about exemptions and charges in relation to lump sums under registered pension schemes; Chapters 17 and 18 deal with other] exemptions from the charge to tax (whether under this Part or any other provision).

Textual Amendments

- F1** Words in s. 565 substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 2](#) (with [Sch. 36](#))

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Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

CHAPTER 2

TAX ON PENSION INCOME

566 Nature of charge to tax on pension income and relevant definitions

- (1) The charge to tax on pension income under this Part is a charge to tax on that income excluding any exempt income.
- (2) “Pension income” means the pensions, annuities and income of other types to which the provisions listed in subsection (4) apply.

This definition applies for the purposes of the Tax Acts.

- (3) “Exempt income” means pension income on which no liability to income tax arises as a result of any provision of Chapters 16 to 18 of this Part.

This definition applies for the purposes of this Part.

- (4) These are the provisions referred to in subsection (2)—

<i>Provision</i>	<i>Income</i>	<i>Chapter (of this Part)</i>
Section 569	United Kingdom pensions	Chapter 3
Section 573	Foreign pensions	Chapter 4
Section 577	United Kingdom social security pensions	Chapter 5
[^{F2} Section 579A	Pensions under registered pension schemes	Chapter 5A]
Section 609	Annuities for the benefit of dependants	Chapter 10
Section 610	Annuities under sponsored superannuation schemes	Chapter 10
Section 611	Annuities in recognition of another’s services	Chapter 10
Section 615	Certain overseas government pensions paid in the United Kingdom	Chapter 11
Section 619	The House of Commons Members' Fund	Chapter 12
^{F3}	^{F3}	^{F3}
...
Section 629	Pre-1973 pensions paid under OPA 1973	Chapter 14
Section 633	Voluntary annual payments	Chapter 15
[^{F4} Section 636B	Pensions treated as arising from payment of trivial commutation lump sums	Chapter 15A

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	and winding-up lump sums under registered pension schemes	
Section 636C	Pensions treated as arising from payment of trivial commutation lump sum death benefits and winding-up lump sum death benefits under registered pension schemes	Chapter 15A]

Textual Amendments

- F2** Words in s. 566(4) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 3\(2\)](#) (with [Sch. 36](#))
- F3** Words in s. 566(4) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 3\(3\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))
- F4** Words in s. 566(4) inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 3\(4\)](#) (with [Sch. 36](#))

567 Amount charged to tax

- (1) The amount of pension income which is charged to tax under this Part for a particular tax year is as follows.
- (2) In relation to each pension, annuity or other item of pension income, the amount charged to tax is the “net taxable pension income” for the tax year.
- (3) The net taxable pension income for a pension, annuity or other item of pension income for a tax year is given by the formula—

TPI- DPI

where—

TPI means the amount of taxable pension income for that pension, annuity or item of pension income for that year (see subsection (4)), and

DPI means the total amount of any deductions allowed from the pension, annuity or item of pension income (see subsection (5)).

- (4) For the purposes of this Act—
 - (a) the amount of taxable pension income for a pension, annuity or other item of pension income for a tax year is determined in accordance with Chapters 3 to [F515A] of this Part (which contain provisions relating to this amount for each type of pension income); and
 - (b) in determining the amount of taxable pension income for a pension, annuity or other item of pension income, any exempt income is to be excluded.
- (5) The deductions allowed from a pension, annuity or other item of pension income are those under—

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section 617 (10% deduction from an overseas government pension to which section 615 applies);

Part 12 (payroll giving).

Textual Amendments

F5 Word in s. 567(4)(a) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 31 para. 4 (with Sch. 36)

568 Person liable for tax

For the provision identifying which person is liable for any tax charged under this Part on a pension, annuity or other item of pension income, see Chapters 3 to [F615A].

Textual Amendments

F6 Word in s. 568 substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), Sch. 31 para. 5 (with Sch. 36)

CHAPTER 3

UNITED KINGDOM PENSIONS: GENERAL RULES

569 United Kingdom pensions

- (1) This section applies to any pension paid by or on behalf of a person who is in the United Kingdom.
- (2) But this section does not apply to a pension if any provision of Chapters 5 to 14 of this Part applies to it.
- (3) For pensions paid by or on behalf of a person who is outside the United Kingdom, see Chapter 4 of this Part.

570 “Pension”: interpretation

In this Chapter “pension” includes a pension which is paid voluntarily or is capable of being discontinued.

571 Taxable pension income

If section 569 applies, the taxable pension income for a tax year is the full amount of the pension accruing in that year irrespective of when any amount is actually paid.

572 Person liable for tax

If section 569 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension.

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CHAPTER 4

FOREIGN PENSIONS: GENERAL RULES

573 Foreign pensions

- (1) This section applies to any pension paid by or on behalf of a person who is outside the United Kingdom to a person who is resident in the United Kingdom.
- (2) But this section does not apply to a pension if any provision of Chapters 5 to 14 of this Part applies to it.
- (3) For pensions paid by or on behalf of a person who is in the United Kingdom, see Chapter 3 of this Part.

574 “Pension”: interpretation

- (1) For the purposes of this Chapter “pension” includes a pension which is paid voluntarily, or is capable of being discontinued, if conditions A and B are met.
- (2) Condition A is that the pension is paid to—
 - (a) a former employee or a former office-holder,
 - (b) the widow or widower [^{F7}or surviving civil partner] of a former employee or a former office-holder, or
 - (c) any child, relative or dependant of a former employee or a former office-holder.
- (3) Condition B is that the pension is paid by or on behalf of—
 - (a) the person—
 - (i) who employed the former employee, or
 - (ii) under whom the former office-holder held the office, or
 - (b) the successors of that person.
- (4) In this section “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders.

Textual Amendments

F7 Words in s. 574(2)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **154**

575 Taxable pension income

- (1) If section 573 applies, the taxable pension income for a tax year is [^{F8}the full amount of the pension income arising in the tax year, but subject to subsections (2) and (3).]
- [^{F9}(2) The full amount of the pension income arising in the tax year is to be calculated on the basis that the pension is 90% of its actual amount, unless as a result of subsection (3) the pension income is charged in accordance with section 832 of ITTOIA 2005 (relevant foreign income charged on the remittance basis).

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(3) That pension income is treated as relevant foreign income for the purposes of Chapters 2 and 3 of Part 8 of that Act (relevant foreign income: remittance basis and deductions and reliefs).

