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Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

CHAPTER I

RETIREMENT BENEFIT SCHEMES

Modifications etc. (not altering text)

C1 Pt. 14 Ch. 1 (ss. 590-612) modified (31.3.1995) by [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#), ss. 18, 19(4), 31(2); S.I. 1995/631, art. 2

Approval of schemes

590 Conditions for approval of retirement benefit schemes.

- (1) ^{M1}Subject to section 591, the Board shall not approve any retirement benefits scheme for the purposes of this Chapter unless the scheme satisfies all of the conditions set out in subsection (2) below.
- (2) ^{M2}The conditions are—
 - (a) that the scheme is bona fide established for the sole purpose of providing relevant benefits in respect of service as an employee, being benefits payable to, or to the widow, [^{F1}widower], children or dependants or personal representatives of, the employee;
 - (b) that the scheme is recognised by the employer and employees to whom it relates, and that every employee who is, or has a right to be, a member of the scheme has been given written particulars of all essential features of the scheme which concern him;

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- (c) that there is a person resident in the United Kingdom who will be responsible for the discharge of all duties imposed on the administrator of the scheme under this Chapter;
 - (d) that the employer is a contributor to the scheme;
 - (e) that the scheme is established in connection with some trade or undertaking carried on in the United Kingdom by a person resident in the United Kingdom;
 - (f) that in no circumstances, whether during the subsistence of the scheme or later, can any amount be paid by way of repayment of an employee's contributions under the scheme.
- (3) ^{M3}Subject to subsection (1) above, the Board shall approve a retirement benefits scheme for the purposes of this Chapter if the scheme satisfies all the conditions of this subsection, that is to say—
- (a) that any benefit for an employee is a pension on retirement at a specified age not earlier than 60 [^{F2}and not later than 75], which does not exceed one-sixtieth of the employee's final remuneration for each year of service up to a maximum of 40;
 - (b) that any benefit for any widow [^{F3}or widower] of an employee is a pension payable on his death after retirement such that the amount payable to the widow [^{F3}or widower] by way of pension does not exceed two-thirds of any pension or pensions payable to the employee;
 - (c) that no other benefits are payable under the scheme;
 - (d) that no pension is capable in whole or in part of surrender, commutation or assignment, except in so far as the scheme allows an employee on retirement to obtain, by commutation of his pension, a lump sum or sums not exceeding in all three-eighths of his final remuneration (*disregarding any excess of that remuneration over the permitted maximum*) ^{F4} for each year of service up to a maximum of 40.
 - [^{F5}(e) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of pension in respect of service in any one of them may not, when aggregated with any amount payable by way of pension in respect of service in the other or others, exceed the relevant amount;
 - (f) that, in the case of any employee who is a member of the scheme by virtue of two or more relevant associated employments, the amount payable by way of commuted pension in respect of service in any one of them may not, when aggregated with any amount payable by way of commuted pension in respect of service in the other or others, exceed the relevant amount;
 - (g) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of pension under the scheme may not, when aggregated with any amount payable by way of pension under the other scheme or schemes, exceed the relevant amount;
 - (h) that, in the case of any employee in relation to whom the scheme is connected with another scheme which is (or other schemes each of which is) an approved scheme, the amount payable by way of commuted pension may not, when aggregated with any amount payable by way of commuted pension under the other scheme or schemes, exceed the relevant amount.]
- (4) The conditions set out in subsections (2) and (3) above are in this Chapter referred to as “the prescribed conditions”.

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[^{F6}(4A) In subsection (3)(c) above “benefits” does not include any benefits for whose payment the scheme makes provision in pursuance of any obligation imposed by legislation relating to social security.]

^{F7}(5)

^{F7}(6)

[^{F8}(7) Subsections (8) to (10) below apply where the Board are considering whether a retirement benefits scheme satisfies or continues to satisfy the prescribed conditions.

