



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 6

EXEMPT INCOME

CHAPTER 8

OTHER ANNUAL PAYMENTS

Health and employment insurance payments

735 Health and employment insurance payments

- (1) No liability to income tax arises under this Act in respect of an annual payment under an insurance policy if—
 - (a) the payment is a benefit provided under so much of the policy as insures against a health or employment risk (see section 736),
 - (b) no part of any premiums under the policy has been deductible in calculating the income of the insured for income tax purposes, and
 - (c) the conditions in sections 737 and 738 and, so far as applicable, those in sections 739 and 740 are met in relation to the policy.
- (2) Subsection (1)(b) is subject to section 743.
- (3) For the meaning of “the insured”, see sections 742 and 743(2).

736 Health and employment risks and benefits

- (1) For the purposes of sections 735 and 737 to 743, a policy insures against a health risk if it insures against the insured becoming, or becoming in any specified way, subject—

Status: Point in time view as at 13/04/2017.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Health and employment insurance payments. (See end of Document for details)

- (a) to any physical or mental illness, disability, infirmity or defect, or
 - (b) to any deterioration in a condition resulting from any such illness, disability, infirmity or defect.
- (2) For the purposes of sections 735 and 737 to 743, a policy insures against an employment risk if it insures against circumstances arising as a result of which the insured ceases—
- (a) to be employed or hold office, or
 - (b) to carry on any trade, profession or vocation.
- (3) For the purposes of section 735, this section and sections 737 to 743, references to insurance against a risk include insurance providing for benefits payable otherwise than by way of indemnity if the circumstances insured against occur.

737 Period for which payments may be made

- (1) The condition in this section is that the only annual payments provided for by the policy which relate to the health or employment risk it insures against (“the insured risk”) are payments in respect of one or more of the following periods.
- (2) They are—
- (a) a period throughout which an illness, disability, infirmity or defect insured against by the part of the policy relating to the insured risk continues,
 - (b) a period throughout which, in circumstances insured against by the part of the policy relating to the insured risk, the insured is unemployed, does not hold an office or is not carrying on a trade, profession or vocation,
 - (c) a period throughout which, in circumstances insured against by the part of the policy relating to the insured risk, the insured's income is less than it would otherwise have been, and
 - (d) where a period within paragraph (a), (b) or (c) ends with the death of the insured, a period immediately following that period.
- (3) For the purposes of subsection (2)(a), an illness, disability, infirmity or defect is treated as continuing during a period of convalescence or rehabilitation related to it.
- (4) For the purposes of subsection (2)(c), income from the policy is ignored.

738 Risk of significant loss

- (1) The condition in this section is that throughout the period that the policy has contained provisions relating to the health or employment risk those provisions have been such that any policy of insurance which only contained those provisions would involve the possibility that the insurer would make a significant loss on the premiums.
- (2) In determining whether a policy would involve that possibility, any return on the investment of the premiums is to be taken into account.
- (3) For this purpose reinsurance is ignored.

739 Conditions to be met by policies also providing other benefits

- (1) The conditions in this section only apply if the policy provides for the payment of benefits which do not all relate to the health or employment risk.

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- (2) The conditions are that so far as the policy's terms relate to the health or employment risk—
 - (a) they do not differ significantly from what they would have been if the only benefits had been those relating to that risk, and
 - (b) the way in which they are given effect does not differ significantly from the way in which they would have been given effect in that case.
- (3) A difference relating only to the reduction of benefits payable to or in respect of a person because of other benefits being payable to or in respect of the person is to be ignored.
- (4) For the purposes of this section, all the persons for whose benefit the policy provides insurance against the health or employment risk are to be considered.

740 Conditions to be met where policies are linked

- (1) The conditions in this section only apply if—
 - (a) the insured is or has been the insured under one or more other policies (“connected policies”), and
 - (b) each of the connected policies has been in force either—
 - (i) at a time when the policy in question was in force, or
 - (ii) at the time immediately before it was entered into.
- (2) The conditions are that so far as the terms of the policy relate to the health or employment risk—
 - (a) they do not differ significantly from what they would have been if no connected policies had been entered into, and
 - (b) the way in which they are given effect does not differ significantly from the way in which they would have been given effect in that case.
- (3) A difference relating only to the reduction of benefits payable to or in respect of a person under the policy because of benefits being payable to or in respect of the person under any of the connected policies is to be ignored.
- (4) For the purposes of this section, all the persons for whose benefit the policy provides insurance against the health or employment risk are to be considered.

741 Aggregation of policies where employment ends for health reasons

- (1) This section applies if—
 - (a) payments are made to or in respect of a person who has left employment because of the occurrence of something insured against by an employment policy as a health risk,
 - (b) the payments are made under another policy (“the replacement policy”) which was entered into under, or in accordance with, provisions contained in the employment policy,
 - (c) the employment policy has ceased to apply to the person, and
 - (d) the rights in accordance with which the payments are made under the replacement policy superseded rights under the employment policy with effect from the time when that policy ceased to apply to the person.

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- (2) The employment policy and the replacement policy are to be treated as a single policy for the purposes of sections 735 to 738, this section and section 743.
- (3) In this section—
- “employment” includes an office, and “employees” and “employer” are to be read accordingly, and
- “employment policy” means a policy entered into wholly or partly for the benefit of the employees of an employer against a health risk.

742 Meaning of “the insured”

In sections 735 to 737 “the insured” includes—

- (a) the insured's spouse [^{F1}or civil partner] ,
- (b) any child under 21 of the insured or the insured's spouse [^{F1}or civil partner] , and
- (c) any person on whom any liabilities arising from an actual or proposed transaction identified in the policy will fall jointly with the insured or the insured's spouse.

Textual Amendments

- F1** Words in s. 742 inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **198**

743 Policies for the benefit of others who contribute to premiums

- (1) This section applies if—
- (a) a policy of insurance is taken out by one person (“A”) wholly or partly for the benefit of another (“B”),
 - (b) B makes payments or contributions in respect of the premiums, and
 - (c) annual payments under the policy are wholly or partly attributable, on a just and reasonable basis, to the payments or contributions made by B.
- (2) So far as those benefits are so attributable, B is to be treated as the insured in relation to that policy for the purposes of sections 735 to 742.
- (3) So far as those benefits are so attributable, payments or contributions not made by B are ignored for the purposes of section 735(1)(b) (no part of the premiums to have been deductible in calculating the insured's income).

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