^{F10}(4)

(5) See also Chapter 4 of that Part (unremittable income).]

Textual Amendments

- F8** Words in s. 575(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 606\(2\)](#) (with [Sch. 2](#))
- F9** S. 575(2)-(5) substituted for s. 575(2) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 606\(3\)](#) (with [Sch. 2](#))
- F10** S. 575(4) omitted (with effect in accordance with [Sch. 7 para. 81](#) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 7 para. 45](#)

576 Person liable for tax

If section 573 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension.

CHAPTER 5

UNITED KINGDOM SOCIAL SECURITY PENSIONS

577 United Kingdom social security pensions

(1) This section applies to—
the state pension,
graduated retirement benefit,
industrial death benefit,
widowed mother’s allowance,
widowed parent’s allowance, and
widow’s pension.

^{F11}(1A) But this section does not apply to any social security pension lump sum (within the meaning of section 7 of [F\(No.2\)A 2005](#)).]

(2) In this section—
“state pension” means any pension payable under—
(a) section 44, 48A, 48B, 48BB, 51 or 78 of [SSCBA 1992](#), or
(b) section 44, [^{F12}48A], 48B, 48BB, 51 or 78 of [SSCB\(NI\)A 1992](#);
“graduated retirement benefit” means any benefit payable under—
(a) section 36 or 37 of the [National Insurance Act 1965 \(c. 51\)](#), or
(b) section 35 or 36 of the [National Insurance Act \(Northern Ireland\) 1966 \(c. 6 \(N.I.\)\)](#);
“industrial death benefit” means any benefit payable under—
(a) section 94 of, and Part 6 of Schedule 7 to, [SSCBA 1992](#), or

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- (b) section 94 of, and Part 6 of Schedule 7 to, SSCB(NI)A 1992;
“widowed mother’s allowance” means any allowance payable under—
- (a) section 37 of SSCBA 1992, or
- (b) section 37 of SSCB(NI)A 1992;
“widowed parent’s allowance” means any allowance payable under—
- (a) section 39A of SSCBA 1992, or
- (b) section 39A of SSCB(NI)A 1992;
“widow’s pension” means any pension payable under—
- (a) section 38 of SSCBA 1992, or
- (b) section 38 of SSCB(NI)A 1992.

^{F13}(3)

- (4) Chapter 17 of this Part provides a partial exemption for a pension to which this section applies in respect of any part of the pension which is attributable to an increase in respect of a child (see section 645).

Textual Amendments

- F11** S. 577(1A) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), **s. 10(2)**
- F12** Word in s. 577(2) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), **Sch. 17 para. 9(4)(a)**
- F13** S. 577(3) repealed (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), **Sch. 17 para. 9(4)(b)**, **Sch. 42 Pt. 2(12)**

578 Taxable pension income

If section 577 applies, the taxable pension income for a tax year is the full amount of the pension, benefit or allowance accruing in that year irrespective of when any amount is actually paid.

579 Person liable for tax

If section 577 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension, benefit or allowance.

^{F14}CHAPTER 5A

PENSIONS UNDER REGISTERED PENSION SCHEMES

Textual Amendments

- F14** Pt. 9 Ch. 5A inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), **Sch. 31 para. 6** (with **Sch. 36**)

Modifications etc. (not altering text)

- C1** Pt. 9 Ch. 5A restricted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 36 para. 43(2)** (with s. 283(5), **Sch. 36**)
- C2** Pt. 9 Ch. 5A modified (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 36 paras. 44, 45** (with s. 283(5), **Sch. 36**)

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579A Pensions

- (1) This section applies to any pension under a registered pension scheme (but subject to subsection (2)).
- (2) This section does not apply to a pension under a registered pension scheme if and to the extent that, when it is paid, a liability to the unauthorised payments charge arises in respect of the amount of the payment (see section 208 of FA 2004).

Modifications etc. (not altering text)

- C3** S. 579A applied (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **41**

579B Taxable pension income

If section 579A applies, the taxable pension income for a tax year is the full amount of the pension under the registered pension scheme that accrues in that year irrespective of when any amount is actually paid.

579C Person liable for tax

If section 579A applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension under the registered pension scheme.

579D Interpretation

In this Chapter “pension under a registered pension scheme” includes—

- (a) an annuity under, or purchased with sums or assets held for the purposes of, or representing acquired rights under, a registered pension scheme, and
- (b) income withdrawal or dependants' income withdrawal under a registered pension scheme.

In paragraph (b) “income withdrawal” and “dependants' income withdrawal” have the meaning given by paragraphs 7 and 21 of Schedule 28 to FA 2004.]

^{F15}CHAPTER 6

APPROVED RETIREMENT BENEFITS SCHEMES

Textual Amendments

- F15** Pt. 9 Ch. 6 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), Sch. 31 para. 7, [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

Pensions and annuities

580 Pensions and annuities

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581 Taxable pension income

.....

582 Person liable for tax

.....

Unauthorised payments

583 Unauthorised payments

.....

584 Taxable pension income

.....

585 Person liable for tax

.....

Interpretation etc.

586 Meaning of “retirement benefits scheme” etc.

.....

587 Application to marine pilots' benefit fund

.....

588 Meaning of “employee”, “former civil partner and “ex-spouse”

.....

589 Regulations

.....

^{F17}CHAPTER 7

FORMER APPROVED SUPERANNUATION FUNDS

Textual Amendments

F17 Pt. 9 Ch. 7 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), Sch. 31 para. 7, [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

Status: Point in time view as at 21/07/2008.

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Annuities

590 Annuities

.....

591 Taxable pension income

.....

592 Person liable for tax

.....

Unauthorised payments

593 Unauthorised payments: application of section 583

.....

Interpretation

594 Meaning of “former approved superannuation fund”

.....

^{F18}CHAPTER 8

APPROVED PERSONAL PENSION SCHEMES

Textual Amendments

F18 Pt. 9 Ch. 8 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), Sch. 31 para. 7, [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

Annuities

595 Annuities

.....

596 Taxable pension income

.....

597 Person liable for tax

.....

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Income withdrawals

598 Income withdrawals

.....

599 Taxable pension income

.....

600 Person liable for tax

.....

Unauthorised personal pension payments

601 Unauthorised personal pension payments

.....

602 Taxable pension income

.....

603 Person liable for tax

.....