(8) For the purpose of determining whether the scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions, that scheme shall be considered in conjunction with—

- (a) any other retirement benefits scheme (or schemes) which relates (or relate) to employees of that class or description and which is (or are) approved for the purposes of this Chapter,
- (b) any other retirement benefits scheme (or schemes) which relates (or relate) to employees of that class or description and which is (or are) at the same time before the Board in order for them to decide whether to give approval for the purposes of this Chapter,
- (c) any section 608 scheme or schemes relating to employees of that class or description, and
- (d) any relevant statutory scheme or schemes relating to employees of that class or description.

(9) If those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of the scheme mentioned in subsection (7) above (as well as the other or others).

(10) If those conditions are not satisfied in the case of both or all of those schemes taken together, they shall not be taken to be satisfied in the case of the scheme mentioned in subsection (7) above.

(11) The reference in subsection (8)(c) above to a section 608 scheme is a reference to a fund to which section 608 applies.]

Textual Amendments

F1 1988(F) s.35 and Sch.3 para.18 on and after 6 April 1990.

F2 Words in s. 590(3)(a) substituted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), 34(2)(4)

F3 1988(F) s.35 and Sch.3 para.18 on and after 6 April 1990.

F4 [S. 590\(3\)\(e\)-\(h\)](#) substituted for words in s. 590(3) by [Finance Act 1989 \(c. 26\)](#), s. 75, Sch. 6 paras. 3(3), **18(2)** in respect of schemes not approved before 27 July 1989 (not applicable to certain employees of pre 14 March 1989 schemes). Previously: “ In paragraph (d) above “ the permitted maximum” means £100,000 or such other sum as may for the time being be specified in an order made by the Treasury.”; and those words in s. 590(3) (as originally enacted) amended (6.4.2005) by [The Retirement Benefits Schemes \(Increase in Permitted Maximum in Transitional Cases\) Order 2005 \(S.I. 2005/723\)](#), **art. 2**

F5 [S. 590\(3\)\(e\)-\(h\)](#) substituted for words in s. 590(3) by [Finance Act 1989 \(c. 26\)](#), s. 75, Sch. 6 paras. 3(3), **18(2)** in respect of schemes not approved before 27 July 1989 (not applicable to certain employees of pre 14 March 1989 schemes). Previously: "In paragraph (d) above "the permitted maximum" means £100,000 or such other sum as may for the time being be specified in an order made by the Treasury."; and those words in s. 590(3) (as originally enacted) amended (6.4.2005) by [The](#)

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Retirement Benefits Schemes (Increase in Permitted Maximum in Transitional Cases) Order 2005 (S.I. 2005/723), **art. 2**

- F6** S. 590(4A) inserted by Finance Act 1991 (c. 31, SIF 63:1), **s. 34(3)(4)**
- F7** S. 590(5)(6) repealed (*retrospectively*) by Finance Act 1991 (c. 31, SIF 63:1), ss. 36(2)(3), 123, **Sch. 19, Pt. V, Note 8**
- F8** 1989 s.75 and Sch.6 paras.3(4) and 18(3)—to have effect where a determination is made on or after 27 July 1989. *Previously*
“(7) For the purpose of determining whether a retirement benefits scheme, so far as it relates to a particular class or description of employees, satisfies or continues to satisfy the prescribed conditions—(a) that scheme shall be considered in conjunction with any other retirement benefits scheme or schemes relating to employees of that class or description, and (b) if those conditions are satisfied in the case of both or all of those schemes taken together, they shall be taken to be satisfied in the case of each of them, but otherwise those conditions shall be taken to be satisfied in the case of none of them.”.

Marginal Citations

- M1** Source-1970(F) s.19(1); 1971 s.21(2)
- M2** Source-1970(F) s.19(2)
- M3** Source-1970(F) s.19(2A), (2B); 1971 s.21(3); 1987 (No.2) Sch.3 1

[^{F9}590A Section 590: supplementary provisions.

