



Finance (No.2) Act 1987

1987 CHAPTER 51

PART I

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

PERSONAL PENSION SCHEMES

Miscellaneous

42 Minimum contributions under Social Security Act 1986.

- (1) Where under Part I of the Social Security Act 1986 the Secretary of State pays minimum contributions for the purposes of approved personal pension arrangements, the amount of the employee's share of those contributions shall, instead of being the amount provided for in that Part, be the grossed-up equivalent of the amount so provided for.
- (2) For the purposes of this section—
 - “the employee's share” of minimum contributions is so much of the contributions as is attributable to the percentage mentioned in paragraph (a) of the definition of “rebate percentage” in section 3(3) of the Social Security Act 1986;
 - “the grossed-up equivalent” of an amount is such sum as, after deduction of income tax at the basic rate in force for the year of assessment for which the contributions are paid, is equal to that amount.
- (3) The employee's share of minimum contributions paid for a year of assessment by the Secretary of State for the purposes of approved personal pension arrangements shall be treated for the purposes of income tax—
 - (a) as income for that year of the individual in respect of whom it is paid, and
 - (b) as contributions paid in that year by that individual under those arrangements.

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- (4) The Board may make regulations—
- (a) providing for the recovery by the Secretary of State from the Board, in such circumstances as may be prescribed by the regulations, of any increase attributable to this section in the sums paid by the Secretary of State out of the National Insurance Fund;
 - (b) requiring the Secretary of State to give the Board such information as may be so prescribed about minimum contributions paid by the Secretary of State;
 - (c) prescribing circumstances in which this section or any provision of it shall not apply;
 - (d) making such provision as appears to the Board to be necessary or expedient for the purposes of supplementing the provisions of this section.
- (5) Any payment received by the Secretary of State by virtue of this section shall be paid into the National Insurance Fund.
- (6) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (7) In relation to Northern Ireland, this section shall have effect as if—
- (a) references to the Secretary of State were references to the Department of Health and Social Services for Northern Ireland;
 - (b) references to Part I and section 3(3) of the Social Security Act 1986 were references to Part II and Article 5(3) of the Social Security (Northern Ireland) Order 1986; and
 - (c) references to the National Insurance Fund were references to the Northern Ireland National Insurance Fund.

43 Withdrawal of approval.

- (1) If in the opinion of the Board the facts concerning an approved personal pension scheme or its administration or arrangements made in accordance with it do not warrant the continuance of their approval of the scheme, they may at any time by written notice given to the scheme administrator withdraw their approval of the scheme.
- (2) If in the opinion of the Board the facts concerning any approved personal pension arrangements do not warrant the continuance of their approval in relation to the arrangements, they may at any time by written notice given to the individual who made them and to the scheme administrator withdraw their approval in relation to the arrangements.
- (3) Without prejudice to the generality of subsection (2) above, the Board may withdraw their approval in relation to any personal pension arrangements if they are of the opinion that securing the provision of benefits under the arrangements was not the sole purpose of the individual in making them.
- (4) A notice under subsection (1) or subsection (2) above shall state the grounds on which, and the date from which, approval is withdrawn.
- (5) The Board may not withdraw their approval from a date earlier than the date when the facts were first such that they did not warrant the continuance of their approval (so, however, that in a case within subsection (3) above their approval may be withdrawn from the day the arrangements in question were made).

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44 Tax on unauthorised payments etc.

- (1) This section applies to any payment within subsection (2) below which is made—
 - (a) out of funds which are or have been held for the purposes of a personal pension scheme which is or has at any time been approved, and
 - (b) to or for the benefit of an individual who has made personal pension arrangements in accordance with the scheme.
- (2) A payment is within this subsection if—
 - (a) it is not expressly authorised by the rules of the scheme, or
 - (b) it is made at a time when the scheme or the arrangements are not approved and it would not have been expressly authorised by the rules of the scheme or by the arrangements when the scheme or, as the case may be, the arrangements were last so approved.
- (3) The individual referred to in subsection (1)(b) above, whether or not he is the recipient of the payment, shall be chargeable to tax under Schedule E on the amount of the payment for the year of assessment in which the payment is made.
- (4) This section applies to a transfer of assets or other transfer of money's worth as it applies to a payment, and in relation to such a transfer the reference in subsection (3) above to the amount of the payment shall be read as a reference to the value of the transfer.

45 Relief by deduction from contributions.

- (1) In such cases and subject to such conditions as the Board may prescribe in regulations, relief under section 31 above shall be given in accordance with subsections (2) and (3) below.
- (2) An individual who is entitled to such relief in respect of a contribution may deduct from the contribution when he pays it, and may retain, an amount equal to income tax at the basic rate on the contribution.
- (3) The scheme administrator—
 - (a) shall accept the amount paid after the deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and
 - (b) may recover an amount equal to the deduction from the Board.
- (4) Regulations under this section may make provision for carrying subsections (2) and (3) above into effect and, without prejudice to the generality of that, may—
 - (a) provide for the manner in which claims for the recovery of a sum under subsection (3)(b) may be made;
 - (b) provide for the giving of such information, in such form, as may be prescribed by or under the regulations;
 - (c) provide for the inspection by persons authorised by the Board of books, documents and other records.
- (5) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

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46 Claims for relief.