Interpretation

604 Meaning of “personal pension scheme” and related expressions

.....

^{F19}CHAPTER 9

RETIREMENT ANNUITY CONTRACTS

Textual Amendments

F19 Pt. 9 Ch. 9 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), Sch. 31 para. 7, [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

605 Annuities

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606 Meaning of “retirement annuity contract”

.....

607 Taxable pension income

.....

608 Person liable for tax

.....

CHAPTER 10

OTHER EMPLOYMENT-RELATED ANNUITIES

609 Annuities for the benefit of dependants

- (1) This section applies to any annuity which was granted for consideration consisting in whole or in part of sums which satisfied the conditions for relief under section 273 of ICTA^[F20] or section 459 of ITA 2007] (obligatory contributions to secure an annuity for the benefit of dependants).
- (2) But this section applies to an annuity which arises from a source outside the United Kingdom only if it is paid to a person resident in the United Kingdom.

Textual Amendments

F20 Words in s. 609(1) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 441](#) (with [Sch. 2](#))

610 Annuities under [^{F21}non-registered occupational pension] schemes

- (1) This section applies to—
 - (a) any annuity paid under [^{F22}an occupational pension scheme that is not a registered pension scheme], and
 - (b) any annuity acquired using funds held for the purposes of [^{F23}such an occupational pension scheme].
- (2) But this section applies to an annuity which arises from a source outside the United Kingdom only if it is paid to a person resident in the United Kingdom.
- (3) This section does not apply to an annuity to which [^{F24}Chapter 5A] of this Part applies.

^{F25}(4) In this section “occupational pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(5) of that Act).]

Textual Amendments

F21 Words in s. 610 heading substituted (6.4.2006) by [Finance Act 2004 \(c. 12\), s. 284\(1\), Sch. 31 para. 8\(5\)](#) (with [Sch. 36](#))

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- F22** Words in s. 610(1)(a) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), **Sch. 31 para. 8(2)(a)** (with Sch. 36)
- F23** Words in s. 610(1)(b) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), **Sch. 31 para. 8(2)(b)** (with Sch. 36)
- F24** Words in s. 610(3) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), **Sch. 31 para. 8(3)** (with Sch. 36)
- F25** S. 610(4) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), **Sch. 31 para. 8(4)** (with Sch. 36)

611 Annuities in recognition of another’s services

- (1) This section applies to any annuity purchased by any person in recognition of another person’s services in any office or employment.
- (2) But this section applies to an annuity which arises from a source outside the United Kingdom only if it is paid to a person resident in the United Kingdom.
- (3) This section does not apply to an annuity to which [^{F26}Chapter 5A] of this Part applies.
- (4) For the purposes of this section “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders.

Textual Amendments

- F26** Words in s. 611(3) substituted (6.4.2006) by Finance Act 2004 (c. 12), s. 284(1), **Sch. 31 para. 9** (with Sch. 36)

612 Taxable pension income: UK annuities

- (1) The taxable pension income for an annuity to which section 609, 610 or 611 applies is determined in accordance with this section if the annuity arises from a source in the United Kingdom.
- (2) The taxable pension income for a tax year is the full amount of the annuity arising in that year.

613 Taxable pension income: foreign annuities

- (1) The taxable pension income for an annuity to which section 609, 610 or 611 applies is determined in accordance with this section if the annuity arises from a source outside the United Kingdom.
- (2) The taxable pension income for a tax year is [^{F27}the full amount of the annuity arising in the tax year, but subject to subsections (3) and (4).]
- [^{F28}(3) The full amount of the annuity arising in the tax year is to be calculated on the basis that the annuity is 90% of its actual amount, unless as a result of subsection (4) the annuity is charged in accordance with section 832 of ITTOIA 2005 (relevant foreign income charged on the remittance basis).

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- (4) The annuity is treated as relevant foreign income for the purposes of Chapters 2 and 3 of Part 8 of that Act (relevant foreign income: remittance basis and deductions and reliefs).
- (5) But if the annuity arises in the Republic of Ireland, section 839 of that Act (annual payments payable out of relevant foreign income) applies with the omission of condition B and subsection (5)(a).
- (6) See also Chapter 4 of that Part (unremittable income).]

Textual Amendments

- F27** Words in s. 613(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 607\(2\)](#) (with Sch. 2)
- F28** S. 613(3)-(6) substituted for s. 613(3)(4) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 607\(3\)](#) (with Sch. 2)

614 Person liable for tax

If section 609, 610 or 611 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the annuity.

CHAPTER 11

CERTAIN OVERSEAS GOVERNMENT PENSIONS PAID IN THE UK

615 Certain overseas government pensions paid in the United Kingdom

- (1) This section applies to a pension if conditions A, B and C are met.
- (2) Condition A is that the pension—
 - (a) is payable—
 - (i) to a person who has been employed in overseas government service, or
 - (ii) to the widow, widower, [^{F29}surviving civil partner,] child, relative or dependant of a person who has been employed in overseas government service, and
 - (b) is payable in respect of that service.
- (3) Condition B is that the pension—
 - (a) is payable in the United Kingdom, and
 - (b) is payable to a person who is resident in the United Kingdom.
- (4) Condition C is that the pension is payable by or on behalf of the government of—
 - (a) a country which forms part of Her Majesty's dominions,
 - (b) any other country which is for the time being mentioned in Schedule 3 to the British Nationality Act 1981 (c. 61), or
 - (c) any territory under Her Majesty's protection.

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- (5) But condition C is not met if the pension is payable out of the public revenue of the United Kingdom or Northern Ireland.
- (6) In condition A the references to a person being employed in overseas government service are to the person being employed outside the United Kingdom—
- (a) in the service of the Crown, or
 - (b) in service under the government of a country or territory which falls within subsection (4).
- (7) In this Chapter “pension” includes a pension which is paid voluntarily or is capable of being discontinued.

Textual Amendments

F29 Words in s. 615(2)(a)(ii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **158**

616 Taxable pension income

If section 615 applies, the taxable pension income for a tax year is the full amount of the pension accruing in that year irrespective of when any amount is actually paid.

617 Deduction allowed from taxable pension income

A deduction of 10% is allowed from an amount of taxable pension income determined under section 616 (see section 567).

618 Person liable for tax

If section 615 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension.