- (1) For the purposes of section 590(3)(e) and (f) two or more employments are relevant associated employments if they are employments in the case of which—
 - (a) there is a period during which the employee has held both or all of them,
 - (b) the period counts under the scheme in the case of both or all of them as a period in respect of which benefits are payable, and
 - (c) the period is one during which both or all of the employers in question are associated.
- (2) For the purposes of section 590(3)(g) and (h) the scheme is connected with another scheme in relation to an employee if—
 - (a) there is a period during which he has been the employee of two persons who are associated employers,
 - (b) the period counts under both schemes as a period in respect of which benefits are payable, and
 - (c) the period counts under one scheme by virtue of service with one employer and under the other scheme by virtue of service with the other employer.
- (3) For the purposes of subsections (1) and (2) above, employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person.
- (4) In subsection (3) above the reference to control, in relation to a body corporate, shall be construed—
 - (a) where the body corporate is a close company, in accordance with section 416, and
 - (b) where it is not, in accordance with section 840.]

Textual Amendments

- F9** Ss. 590A-590C inserted by Finance Act 1989 (c. 26), s. 75, Sch. 6 paras. 4, **18(4)**

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590B Section 590: further supplementary provisions.

- (1) For the purposes of section 590(3)(e) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{AyC}{60}$$

- (2) For the purposes of section 590(3)(f) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3yAyC}{80}$$

- (3) For the purposes of section 590(3)(g) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{ByC}{60}$$

- (4) For the purposes of section 590(3)(h) the relevant amount, in relation to an employee, shall be found by applying the following formula—

$$\frac{3yByC}{80}$$

- (5) For the purposes of this section A is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of the scheme at the time the benefits in respect of service in the employment become payable.
- (6) But where the same year (or part of a year) counts for the purposes of the scheme by virtue of more than one of the relevant associated employments it shall be counted only once in calculating the aggregate number of years service for the purposes of subsection (5) above.
- (7) For the purposes of this section B is the aggregate number of years service (expressing parts of a year as a fraction), subject to a maximum of 40, which, in the case of the employee, count for the purposes of any of the following—
- (a) the scheme, and
 - (b) the other scheme or schemes with which the scheme is connected in relation to him,
- at the time the benefits become payable.
- (8) But where the same year (or part of a year) counts for the purposes of more than one scheme it shall be counted only once in calculating the aggregate number of years service for the purpose of subsection (7) above.

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- (9) For the purposes of this section C is the permitted maximum in relation to the year of assessment in which the benefits in question become payable, that is, the figure found for that year by virtue of subsections (10) and (11) below.
- (10) For the years 1988-89 and 1989-90 the figure is £60,000.
- (11) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [^{F10}to (5A)].

Textual Amendments

F10 Words in s. 590B(11) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

590C Earnings cap.

- (1) In arriving at an employee's final remuneration for the purposes of section 590(3)(a) or (d), any excess of what would be his final remuneration (apart from this section) over the permitted maximum for the year of assessment in which his participation in the scheme ceases shall be disregarded.
- (2) In subsection (1) above "the permitted maximum", in relation to a year of assessment, means the figure found for that year by virtue of subsections (3) and (4) below.
- (3) For the years 1988-89 and 1989-90 the figure is £60,000.
- (4) For any subsequent year of assessment the figure is also £60,000, subject to [^{F11}subsections (5) and (5A)] below.
- (5) If the retail prices index for the month of [^{F12}September] preceding a year of assessment falling within subsection (4) above is higher than it was for the previous [^{F12}September], the figure for that year shall be an amount arrived at by—
- (a) increasing the figure for the previous year of assessment by the same percentage as the percentage increase in the retail prices index, and
 - (b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.
- [^{F13}(5A) If the retail prices index for the month of September preceding a year of assessment falling within subsection (4) above is not higher than it was for the previous September, the figure for that year shall be the same as the figure for the previous year of assessment.]
- (6) The Treasury shall in the year of assessment 1989-90, and in each subsequent year of assessment, make an order specifying the figure which is by virtue of this section the figure for the following year of assessment.

