



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 9

#### PENSION INCOME

#### 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.

[<sup>F1</sup>(2A) This section does not apply to pension within section 574(1)(ba) if—

- (a) the pension is paid in respect of a deceased member of a pension scheme who had not reached the age of 75 at the date of death, and
- (b) no pension payments to the person entitled to the pension were made before 6 April 2015 in respect of the deceased member out of any of the following—
  - (i) the fund from which the pension is paid, and
  - (ii) any fund represented (to any extent) by that fund.

(2B) This section does not apply to pension within section 574(1)(bb) if the pension is paid in respect of a deceased individual who had not reached the age of 75 at the date of death.

(2C) Subsection (2A) is subject to subsection (2D).

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- (2D) This section does apply to pension within section 574(1)(ba) paid in respect of a deceased member of a pension scheme who had not reached the age of 75 at the date of death if the pension is paid in respect of sums or assets held for the purposes of the pension scheme under which the pension is paid (“the paying scheme”) that would, if the paying scheme were a registered pension scheme, be sums or assets—
- (a) representing unused uncrystallised funds (within the meaning of paragraph 27E(4) and (5) of Schedule 28 to FA 2004) in the deceased member's case, and
  - (b) designated on or after 6 April 2015 as available for the payment of dependants' drawdown pension or nominees' drawdown pension, but
  - (c) not so designated before the end of the period of two years beginning with the earlier of the day on which the scheme manager of the paying scheme first knew of the member's death and the day on which the scheme manager could first reasonably have been expected to have known of it.]
- [<sup>F2</sup>(2E) Chapter 17 of this Part provides exemptions for certain annuities (see sections 646D and 646E: certain beneficiaries' annuities purchased out of unused or drawdown funds).
- (2F) See also paragraph 45A of Schedule 36 to FA 2004 (exemption in certain cases for payments on or after 6 April 2015 to beneficiaries under joint-life or similar annuities purchased before 6 April 2006).]
- (3) For pensions paid by or on behalf of a person who is in the United Kingdom, see Chapter 3 of this Part.

#### Textual Amendments

- F1** S. 573(2A)-(2D) inserted (with effect in accordance with Sch. 2 para. 25(7) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 25\(2\)](#)
- F2** S. 573(2E)(2F) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 4 para. 20](#)

## 574 “Pension”: interpretation

- [<sup>F3</sup>(1) For the purposes of this Chapter “pension” includes—
- (a) an annuity under, or purchased with sums or assets held for the purposes of, or representing acquired rights under, a relevant non-UK scheme or an overseas pension scheme,
  - (b) an amount paid under a relevant non-UK scheme or an overseas pension scheme which, if the scheme were a registered pension scheme, would be income withdrawal <sup>F4</sup>... (within the meaning of [<sup>F5</sup>paragraph 7] of Schedule 28 to FA 2004),
- [<sup>F6</sup>(ba) an amount paid under a relevant non-UK scheme or an overseas pension scheme which, if the scheme were a registered pension scheme, would be dependants' income withdrawal or nominees' income withdrawal (within the meaning of paragraphs 21 and 27D of Schedule 28 to FA 2004),
- (bb) an amount paid under a relevant non-UK scheme or an overseas pension scheme which, if the scheme were a registered pension scheme, would be successors' income withdrawal (within the meaning of paragraph 27J of Schedule 28 to FA 2004).] and
  - (c) if conditions A and B are met, a pension which is paid voluntarily or is capable of being discontinued.]

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- (2) Condition A is that the pension is paid to—
- (a) a former employee or a former office-holder,
  - (b) the widow or widower [<sup>F7</sup>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.

[<sup>F8</sup>(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;

“overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act);

“relevant non-UK scheme” is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004.]

#### Textual Amendments

- F3** S. 574(1) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 21\(2\)\(a\)](#)
- F4** Words in s. 574(1)(b) omitted (with effect in accordance with Sch. 2 para. 25(7) of the amending Act) by virtue of [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 25\(3\)\(a\)\(i\)](#)
- F5** Words in s. 574(1)(b) substituted (with effect in accordance with Sch. 2 para. 25(7) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 25\(3\)\(a\)\(ii\)](#)
- F6** S. 574(1)(ba)(bb) inserted (with effect in accordance with Sch. 2 para. 25(7) of the amending Act) by [Taxation of Pensions Act 2014 \(c. 30\)](#), [Sch. 2 para. 25\(3\)\(b\)](#)
- 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](#)
- F8** S. 574(4) substituted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 21\(2\)\(b\)](#)

## 575 Taxable pension income

- (1) If section 573 applies, the taxable pension income for a tax year is [<sup>F9</sup>the full amount of the pension income arising in the tax year, but subject to subsections [<sup>F10</sup>(1A),] (2) and (3) [<sup>F11</sup>and section 576A].]