CHAPTER 12

HOUSE OF COMMONS MEMBERS' FUND

619 The House of Commons Members' Fund

This section applies to any periodical payment granted out of—

- (a) the House of Commons Members' Fund,
- (b) sums appropriated from that Fund, or
- (c) income from sums appropriated from that Fund.

620 Meaning of “House of Commons Members' Fund”

In this Chapter “House of Commons Members' Fund” means the fund with that name established by section 1 of the House of Commons Members' Fund Act 1939 (c. 49).

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

621 Taxable pension income

If section 619 applies, the taxable pension income for a tax year is the total amount of the payments made in that year.

622 Person liable for tax

If section 619 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the payments.

^{F30}**CHAPTER 13**

RETURN OF SURPLUS EMPLOYEE ADDITIONAL VOLUNTARY CONTRIBUTIONS

Textual Amendments

F30 Pt. 9 Ch. 13 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), Sch. 31 para. 10, [Sch. 42 Pt. 3](#) (with [Sch. 36](#) and with further transitional provisions in [S.I. 2006/572](#), [arts. 1\(1\)](#), 38(3))

623 Return of surplus employee additional voluntary contributions

.....

624 Taxable pension income

.....

625 Person liable for tax

.....

626 Income tax treated as paid

.....

627 Meaning of “grossing up”

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628 Interpretation

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Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

CHAPTER 14

PRE-1973 PENSIONS PAID UNDER THE OVERSEAS PENSIONS ACT 1973

629 Pre-1973 pensions paid under the Overseas Pensions Act 1973

- (1) This section applies to a pension if—
 - (a) it is paid under section 1 of OPA 1973 (whether or not paid out of a fund established under a scheme made under that section),
 - (b) it is a pre-1973 pension, and
 - (c) it is paid to—
 - (i) the original pensioner, or
 - (ii) the widow or widower of the original pensioner.
- (2) But this section does not apply to a part of a pension which is paid because the Pensions (Increase) Act 1971 (c. 56) applies to it (and accordingly section 569 applies to that part of the pension).
- (3) Chapter 18 of this Part provides an exemption where a pension to which this section applies is paid to a person who is not resident in the United Kingdom (see sections 647 and 651).

630 Interpretation

- (1) For the purposes of this Chapter a person is the “original pensioner” in relation to a pension if—
 - (a) the pension is payable by virtue of the person’s service, and
 - (b) the person retired from that service before 6th April 1973.
- (2) For the purposes of this Chapter a pension is a “pre-1973 pension” if, immediately before 6th April 1973—
 - (a) the pension was payable to—
 - (i) the original pensioner, or
 - (ii) the widow or widower of the original pensioner, and
 - (b) that person was resident in the United Kingdom.

631 Taxable pension income

- (1) If section 629 applies, the taxable pension income for a tax year is [^{F31}the full amount of the pension income arising in the tax year] .
- [^{F32}(2) The full amount of the pension income arising in the tax year is to be calculated on the basis that the pension is 90% of its actual amount.
- (3) The pension income is treated as relevant foreign income for the purposes of section 838 of that Act (expenses attributable to collection or payment of relevant foreign income).]

Textual Amendments

- F31** Words in s. 631(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 608\(2\)](#) (with [Sch. 2](#))

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F32 S. 631(2)(3) substituted for s. 631(2) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005](#) (c. 5), s. 883(1), [Sch. 1 para. 608\(3\)](#) (with [Sch. 2](#))

632 Person liable for tax

If section 629 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension.

CHAPTER 15

VOLUNTARY ANNUAL PAYMENTS

633 Voluntary annual payments

- (1) This section applies to an annual payment which—
 - (a) is paid voluntarily, or
 - (b) is capable of being discontinued,
 if conditions A and B are met.
- (2) Condition A is that the payment is paid to—
 - (a) a former employee or a former office-holder,
 - (b) the widow or widower [^{F33}or surviving civil partner] of a former employee or former office-holder, or
 - (c) any child, relative or dependant of a former employee or a former office-holder.
- (3) Condition B is that the payment is paid by or on behalf of—
 - (a) the person—
 - (i) who employed the former employee, or
 - (ii) under whom the former office-holder held the office, or
 - (b) the successors of that person.
- (4) But this section applies to a payment which is paid by or on a behalf of a person who is outside the United Kingdom only if it is paid to a person resident in the United Kingdom.
- (5) In this section “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders.

Textual Amendments

F33 Words in s. 633(2)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005](#) (S.I. 2005/3229), regs. 1(1), [159](#)

634 Taxable pension income: UK voluntary annual payments

- (1) The taxable pension income for payments to which section 633 applies is determined in accordance with this section if the payments are made by or on behalf of a person who is in the United Kingdom.

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The taxable pension income for a tax year is the full amount of the payments accruing in that year irrespective of when any amount is actually paid.

635 Taxable pension income: foreign voluntary annual payments

- (1) The taxable pension income for payments to which section 633 applies is determined in accordance with this section if the payments are made by or on behalf of a person who is outside the United Kingdom.
- (2) The taxable pension income for a tax year is [^{F34}the full amount of the pension income arising in the tax year, but subject to subsections (3) and (4)] .
- [^{F35}(3) The full amount of the pension income arising in the tax year is to be calculated on the basis that the pension is 90% of its actual amount, unless as a result of subsection (4) the pension income is charged in accordance with section 832 of ITTOIA 2005 (relevant foreign income charged on the remittance basis).
- (4) That pension income is treated as relevant foreign income for the purposes of Chapters 2 and 3 of Part 8 of that Act (relevant foreign income: remittance basis and deductions and reliefs).
- (5) But if that pension income arises in the Republic of Ireland, section 839 of that Act (annual payments payable out of relevant foreign income) applies with the omission of condition B and subsection (5)(a).
- (6) See also Chapter 4 of that Part (unremittable income).]

Textual Amendments

- F34** Words in s. 635(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 609\(2\)](#) (with [Sch. 2](#))
- F35** S. 635(3)-(6) substituted for s. 635(3) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 609\(3\)](#) (with [Sch. 2](#))

636 Person liable for tax

If section 633 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the payment.