Textual Amendments

F11 Words in s. 590C(4) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(5)(8)

F12 Word in s. 590C(5) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(4)(8)

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F13 S. 590C(5A) inserted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(5)(8)

Modifications etc. (not altering text)

- C2** S. 590C amended (1990-91) by S.I. 1990/679, art. 2
S. 590C amended (1991-92) by S.I. 1991/734, art. 2
S. 590C amended (1992-93) by S.I. 1992/624, art. 2
S. 590C amended (1993-94) by 1993 c. 34, s.106 (in place of S.I. 1993/757, art. 2)
S. 590C amended (1994-95) by S.I. 1993/2950, art. 2
S. 590C amended (1995-96) by S.I. 1994/3009, art. 2
S. 590C amended (1996-97) by S.I. 1995/3034, art. 2
S. 590C amended (1997-98) by S.I. 1996/2951, art. 2
S. 590C amended (1998-99) by S.I. 1998/758, art. 2
S. 590C amended (1999-2000) by S.I. 1999/592, art. 2
S. 590C amended (2000-01) by S.I. 2000/807, art. 2
S. 590C amended (2001-02) by S.I. 2001/637, art. 2
S. 590C amended (2002-03) by S.I. 2002/700, art. 2
S. 590C amended (2003-04) by S.I. 2003/843, art. 2
S. 590C amended (2004-05) by S.I. 2004/773, art. 2
S. 590C amended (2005-06) by S.I. 2005/720, art. 2
- C3** S. 590C(1) applied (31.3.1995) by Judicial Pensions and Retirement Act 1993 (c. 8), ss. 3(3)(a)(b), 31(2); S.I. 1995/631, art. 2

591 Discretionary approval.

- (1)^{M4}The Board may, if they think fit having regard to the facts of a particular case, and subject to such conditions, if any, as they think proper to attach to the approval, approve a retirement benefits scheme for the purposes of this Chapter notwithstanding that it does not satisfy one or more of the prescribed conditions; but this subsection has effect subject to subsection (5) below.
- (2)^{M5}The Board may in particular approve by virtue of this section a scheme—
- (a) which exceeds the limits imposed by the prescribed conditions as respects benefits for less than 40 years; or
 - (b) which provides pensions for the widows of employees on death in service, or for the children or dependants of employees; or
 - (c) which provides on death in service a lump sum of up to four times the employee's final remuneration (exclusive of any refunds of contributions); or
 - (d) which allows benefits to be payable on retirement within ten years of the specified age, or on earlier incapacity; or
 - (e) which provides for the return in certain contingencies of employees' contributions; or
 - (f) which relates to a trade or undertaking carried on only partly in the United Kingdom and by a person not resident in the United Kingdom; or
 - (g) which provides in certain contingencies for securing relevant benefits [^{F14} falling within subsection (2A) below] (but no other benefits) by means of an annuity contract ^{F15}. . . made with an insurance company of the employee's choice; or
 - (h) to which the employer is not a contributor and which provides benefits additional to those provided by a scheme to which he is a contributor.

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- [^{F16}(2A) Relevant benefits fall within this subsection if they correspond with benefits that could be provided by an approved scheme, and for this purpose—
- (a) a hypothetical scheme (rather than any particular scheme) is to be taken, and
 - (b) benefits provided by a scheme directly (rather than by means of an annuity contract) are to be taken.]
- [^{F17}(3) In subsection (2)(g) above “insurance company” has the meaning given by section 659B.]
- (4) ^{M6}In applying this section to a scheme which was in existence on 6th April 1980, the Board shall exercise their discretion, in such cases as appear to them to be appropriate, so as to preserve—
 - (a) benefits earned or rights arising out of service before 6th April 1980; and
 - (b) any rights to death-in-service benefits conferred by rules of the scheme in force on 26th February 1970.
 - (5) ^{M7}The Board shall not approve a scheme by virtue of this section if to do so would be inconsistent with regulations made [^{F18}by the Board] for the purposes of this section.
 - (6) Regulations made [^{F18}by the Board] for the purposes of this section may restrict the Board’s discretion to approve a scheme by reference to the benefits provided by the scheme, the investments held for the purposes of the scheme, the manner in which the scheme is administered or any other circumstances whatever.