Except where section 45 above applies, relief under section 31 above in respect of a contribution shall be given only on a claim made for the purpose.

47 Appeals.

- (1) Where the Board—
 - (a) refuse an application by notice under section 19 above, or
 - (b) withdraw an approval by notice under section 43 above,the person to whom the notice is given may appeal to the Special Commissioners against the refusal or, as the case may be, the withdrawal.
- (2) An appeal under this section shall be made by written notice stating the grounds for the appeal and given to the Board before the end of the period of thirty days beginning with the day on which the notice of refusal or withdrawal was given to the appellant.
- (3) On an appeal under this section against the withdrawal of an approval, the Special Commissioners may, instead of allowing or dismissing the appeal, order that the withdrawal shall have effect from a date other than that determined by the Board.
- (4) The bringing of an appeal under this section shall not affect the validity of the decision appealed against pending the determination of the proceedings.

48 Adjustment of relief.

Where relief under section 31 above for any year of assessment is claimed and allowed (whether or not it then falls to be given for that year), and afterwards an assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax is made, there shall also be made such consequential adjustments in the relief allowed or given under section 31 for that or any subsequent year as are appropriate.

49 Exclusion of double relief.

- (1) Where relief under section 31 above is claimed and allowed for any year of assessment in respect of a contribution, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or any subsequent year, nor (in the case of a contribution under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.
- (2) References in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under section 31 above.

50 Information about payments.

- (1) An inspector may give a notice to a scheme administrator requiring him to provide the inspector with—
 - (a) such particulars as the notice may require relating to contributions paid under approved personal pension arrangements made in accordance with the scheme;
 - (b) such particulars as the notice may require relating to payments by way of return of contributions;
 - (c) copies of such accounts as the notice may require.

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- (2) A person to whom a notice is given under this section shall comply with the notice within the period of thirty days beginning with the day on which it is given.

51 Information: penalties.

- (1) A person who knowingly makes a false statement or false representation on making an application under section 19 above or for the purpose of obtaining for himself or any other person any relief from or repayment of tax under this Chapter shall be liable to a penalty not exceeding £500.
- (2) At the end of the first column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information etc.) there shall be added—

“Regulations under section 45 of the Finance (No. 2) Act 1987
Section 50 of that Act”.

- (3) At the end of the second column of that Table there shall be added—

“Regulations under section 45 of the Finance (No. 2) Act 1987”.

52 Remuneration of Ministers and other officers.

- (1) This section applies to any salary—
- (a) payable to the holder of a qualifying office who is also a Member of the House of Commons, and
 - (b) payable for a period in respect of which the holder is not a participant in relation to that office in arrangements contained in the Parliamentary pension scheme but is a participant in relation to his membership of the House of Commons in any such arrangements, or for any part of such a period.
- (2) So much of any salary to which this section applies as is equal to the difference between a Member’s pensionable salary and the salary which (in accordance with any such resolution as is mentioned in subsection (4)(a) below) is payable to him as a Member holding that qualifying office, shall be treated for the purposes of this Chapter as remuneration from the office of Member and not from the qualifying office.

- (3) In this section—

“Member’s pensionable salary” means a Member’s ordinary salary under any resolution of the House of Commons which, being framed otherwise than as an expression of opinion, is for the time being in force relating to the remuneration of Members or, if the resolution provides for a Member’s ordinary salary thereunder to be treated for pension purposes as being at a higher rate, a notional yearly salary at that higher rate;

“qualifying office” means an office mentioned in paragraph (b), (c) or (d) of subsection (2) of section 2 of the Parliamentary and other Pensions Act 1987;

“the Parliamentary pension scheme” has the same meaning as in that Act; and, without prejudice to the power conferred by virtue of paragraph 13 of Schedule 1 to that Act, regulations under section 2 of that Act may make provision specifying the circumstances in which a person is to be regarded for the purposes of this section as being or not being a participant in relation to his membership of the House of

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Commons, or in relation to any office, in arrangements contained in the Parliamentary pension scheme.

- (4) In subsection (3) above “a Member’s ordinary salary”, in relation to any resolution of the House of Commons, means—
- (a) if the resolution provides for salary to be paid to Members at different rates according to whether or not they are holders of particular offices, or are in receipt of salaries or pensions as the holders or former holders of particular offices, a Member’s yearly salary at the higher or highest rate; and
 - (b) in any other case, a Member’s yearly salary at the rate specified in or determined under the resolution.

53 Contributions under unapproved arrangements.

Where contributions are paid by an employer under personal pension arrangements made by his employee then, if those arrangements are not approved arrangements and the contributions are not otherwise chargeable to income tax as income of the employee, the contributions shall be regarded for all the purposes of the Income Tax Acts as emoluments of the employment chargeable to tax under Schedule E.