[^{F36}CHAPTER 15A

LUMP SUMS UNDER REGISTERED PENSION SCHEMES

Textual Amendments

- F36** Pt. 9 Ch. 15A inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 11](#) (with [Sch. 36](#))

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

636A Exemption for certain lump sums under registered pension schemes

- (1) No liability to income tax arises on a lump sum paid under a registered pension scheme if the lump sum is—
- (a) a pension commencement lump sum,
 - (b) a serious ill-health lump sum,
 - (c) a refund of excess contributions lump sum,
 - (d) a defined benefits lump sum death benefit, [^{F37} or]
 - (e) an uncrystallised funds lump sum death benefit, ^{F38} ...
 - ^{F38}(f)
- (2) But subsection (1) does not limit the operation of sections 214 to 226 of FA 2004 (lifetime allowance charge).
- (3) A short service refund lump sum under a registered pension scheme is subject to income tax in accordance with section 205 of FA 2004 (charge to tax on scheme administrator in respect of such a lump sum) but not otherwise.
- (4) A lump sum under a registered pension scheme which is—
- (a) a pension protection lump sum death benefit,
 - (b) an annuity protection lump sum death benefit, or
 - (c) an unsecured pension fund lump sum death benefit,
- is subject to income tax in accordance with section 206 of FA 2004 (charge to tax on scheme administrator in respect of such lump sum death benefits) but not otherwise.
- [In the case of a registered pension scheme which is a split scheme for the purposes ^{F39}(4A) of the Registered Pensions Schemes (Splitting of Schemes) Regulations 2006, subsections (3) and (4) shall have effect as if the references to the scheme administrator were to the sub-scheme administrator (within the meaning of those Regulations).]
- (5) A lifetime allowance excess lump sum is chargeable to income tax in accordance with sections 214 to 226 of FA 2004 (lifetime allowance charge) but not otherwise.
- (6) In this section—
- “lifetime allowance excess lump sum”,
“pension commencement lump sum”,
“refund of excess contributions lump sum”,
“serious ill-health lump sum”, and
“short service refund lump sum”,
have the same meaning as in section 166 of FA 2004 (see Part 1 of Schedule 29 to that Act).
- (7) In this section—
- “annuity protection lump sum death benefit”,
“defined benefits lump sum death benefit”,
“pension protection lump sum death benefit”,
^{F40} ...
“uncrystallised funds lump sum death benefit”, and
“unsecured pension fund lump sum death benefit”,
have the same meaning as in section 168 of FA 2004 (see Part 2 of Schedule 29 to that Act).

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F37** Word in s. 636A(1)(d) inserted (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), **Sch. 19 para. 28(2)(a)**
- F38** S. 636A(1)(f) and word repealed (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 28\(2\)\(b\)](#), **Sch. 27 Pt. 3(1)**
- F39** S. 636A(4A) inserted by 2004 c. 12, Sch. 31 para. 11 (as amended (6.4.2006) by [The Registered Pension Schemes \(Splitting of Schemes\) Regulations 2006 \(S.I. 2006/569\)](#), [regs. 1\(1\)](#), **5(1)(2)**)
- F40** Words in s. 636A(7) repealed (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 28\(3\)](#), **Sch. 27 Pt. 3(1)**

Modifications etc. (not altering text)

- C4** S. 636A(1) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [arts. 1\(1\)](#), **6**, [7\(1\)\(2\)](#)
- C5** S. 636A(7) modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [arts. 1\(1\)](#), **6**, [7\(1\)\(3\)](#)

636B Trivial commutation and winding-up lump sums

- (1) This section applies if—
- a trivial commutation lump sum, or
 - a winding-up lump sum,
- is paid to a member of a registered pension scheme under the pension scheme.
- (2) The member is to be treated as having taxable pension income for the tax year in which the payment is made equal to the amount of the lump sum.
- (3) But if, immediately before the lump sum is paid, the member [^{F41}has uncrystallised rights (within the meaning of section 212 of FA 2004) under any one or more arrangements under the pension scheme, the amount of the taxable pension income—
- if all his rights under the pension scheme are uncrystallised rights, is 75% of the lump sum, and
 - otherwise, is reduced by 25% of the value of the uncrystallised rights calculated in accordance with that section.]
- (4) In this section—
- “trivial commutation lump sum”, and
- “winding-up lump sum”,
- have the same meaning as in section 166 of FA 2004 (see Part 1 of Schedule 29 to that Act).

Textual Amendments

- F41** Words in s. 636B(3) substituted (6.4.2006) by [Finance Act 2005 \(c. 7\)](#), **Sch. 10 paras. 59**, [64\(1\)](#)

Modifications etc. (not altering text)

- C6** S. 636B modified (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), [arts. 1\(1\)](#), **37**
- C7** S. 636B applied (with modifications) (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 36 para. 35(4)** (with s. 283(5), [Sch. 36](#))

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

636C Trivial commutation and winding-up lump sum death benefits

- (1) This section applies if—
 - (a) a trivial commutation lump sum death benefit, or
 - (b) a winding-up lump sum death benefit,
 is paid to a person under a registered pension scheme.
- (2) The person is to be treated as having taxable pension income for the tax year in which the payment is made equal to the amount of the lump sum.
- (3) In this section—

“trivial commutation lump sum death benefit”, and
 “winding-up lump sum death benefit”,
 have the same meaning as in section 168 of FA 2004 (see Part 2 of Schedule 29 to that Act).]

F42 CHAPTER 16

EXEMPTION FOR CERTAIN LUMP SUMS

Textual Amendments

F42 Pt. 9 Ch. 16 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), Sch. 31 para. 12, [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

637 Exemption for lump sums provided under certain pension schemes etc.

.....

CHAPTER 17

EXEMPTIONS: ANY TAXPAYER

638 Awards for bravery

- (1) No liability to income tax arises on a pension or annuity if it is paid to the holder of an award for bravery in respect of the award.
- (2) In this section “award for bravery” means—
 - the Victoria Cross,
 - the George Cross,
 - the Albert Medal,
 - the Edward Medal,
 - the Military Cross,
 - the Distinguished Flying Cross,
 - the Distinguished Conduct Medal,
 - the Conspicuous Gallantry Medal,
 - the Distinguished Service Medal,

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the Military Medal,
the Distinguished Flying Medal.