Textual Amendments

- F14** Words in s. 591(2)(g) inserted (with application in accordance with s. 107(4) of the amending Act) by Finance Act 1994 (c. 9), s. 107(2)(a)
- F15** Words in s. 591(2)(g) repealed (with application in accordance with s. 107(4) of the repealing Act) by Finance Act 1994 (c. 9), s. 107(2)(b), Sch. 26 Pt. 5(12), Note 2
- F16** S. 591A(2A) inserted (with application in accordance with s. 107(4) of the amending Act) by Finance Act 1994 (c. 9), s. 107(3)
- F17** S. 591(3) substituted (with application in accordance with s. 60(1) of the amending Act) by Finance Act 1995 (c. 4), s. 59(2)
- F18** 1988(F) s.146and Sch.13 para.6 (*deemed always to have had effect*).And see S.I. 1987 No.412 (in Part III Vol.5)regn.2— “*The Pension Scheme Surpluses (Valuation)Regulations 1989*”.

Modifications etc. (not altering text)

- C4** S. 591 restricted (5.8.1991) by S.I. 1991/1614, reg. 3

Marginal Citations

- M4** Source-1970(F) s.20(1); 1987 (No.2) Sch.3 3(2)
- M5** Source-1970(F) s.20(2); 1971 s.21(4); 1981 s.32; 1987 (No.2) Sch.3 3(3), (4)
- M6** Source-1970(F) s.20(3); 1987 Sch.15 3
- M7** Source-1970(F) s.20(4), (5); 1987 (No.2) Sch.3 3(5)

[591A ^{F19}Effect on approved schemes of regulations under section 591.

- (1) Subsection (2) below applies where on or after 17th April 1991 regulations are made for the purposes of section 591 (“section 591 regulations”) which contain provisions restricting the Board’s discretion to approve a retirement benefits scheme by reference

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to any circumstances other than the benefits provided by the scheme (“relevant provisions”).

- (2) Any retirement benefits scheme approved by the Board by virtue of section 591 before the day on which the section 591 regulations come into force shall cease to be approved by virtue of that section at the end of the period of 36 months beginning with that day if at the end of that period the scheme—
- (a) contains a provision of a prohibited description, or
 - (b) does not contain a provision of a required description,
- unless the description of provision is specified in regulations made by the Board for the purposes of this subsection.
- (3) For the purposes of this section, a provision contained in a scheme shall not be treated as being of a prohibited description by reason only of the fact that it authorises the retention of an investment held immediately before the day on which the section 591 regulations are made.
- (4) In determining for the purposes of this section whether any provision contained in a scheme is of a required description, the fact that it is framed so as not to require the disposal of an investment held immediately before the day on which the section 591 regulations are made shall be disregarded.
- (5) In this section—
- (a) references to a provision of a prohibited description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which, if contained in a retirement benefits scheme, would prevent the Board from approving the scheme by virtue of section 591;
 - (b) references to a provision of a required description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which must be contained in a retirement benefits scheme before the Board may approve the scheme by virtue of section 591.]

Textual Amendments

F19 S. 591A inserted by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), [s.35](#)

Modifications etc. (not altering text)

C5 S. 591A(2) disappplied (30.7.1999) by [The Retirement Benefits Schemes \(Restriction on Discretion to Approve\) \(Additional Voluntary Contributions\) \(Amendment\) Regulations 1999 \(S.I. 1999/1964\)](#), [regs. 1, 6](#)

[591B] ^{F20}Cessation of approval: general provisions.

- (1) If in the opinion of the Board the facts concerning any approved scheme or its administration cease to warrant the continuance of their approval of the scheme, they may at any time by notice to the administrator, withdraw their approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval or 17th March 1987, whichever is the later), as may be specified in the notice.

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- (2) Where an alteration has been made in a retirement benefits scheme, no approval given by the Board as regards the scheme before the alteration shall apply after the date of the alteration unless—
- (a) the alteration has been approved by the Board, or
 - (b) the scheme is of a class specified in regulations made by the Board for the purposes of this paragraph and the alteration is of a description so specified in relation to schemes of that class.]

Textual Amendments

F20 S. 591B inserted (retrospectively) by [Finance Act 1991 \(c. 31\)](#), s. 36(1)(3)

Modifications etc. (not altering text)

C6 S. 591B modified (6.4.1996 for specified purposes and 6.4.1997 otherwise) by [Pensions Act 1995 \(c. 26\)](#), ss. 68(5), s. 180(1); S.I. 1996/778, art. 2(5)(a), [Sch. Pt. 5](#); S.I. 1997/664, art. 2(3), [Sch. Pt. 2](#)

[^{F21} 591C Cessation of approval: tax on certain schemes.

