



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 9

PENSION INCOME

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,
 - the Military Medal,
 - the Distinguished Flying Medal.

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

[^{F1}(1)] No liability to income tax arises on these pensions and allowances—

- (a) a pension or allowance payable by or on behalf of [^{F2}the Ministry of Defence] under so much of [^{F3}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).

[^{F4}(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

- F1** S. 639 renumbered as s. 639(1) (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(8\)](#)
- F2** Words in s. 639(a) substituted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(a\)\(8\)](#)
- F3** Words in s. 639(a) substituted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(b\)\(8\)](#)
- F4** S. 639(2)(3) inserted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(8\)](#)

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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.

[^{F5}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

- F5** 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;
 - (e) an injury or disablement pension payable under any scheme made under—
 - (i) the Injuries in War (Compensation) Act 1914 (c. 30), or
 - (ii) the Injuries in War (Compensation) Act 1914 (Session 2) (5 & 6 Geo. 5 c. 18);
 - (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).
 - [^{F6}(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—

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- (i) by way of a lump sum, or
 - (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

F6 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 [^{F7}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

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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

F7 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 [^{F8}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

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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

- F8** 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](#))

[^{F9}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 [^{F10}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

- F9** 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](#))
- F10** 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—

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- (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 [^{F11}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

F11 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**

[^{F12}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—

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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

F12 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](#))

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