639 Pensions in respect of death due to military or war service

- [^{F43}(1)] No liability to income tax arises on these pensions and allowances—
- (a) a pension or allowance payable by or on behalf of [^{F44}the Ministry of Defence] under so much of [^{F45}instrument specified in subsection (2),] as relates to death due to—
 - (i) service in the armed forces of the Crown,
 - (ii) wartime service in the merchant navy, or
 - (iii) war injuries;
 - (b) a pension or allowance—
 - (i) payable by the Ministry of Defence in respect of death due to peacetime service in the armed forces of the Crown before 3rd September 1939, and
 - (ii) payable at rates, and subject to conditions, similar to those of a pension within paragraph (a);
 - (c) a pension or allowance—
 - (i) payable under the law of a country other than the United Kingdom, and
 - (ii) of a character substantially similar to a pension within paragraph (a) or (b).

- [^{F46}(2) The instruments referred to in subsection (1)(a) are—
- Defence (Local Defence Volunteers) Regulations 1940 (S.R. & O. 1940/748),
 - War Pensions (Coastguards) Scheme 1944 (S.R. & O. 1944/500),
 - War Pensions (Naval Auxiliary Personnel) Scheme 1964 (S.I. 1964/1985),
 - Pensions (Polish Forces) Scheme 1964 (S.I. 1964/2007),
 - War Pensions (Mercantile Marine) Scheme 1964 (S.I. 1964/2058),
 - Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard (1964 Cmnd. 2563),
 - Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard after 27th April 1952 (1964 Cmnd. 2564),
 - Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Ulster Defence Regiment (1971 Cmnd. 4567),
 - Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686),
 - Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883).

- (3) The Treasury may by order amend subsection (2).]

Textual Amendments

- F43** S. 639 renumbered as s. 639(1) (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(8\)](#)
F44 Words in s. 639(a) substituted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(a\)\(8\)](#)
F45 Words in s. 639(a) substituted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(b\)\(8\)](#)

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F46 S. 639(2)(3) inserted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(8\)](#)

640 Exemption under section 639 where income withheld

- (1) This section applies if—
- (a) an individual is entitled to both of the following—
 - (i) a pension or allowance mentioned in section 639 (“pension A”), and
 - (ii) any other pension or allowance (“pension B”), and
 - (b) the whole or a part of pension A is withheld because of the individual’s entitlement to pension B.
- (2) In such a case, an amount of pension B equal to the withheld amount of pension A is treated for the purposes of section 639 as part of pension A.

[^{F47}640A Lump sums provided under armed forces early departure scheme

No liability to income tax arises on a lump sum provided under a scheme established by the Armed Forces Early Departure Payments Scheme Order 2005 (S.I. 2005/437).]

Textual Amendments

F47 S. 640A inserted (with effect in accordance with s. 19(9) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 19\(5\)](#)

641 Wounds and disability pensions

- (1) No liability to income tax arises on—
- (a) a wounds pension granted to a member of the armed forces of the Crown;
 - (b) retired pay of a disabled officer granted on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
 - (c) a disablement or disability pension granted to a member of the armed forces of the Crown, other than a commissioned officer, on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
 - (d) a disablement pension granted to a person who has been employed in the nursing services of any of the armed forces of the Crown on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
 - ^{F48}(e)
 - (f) an injury or disablement pension payable under any War Risks Compensation Scheme for the Mercantile marine;
 - (g) a pension—
 - (i) granted to a person on account of disablement, and
 - (ii) payable under any scheme made under section 3, 4 or 5 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (c. 83).
 - [^{F49}(h) a benefit under a scheme established by an order under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 payable to a person by reason of his illness or injury—
 - (i) by way of a lump sum, or

Status: Point in time view as at 21/07/2008.

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- (ii) following the termination of the person's service in the armed forces or reserve forces.]
- (2) But if the Secretary of State certifies that a pension or retired pay of a kind listed in subsection (1) is only partly attributable to disablement or disability, that subsection applies only to the part attributable to disablement or disability.

Textual Amendments

F48 S. 641(1)(e) repealed (21.7.2008) by [Statute Law \(Repeals\) Act 2008 \(c. 12\)](#), [Sch. 1 Pt. 1](#) Group 4

F49 S. 641(1)(h) inserted (with effect in accordance with s. 19(9) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 19\(6\)](#)

642 Compensation for National-Socialist persecution

No liability to income tax arises on a pension or annuity which is payable under any special provision for victims of National-Socialist persecution which is made by the law of—

- (a) the Federal Republic of Germany or any part of it, or
- (b) Austria.

643 Malawi, Trinidad and Tobago and Zambia government pensions

- (1) No liability to income tax arises on—
 - (a) a Malawi government pension,
 - (b) a Trinidad and Tobago government pension, or
 - (c) a Zambia government pension,
 if conditions A, B and C are met.
- (2) Condition A is that the pension is paid to—
 - (a) the original pensioner, or
 - (b) the widow or widower [^{F50}or surviving civil partner] of the original pensioner.
- (3) Condition B is that the pension is now paid under section 1 of OPA 1973 (whether or not it is paid out of a fund established under a scheme made under that section).
- (4) Condition C is that, at the time the pension is paid, provision is made by double taxation relief arrangements which would exempt the pension from income tax in the United Kingdom if the pension were still paid by the relevant government (rather than under section 1 of OPA 1973).
- (5) Subsection (1) does not apply to any part of a pension which is paid because the Pensions (Increase) Act 1971 (c. 56) applies to it.
- (6) In this section—

“double taxation relief arrangements” means arrangements specified in an Order in Council making any such provisions as are referred to in section 788 of ICTA;

“Malawi government pension” means a pension payable by the government of Malawi for services rendered—

 - (a) to the government of Malawi, or

Status: Point in time view as at 21/07/2008.

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- (b) to the government of the Federation of Rhodesia and Nyasaland,
in the discharge of government functions;

“Trinidad and Tobago government pension” means a pension payable by the government of Trinidad and Tobago for services rendered to the government of Trinidad and Tobago in the discharge of governmental functions;

“Zambia government pension” means a pension payable by the government of Zambia for services rendered—

- (a) to the government of Zambia,
(b) to the government of Northern Rhodesia, or
(c) to the government of the Federation of Rhodesia and Nyasaland,
in the discharge of governmental functions.

- (7) For the purposes of this section a person is the “original pensioner” in relation to a pension if—
(a) the pension is payable by virtue of the person’s service, and
(b) the person retired from that service before 6th April 1973.