- (1) Where an approval of a scheme to which this section applies ceases to have effect, tax shall be charged in accordance with this section.
- (2) The tax shall be charged under Case VI of Schedule D at the rate of 40 per cent. on an amount equal to the value of the assets which immediately before the date of the cessation of the approval of the scheme are held for the purposes of the scheme (taking that value as it stands immediately before that date).
- (3) Subject to section 591D(4), the person liable for the tax shall be the administrator of the scheme in his capacity as such.
- (4) This section applies to a retirement benefits scheme in respect of which either of the conditions set out below is satisfied.
- (5) The first condition is satisfied in respect of a scheme if, immediately before the date of the cessation of the approval of the scheme, the number of individuals who are members of the scheme is less than twelve.
- (6) The second condition is satisfied in respect of a scheme if at any time within the period of one year ending with the date of the cessation of the approval of the scheme, a person who is or has been a controlling director of a company which has contributed to the scheme is a member of the scheme.
- (7) For the purposes of subsection (6) above a person is a controlling director of a company if he is a director of it and within section 417(5)(b) in relation to it.]

Textual Amendments

F21 Ss. 591C, 591D inserted (with effect in accordance with s. 61(3) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 61(1)

Modifications etc. (not altering text)

C7 S. 591C applied by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), s. 239A (as inserted (with effect in accordance with s. 61(3) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), s. 61(2))

Status: Point in time view as at 01/05/1995. This version of this chapter contains provisions that are not valid for this point in time.

Changes to legislation: Income and Corporation Taxes Act 1988, CHAPTER I is up to date with all changes known to be in force on or before 24 June 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)

[^{F21}591DSection 591C: supplementary.

- (1) For the purposes of section 591C(2) the value of an asset is, subject to subsection (2) below, its market value, construing “market value” in accordance with section 272 of the 1992 Act.
- (2) Where an asset held for the purposes of a scheme is a right or interest in respect of any money lent (directly or indirectly) to any person mentioned in subsection (3) below, the value of the asset shall be treated as being the amount owing (including any unpaid interest) on the money lent.
- (3) The persons are—
 - (a) any employer who has at any time contributed to the scheme;
 - (b) any company connected with such an employer;
 - (c) any member of the scheme;
 - (d) any person connected with any member of the scheme.
- (4) Where the administrator of the scheme is constituted by persons who include a person who is an approved independent trustee in relation to a scheme, that person shall not be liable for tax chargeable by virtue of section 591C.
- (5) A person is an approved independent trustee in relation to a scheme only if he is—
 - (a) approved by the Board to act as a trustee of the scheme; and
 - (b) not connected with—
 - (i) a member of the scheme;
 - (ii) any other trustee of the scheme; or
 - (iii) an employer who has contributed to the scheme.
- (6) For the purposes of section 596A(9) income and gains accruing to a scheme shall not be regarded as brought into charge to tax merely because tax is charged in relation to the scheme in accordance with section 591C.
- (7) The reference in section 591C(1) to an approval of a scheme ceasing to have effect is a reference to—
 - (a) the scheme ceasing to be an approved scheme by virtue of section 591A(2);
 - (b) the approval of the scheme being withdrawn under section 591B(1); or
 - (c) the approval of the scheme no longer applying by virtue of section 591B(2);and any reference in section 591C to the date of the cessation of the approval of the scheme shall be construed accordingly.
- (8) For the purposes of section 591C and this section a person is a member of a scheme at a particular time if at that time a benefit—
 - (a) is being provided under the scheme, or
 - (b) may be so provided,in respect of any past or present employment of his.
- (9) Section 839 shall apply for the purposes of this section.]