54 Retirement annuities.

- (1) Nothing in Chapter III of Part IX of the Taxes Act shall apply in relation to—
- (a) a contract made or trust scheme established on or after 4th January 1988, or
 - (b) a person by whom contributions are first paid on or after that date under a trust scheme established before that date.
- (2) For the year 1987–88 and subsequent years of assessment the Taxes Act shall have effect with the substitution of the following section for section 228—

“228 Amount of relief for persons over fifty.

In the case of an individual whose age at the beginning of a year of assessment is within a range specified in the first column of the following table, section 227(1A) above shall have effect for that year with the substitution for 175 per cent. of the relevant percentage specified in the second column.

51 to 55	20 per cent.
56 to 60	225 per cent.
61 or more	275 per cent.”.

- (3) Subject to subsection (5) below, the terms of a contract made, or the rules of a trust scheme established, on or after 17th March 1987 and before 4th January 1988 and approved by the Board under section 226 of the Taxes Act shall have effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to the individual by whom the contract is made, or an individual paying contributions under the scheme, of a lump sum exceeding £150,000 or such other sum as may for the time being be specified in an order under section 23(4) above.
- (4) Subject to subsection (6) below, the rules of a trust scheme established before 17th March 1987 and approved by the Board under section 226 of the Taxes Act shall have

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effect (notwithstanding anything in them to the contrary) as if they did not allow the payment to any person first paying contributions under the scheme on or after 17th March 1987 of a lump sum such as is mentioned in subsection (3) above.

- (5) Subsection (3) above shall not apply—
- (a) to a contract if, before the end of January 1988, the persons by and to whom premiums are payable under it jointly give written notice to the Board that subsection (3) is not to apply, or
 - (b) to a scheme if, before the end of January 1988, the trustees or other persons having the management of the scheme give written notice to the Board that subsection (3) is not to apply;

and where notice is given to the Board under this subsection, the contract or scheme shall, with effect from the date with effect from which it was approved, cease to be approved.

- (6) Subsection (4) above shall not apply in the case of any person paying contributions under a scheme if, before the end of January 1988, he and the trustees or other persons having the management of the scheme jointly give written notice to the Board that subsection (4) is not to apply; and where notice is given to the Board under this subsection, the scheme shall cease to be approved in relation to the contributor with effect from the date on which he first paid a contribution under it or (if later) the date with effect from which it was approved.

55 Transitional provisions: general.

- (1) Where approved personal pension arrangements are made by an individual who pays qualifying premiums within the meaning of section 226(1)(b) of the Taxes Act—
- (a) the amount that may be deducted or set off by virtue of section 31 above in any year of assessment shall be reduced by the amount of any qualifying premiums which are paid in the year by the individual and in respect of which relief is given for the year under section 227 of the Taxes Act; and
 - (b) the relief which, by virtue of section 227A of the Taxes Act, may be given under section 227 by reference to the individual's unused relief for any year shall be reduced by the amount of any contributions paid by him in that year under the approved personal pension arrangements.
- (2) Where an individual elects under section 33 above that a contribution or part of a contribution shall be treated as paid in the year of assessment 1984–85, 1985–86 or 1986–87, the payment shall be treated as the payment of a qualifying premium for the purposes of Chapter III of Part IX of the Taxes Act; and in such a case references in section 33 to an amount of unused relief shall be construed in accordance with section 227A of that Act.
- (3) The references in section 34 above to unused relief for any year are, for years of assessment before 1987–88, references to unused relief within the meaning of section 227A of the Taxes Act.

56 Transitional provisions: approvals.

- (1) The Board may grant or refuse an application for approval of a personal pension scheme under section 19 above at any time on or after 1st August 1987, but they shall not grant an application so as to approve a scheme with effect from a date earlier than 4th January 1988.

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- (2) The Board may by regulations make provision for applications for approval of personal pension schemes to be granted provisionally in cases where the applications are made before 1st August 1989, notwithstanding that the Board have not satisfied themselves that the schemes comply with the requirements of sections 20 to 30 above; and such regulations may, in particular, provide—
- (a) for the contents and form of certificates or other documents which the Board may require the applicant to give them before they grant an application provisionally;
 - (b) for the making of such amendments of the rules of the scheme after the provisional grant of an application as are necessary to enable the scheme to comply with the requirements of sections 20 to 30 above, and for those amendments to have effect as from the date of approval of the scheme;
 - (c) for the withdrawal of approval of the scheme as from that date if it does not comply with the requirements of sections 20 to 30 above and such amendments as are mentioned in paragraph (b) above are not made;
- and may make such supplementary provision as appears to the Board to be necessary or expedient.
- (3) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

57 Minor and consequential amendments.

Schedule 2 to this Act (which makes minor and consequential amendments to certain enactments relating to retirement annuities etc.) shall have effect.