Textual Amendments

F50 Words in s. 643(2)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **160**

644 Pensions payable where employment ceased due to disablement

- (1) No liability to income tax arises on the exempt amount of a disablement pension.
(2) For the purposes of this section a pension is a “disablement pension” if—
(a) the pension is payable because a person has ceased to hold an employment or office because of disablement, and
(b) that disablement is attributable to—
(i) performance of the duties of the employment or office, or
(ii) war injuries.

But “disablement pension” does not include any pension to which section [^{F51}579A] applies.

- (3) The exempt amount of a disablement pension is determined in accordance with the following steps.

Step 1

Determine what pension would have been payable if—

- (a) the person had ceased to hold the employment or office because of the disablement mentioned in subsection (2)(a), but
(b) the disablement had not been attributable to—
(i) performance of the duties of the employment or office, or
(ii) war injuries.

Step 2

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

If no pension would have been payable, the exempt amount is the amount of the disablement pension.

If a pension of a smaller amount than the disablement pension would have been payable, the exempt amount is the amount by which the disablement pension exceeds the smaller amount.

In any other case, the exempt amount is nil.

- (4) For the purposes of this section “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders.

Textual Amendments

F51 Word in s. 644(2) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), [Sch. 31 para. 13](#) (with [Sch. 36](#))

^{F52}644A Health and employment insurance payments

- (1) No liability to income tax arises in respect of a pension or annuity payment if or to the extent that—
- were the payment an annual payment falling within Chapter 7 of Part 5 of ITTOIA 2005, it would be exempt from income tax under section 735 of that Act (health and employment insurance payments), and
 - it meets conditions A and B.
- (2) Condition A is that the payments are made—
- to a person (“the pensioner”) who made payments or contributions in respect of premiums under an insurance policy which another person took out wholly or partly for the pensioner's benefit, or
 - to the pensioner's [^{F53}spouse or civil partner] .
- (3) Condition B is that the payments are attributable on a just and reasonable basis to the payments or contributions in respect of premiums.]

Textual Amendments

F52 S. 644A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 610](#) (with [Sch. 2](#))

F53 Words in s. 644A(2)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [161](#)

645 Social security pensions: increases in respect of children

- (1) No liability to income tax arises on a part of a social security pension which is attributable to an increase in respect of a child.
- (2) In this section “social security pension” means—
- any pension, benefit or allowance to which section 577 applies, and
 - any pension, benefit or allowance which—

Status: Point in time view as at 21/07/2008.

Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) is payable under the law of a country or territory outside the United Kingdom, and
- (ii) is substantially similar in character to a pension, benefit or allowance to which section 577 applies.

646 Former miners etc: coal and allowances in lieu of coal

- (1) No liability to income tax arises on—
 - (a) the provision of coal or smokeless fuel—
 - (i) to a former colliery worker, or
 - (ii) to the widow or widower [^{F54}or surviving civil partner] of a former colliery worker, or
 - (b) any allowance paid to such a person in lieu of such provision, if the condition in subsection (2) is met.
- (2) That condition is that the amount of coal or fuel provided or in respect of which the allowance is paid does not substantially exceed the amount reasonably required for personal use.
- (3) That condition is assumed to be met unless the contrary is shown.
- (4) In this section “former colliery worker” means—
 - (a) any person who has ceased to be employed as a coal miner, or
 - (b) any other person who has ceased to be employed at or about a colliery otherwise than in clerical, administrative or technical work.

Textual Amendments

F54 Words in s. 646(1)(a)(ii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **162**

[^{F55}646A Foreign pensions of consular employees

- (1) No liability to income tax arises in respect of foreign pension income of a consular officer or employee in the United Kingdom for a foreign state if—
 - (a) Her Majesty by Order in Council directs that this section applies to the foreign state for the purpose of giving effect to a reciprocal arrangement with that state, and
 - (b) the officer or employee meets conditions A to C.
- (2) Condition A is that the officer or employee is not—
 - (a) a British citizen,
 - (b) a British overseas territories citizen,
 - (c) a British National (Overseas), or
 - (d) a British Overseas citizen.
- (3) Condition B is that the officer or employee is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as a consular officer or employee of the state in question.
- (4) Condition C is that the officer or employee—

Status: Point in time view as at 21/07/2008.

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- (a) is a permanent employee of that state, or
 - (b) was not ordinarily resident in the United Kingdom immediately before becoming a consular officer or employee in the United Kingdom of that state.
- (5) In this section—
- “consular officer or employee” includes any person employed for the purposes of the official business of a consular officer at—
 - (a) any consulate,
 - (b) any consular establishment, or
 - (c) any other premises used for those purposes,
 - “foreign pension income” means—
 - (a) income to which section 573 or 629 applies, and
 - (b) income arising from a source outside the United Kingdom to which section 609, 610, 611 or 633 applies; and
 - “reciprocal agreement” has the same meaning as in section 302.
- (6) Section 302(5) to (7) apply to an Order under subsection (1) and the operation of this section as they apply to an Order under section 302(1) and the operation of section 302.]

Textual Amendments

F55 S. 646A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 611](#) (with [Sch. 2](#))

CHAPTER 18

EXEMPTIONS: NON-UK RESIDENT TAXPAYERS

647 Introduction and meaning of “foreign residence condition” etc.

- (1) The provisions of this Part provide that no liability to income tax arises on certain kinds of pensions if the foreign residence condition is met.
- (2) The foreign residence condition is met in relation to a pension if the pension is payable to a person who is not resident in the United Kingdom.
- (3) For the purposes of the foreign residence condition, a person is taken to be not resident in the United Kingdom only if—
 - (a) a person makes a claim to [^{F56}the Commissioners for Her Majesty’s Revenue and Customs] that the person is not resident, and
 - (b) the [^{F57}Commissioners][^{F58}are] satisfied that the person is not resident.
- (4) In this Chapter “pension” includes—
 - (a) a gratuity or any sum payable on or in respect of death,
 - (b) a return of contributions, and
 - (c) any interest or other addition included in a return of contributions.

Status: Point in time view as at 21/07/2008.

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Textual Amendments

- F56** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F57** Word in s. 647 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(3\)\(h\)](#); S.I. 2005/1126, art. 2(2)(h)
- F58** Word in s. 647(3)(b) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 116](#); S.I. 2005/1126, art. 2(2)(h)

648 The Central African Pension Fund

- (1) No liability to income tax arises on a pension which is paid from the Central African Pension Fund if the foreign residence condition is met.
- (2) In this section “the Central African Pension Fund” means the fund established under that name by section 24 of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963 (S.I. 1963/2085).