Textual Amendments

F21 Ss. 591C, 591D inserted (with effect in accordance with s. 61(3) of the amending Act) by Finance Act 1995 (c. 4), s. 61(1)

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Tax reliefs

592 Exempt approved schemes.

- ^{M8}(1) This section has effect as respects—
- (a) any approved scheme which is shown to the satisfaction of the Board to be established under irrevocable trusts; or
 - (b) any other approved scheme as respects which the Board, having regard to any special circumstances, direct that this section shall apply;
- and any scheme which is for the time being within paragraph (a) or (b) above is in this Chapter referred to as an “exempt approved scheme”.
- (2) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of income derived from investments or deposits if, or to such extent as the Board are satisfied that, it is income from investments or deposits held for the purposes of the scheme.
 - (3) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of underwriting commissions if, or to such extent as the Board are satisfied that, the underwriting commissions are applied for the purposes of the schemes and would, but for this subsection, be chargeable to tax under Case VI of Schedule D.
 - (4) Any sum paid by an employer by way of contribution under the scheme shall, for the purposes of Case I or II of Schedule D and of sections 75 and 76, be allowed to be deducted as an expense, or expense of management, incurred in the chargeable period in which the sum is paid [^{F22}but no other sum shall for those purposes be allowed to be deducted as an expense, or expense of management, in respect of the making, or any provision for the making, of any contributions under the scheme.].
 - (5) The amount of an employer’s contributions which may be deducted under subsection (4) above shall not exceed the amount contributed by him under the scheme in respect of employees in a trade or undertaking in respect of the profits of which the employer is assessable to tax (that is to say, to United Kingdom income tax or corporation tax).
 - (6) A sum not paid by way of ordinary annual contribution shall for the purposes of subsection (4) above be treated, as the Board may direct, either as an expense incurred in the chargeable period in which the sum is paid, or as an expense to be spread over such period of years as the Board think proper.
- ^{F23}(6A) Where any sum is paid to the trustees of the scheme in or towards the discharge of any liability of an employer under section 58B of the ^{M9}Social Security Pensions Act 1975 or section 144 of the Pension Schemes Act 1993 (deficiencies in the assets of a scheme) or under Article 68B of the ^{M10}Social Security Pensions (Northern Ireland) Order 1975 or section 140 of the Pension Schemes (Northern Ireland) Act 1993 (which contain corresponding provision for Northern Ireland), the payment of that sum—
- (a) shall be treated for the purposes of this section as an employer’s contribution under the scheme; and
 - (b) notwithstanding (where it is the case) that the employer’s trade, profession, vocation or business is permanently discontinued before the making of the payment, shall be allowed, in accordance with subsection (4) above, to be deducted as such a contribution to the same extent as it would have been allowed but for the discontinuance and as if it had been made on the last day on which the trade, profession, vocation or business was carried on.]

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- (7) Any contribution paid under the scheme by an employee shall, in assessing tax under Schedule E, be allowed to be deducted as an expense incurred in the year of assessment in which the contribution is paid.
- (8) [^{F24}Subject to subsection (8A) below,] the amount allowed to be deducted by virtue of subsection (7) above in respect of contributions paid by an employee in a year of assessment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent., or such higher percentage as the Board may in a particular case prescribe, of his remuneration for that year.
- [^{F25}(8A) Where an employee's remuneration for a year of assessment includes remuneration in respect of more than one employment, the amount allowed to be deducted by virtue of subsection (7) above in respect of contributions paid by the employee in that year by virtue of any employment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent, or such higher percentage as the Board may in a particular case prescribe, of his remuneration for the year in respect of that employment.
- (8B) In arriving at an employee's remuneration for a year of assessment for the purposes of subsection (8) or (8A) above, any excess of what would be his remuneration (apart from this subsection) over the permitted maximum for that year shall be disregarded.
- (8C) In subsection (8B) above "permitted maximum", in relation to a year of assessment, means the figure found for that year by virtue of subsections (8D) and (8E) below.
- (8D) For the year 1989-90 the figure is £60,000.
- (8E) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [^{F26}to (5A)].]
- (9) Relief shall not be given under section 266 or 273 in respect of any payment in respect of which an allowance can be made under subsection (7) above.
- (10) Subsection (2) of section 468 and subsection (3) of section 469 shall not apply to any authorised unit trust which is also an exempt approved scheme if the employer is not a contributor to the exempt approved scheme and that scheme provides benefits additional to those provided by another exempt approved scheme to which he is a contributor.
- (11) Nothing in this section shall be construed as affording relief in respect of any sums to be brought into account under section 438.
- (12) This section has effect only as respects income arising or contributions paid at a time when the scheme is an exempt approved scheme.