[<sup>F12</sup>(1A) If the person liable for the tax under this Part is an individual and the tax year is a split year as respects that individual, the taxable pension income for the tax year is the full amount of the pension income arising in the UK part of the year, subject to subsections (2) and (3) and section 576A.]

- [<sup>F13</sup>(2) The full amount of the pension income arising in the tax year [<sup>F14</sup>or, as the case may be, the UK part of 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

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in accordance with section 832 of ITTOIA 2005 (relevant foreign income charged on the remittance basis).

- (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).

<sup>F15</sup>(4) . . . . .

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

#### Textual Amendments

- F9** 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)
- F10** Word in s. 575(1) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 72\(2\)](#)
- F11** Words in s. 575(1) inserted (with effect in accordance with Sch. 16 para. 85 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 16 para. 21\(3\)](#)
- F12** S. 575(1A) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 72\(3\)](#)
- F13** 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)
- F14** Words in s. 575(2) inserted (with effect in accordance with Sch. 45 para. 153(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 72\(4\)](#)
- F15** 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.

### [<sup>F16</sup>576A Temporary non-residents

- (1) This section applies if a person is temporarily non-resident.
- (2) Any relevant withdrawals within subsection (3) are to be treated for the purposes of section 575 as if they arose in the period of return.
- (3) A relevant withdrawal is within this subsection if—
- it is paid to the person in the temporary period of non-residence, and
  - ignoring this section, it is not chargeable to tax under this Part (or would not be if a DTR claim were made in respect of it).
- (4) A “relevant withdrawal” is an amount paid under a relevant non-UK scheme that—
- is paid to the person in respect of a flexible drawdown arrangement relating to the person under the scheme, and
  - would, if the scheme were a registered pension scheme, be “income withdrawal” or “dependants’ income withdrawal” within the meaning of paragraphs 7 and 21 of Schedule 28 to FA 2004.

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- (5) If section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the person for the year of return, any relevant withdrawal within subsection (3) that was remitted to the United Kingdom in the temporary period of non-residence is to be treated as remitted to the United Kingdom in the period of return.
- (6) This section does not apply to a relevant withdrawal if—
- (a) it is paid to or in respect of a relieved member of the scheme and is not referable to the member's UK tax-relieved fund under the scheme, or
  - (b) it is paid to or in respect of a transfer member of the scheme and is not referable to the member's relevant transfer fund under the scheme.
- (7) Nothing in any double taxation relief arrangements is to be read as preventing the person from being chargeable to income tax in respect of any relevant withdrawal treated by virtue of this section as arising in the period of return (or as preventing a charge to that tax from arising as a result).
- (8) Part 4 of Schedule 45 to FA 2013 (statutory residence test: anti-avoidance) explains—
- (a) when a person is to be regarded as “temporarily non-resident”, and
  - (b) what “the temporary period of non-residence” and “the period of return” mean.
- (9) In this section—
- “double taxation relief arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010;
- “DTR claim” means a claim for relief under section 6 of that Act;
- “flexible drawdown arrangement” means an arrangement to which section 165(3A) or 167(2A) of FA 2004 applies;
- “remitted to the United Kingdom” has the same meaning as in Chapter A1 of Part 14 of ITA 2007;
- “the year of return” means the tax year that consists of or includes the period of return.
- (10) The following expressions have the meaning given in Schedule 34 to FA 2004—
- “relevant non-UK scheme” (see paragraph 1(5));
- “relieved member” (see paragraph 1(7));
- “transfer member” (see paragraph 1(8));
- “member's UK tax-relieved fund” (see paragraph 3(2));
- “member's relevant transfer fund” (see paragraph 4(2)).]

#### Textual Amendments

- F16** S. 576A substituted (with effect in accordance with [Sch. 45 para. 153\(3\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 116](#)

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