649 Commonwealth government pensions

- (1) No liability to income tax arises on a pension paid out of a fund which is established—
 - (a) in the United Kingdom,
 - (b) by a Commonwealth government,
 - (c) for the sole purpose of providing pensions payable in respect of service under that government,
 if the foreign residence condition is met.
- (2) In this section “Commonwealth government” means—
 - (a) the government of a territory or country mentioned in subsection (3),
 - (b) the government of any part of a territory or country mentioned in subsection (3), or
 - (c) a government constituted for two or more of the territories or countries mentioned in subsection (3).
- (3) The territories and countries referred to in subsection (2) are—
 - (a) a country mentioned in Schedule 3 to the British Nationality Act 1981 (c. 61) apart from Australia, Canada, New Zealand, India, Sri Lanka and Cyprus,
 - (b) an associated state,
 - (c) a British overseas territory,
 - (d) a protectorate,
 - (e) a protected state, and
 - (f) a United Kingdom trust territory.
- (4) In subsection (2)(c) the reference to a government constituted for two or more of the territories or countries mentioned in subsection (3) includes a reference to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more of those territories or countries.

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- (5) In subsection (3)(f) “United Kingdom trust territory” means a territory administered by the government of the United Kingdom under the trusteeship system of the United Nations.

650 Oversea Superannuation Scheme

- (1) No liability to income tax arises on a pension which is paid under the Oversea Superannuation Scheme (formerly known as the Colonial Superannuation Scheme) if the foreign residence condition is met.
- (2) For the purposes of subsection (1) a pension is paid under the Oversea Superannuation Scheme if—
- (a) the pension is paid under the Scheme as it has effect (by reason of section 2(4A) of OPA 1973) as a scheme under section 2 of OPA 1973, or
 - (b) the pension is paid under a scheme which—
 - (i) the Secretary of State has made under section 2(1) of OPA 1973, and
 - (ii) corresponds to the Oversea Superannuation Scheme.

651 Overseas Pensions Act 1973

- (1) No liability to income tax arises on a pension which is paid under section 1 of OPA 1973 if the foreign residence condition is met.
- (2) Subsection (1) applies whether or not the pension is paid out of a fund established under a scheme made under section 1 of OPA 1973.
- (3) But subsection (1) does not apply to any part of a pension paid because the Pensions (Increase) Acts apply to it.
- (4) In this section “the Pensions (Increase) Acts” means—
- (a) the Pensions (Increase) Act 1971 (c. 56), and
 - (b) any Act passed after that Act for purposes which correspond to the purposes of that Act.

652 Overseas Service Act 1958

- (1) No liability to income tax arises on a pension—
- (a) which is paid under the authority of the Overseas Service Act 1958 (c. 14), and
 - (b) which the Secretary of State certifies to be attributable to the employment of a person in the public services of an overseas territory,
- if the foreign residence condition is met.
- (2) If the Secretary of State certifies that only part of a pension paid under the authority of the 1958 Act is attributable to the employment of a person in the public services of an overseas territory, subsection (1) applies only to that part of the pension.
- (3) For the purposes of subsections (1) and (2) a pension is paid under the authority of the 1958 Act if condition A or B is met.
- (4) Condition A is that the pension is paid under either of the following—
- (a) an order made under section 2 of the 1958 Act, or
 - (b) section 4(2) of the 1958 Act,

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as it has effect (by reason of section 2(3) of OPA 1973) as a scheme under section 2 of OPA 1973.

- (5) Condition B is that the pension is paid under a scheme which the Secretary of State—
- (a) has made under section 2(1) of OPA 1973, and
 - (b) has certified to correspond to—
 - (i) an order made under section 2 of the 1958 Act, or
 - (ii) section 4(2) of the 1958 Act.
- (6) For the purposes of this section, a person is taken to be employed in the public service of an overseas territory at any time when—
- (a) the person is employed in any capacity under the government of that territory, or under any municipal or other local authority in it,
 - (b) the person is employed in circumstances not falling within paragraph (a), by a body corporate established for any public purpose in that territory by an enactment of a legislature empowered to make laws for that territory, or
 - (c) the person is the holder of a public office in that territory in circumstances not falling within paragraph (a) or (b).
- (7) In subsection (6) references to the government of an overseas territory include references to—
- (a) a government constituted for two or more overseas territories, and
 - (b) any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such territories.
- (8) In this section—
- “the 1958 Act” means the Overseas Service Act 1958 (c. 14);
 - “certified” means certified for the purposes of ICTA 1970, ICTA or this Act.

653 Overseas Service Pensions Fund

- (1) No liability to income tax arises on a pension which is paid out of the Overseas Service Pensions Fund if the foreign residence condition is met.
- (2) In this section “the Overseas Service Pensions Fund” means the fund with that name established under section 7(1) of the Overseas Aid Act 1966 (c. 21).
- (3) In this section “pension” includes not only the things mentioned in section 647(4) but also any sum payable in respect of ill-health.

654 The Pensions (India, Pakistan and Burma) Act 1955

- (1) No liability to income tax arises on a pension paid under the authority of the Pensions (India, Pakistan and Burma) Act 1955 (c. 22) if the foreign residence condition is met.
- (2) A pension is paid under the authority of the 1955 Act if—
 - (a) the pension is paid under the 1955 Act as it has effect (by reason of section 2(3) of OPA 1973) as a scheme under section 2 of OPA 1973, or
 - (b) the pension is paid under a scheme which the Secretary of State—
 - (i) has made under section 2(1) of OPA 1973, and
 - (ii) has certified to correspond to the provision made under the 1955 Act.

Status: Point in time view as at 21/07/2008.

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- (3) This section does not apply to any part of a pension paid because the Pensions (Increase) Acts apply to it.
- (4) In this section—
- “the 1955 Act” means the Pensions (India, Pakistan and Burma) Act 1955 (c. 22);
 - “certified” means certified for the purposes of ICTA 1970, ICTA or this Act;
 - “the Pensions (Increase) Acts” means—
 - (a) the Pensions (Increase) Act 1971 (c. 56), and
 - (b) any Act passed after that Act for purposes which correspond to the purposes of that Act.

Status:

Point in time view as at 21/07/2008.

Changes to legislation:

Income Tax (Earnings and Pensions) Act 2003, Part 9 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.