Textual Amendments

- F22** Words in s. 592(4) inserted (27.7.1993 with effect as mentioned in s. 112 of the amending Act) by 1993 c. 34, s. 112(1)(2)
- F23** S. 592(6A) inserted (with effect as mentioned in s. 112 of the amending Act) by Finance Act 1993 (c. 34), s. 112(6)
- F24** 1989 s.75 and Sch.6 paras.5(2), (3) and 18(4) for 1989-90 and subsequent years.
- F25** 1989 s.75 and Sch.6 paras.5(4) and 18(4) for 1989-90 and subsequent years. Subs.(8B) to (8E) do not have effect as regards such remuneration as may be prescribed by regulations—for which see Part III Vol.5 (under

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“Retirement benefit schemes: tax relief for contributions”).

F26 Words in s. 592(8E) substituted (with effect for the year 1994-95 and subsequent years of assessment) by Finance Act 1993 (c. 34), s. 107(6)(8)

Modifications etc. (not altering text)

C8 See 1990 s.56 and Sch.10 para.22—convertible securities relieved of charge if held for purposes of exempt approved schemes.

Marginal Citations

M8 Source-1970(F) s.21(1)-(9); 1971 s.21(5); 1987 (No.2) Sch.3 4, 5

M9 1975 c. 60.

M10 S.I. 1975/1503 (N.I. 15).

593 Relief by way of deductions from contributions.

^{M11}(1) Relief under section 592(7) shall be given in accordance with subsections (2) and (3) below in such cases and subject to such conditions as the Board may prescribe by regulations under section 612(3) in respect of schemes—

- (a) to which employees, but not their employers, are contributors; and
- (b) which provide benefits additional to benefits provided by schemes to which their employers are contributors.

(2) An employee who is entitled to relief under section 592(7) 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 administrator of the scheme—

- (a) shall accept the amount paid after the deduction in discharge of the employee’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 subsection (3) of section 612 may, without prejudice to the generality of that subsection—

- (a) provide for the manner in which claims for the recovery of a sum under subsection (3)(b) above 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.

Modifications etc. (not altering text)

C9 See S.I. 1987 No.1749 (in Part III Vol.5).

C10 See S.I. 1987 No.1749 (in Part III Vol.5).

Marginal Citations

M11 Source-1970(F) Sch.5 Part II 6A; 1987 (No.2) Sch.3 12

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594 Exempt statutory schemes.

- ^{M12}(1) Any contribution paid by any officer or employee under a [^{F27}relevant] statutory scheme established under a public general Act shall, in assessing tax under Schedule E, be allowed to be deducted as an expense incurred in the year of assessment in which the contribution is paid; and relief shall not be given under section 266 or 273 in respect of any contribution allowable as a deduction under this section.
- (2) [^{F28}Subject to subsection (3) below,] the amount allowed to be deducted by virtue of subsection (1) above in respect of contributions paid by a person in a year of assessment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent., or such higher percentage as the Board may in a particular case prescribe, of his remuneration for that year.
- [^{F29}(3) Where a person's remuneration for a year of assessment includes remuneration in respect of more than one office or employment, the amount allowed to be deducted by virtue of subsection (1) above in respect of contributions paid by the person in that year by virtue of any office or employment (whether under a single scheme or under two or more schemes) shall not exceed 15 per cent, or such higher percentage as the Board may in a particular case prescribe, of his remuneration for the year in respect of that office or employment.
- (4) In arriving at a person's remuneration for a year of assessment for the purposes of subsection (2) or (3) above, any excess of what would be his remuneration (apart from this subsection) over the permitted maximum for that year shall be disregarded.
- (5) In subsection (4) above "permitted maximum", in relation to a year of assessment, means the figure found for that year by virtue of subsections (6) and (7) below.
- (6) For the year 1989-90 the figure is £60,000.
- (7) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [^{F30}to (5A)].]

Textual Amendments

F27 1989 s.75 and Sch.6 paras.6(2) and 18(1) on and after 14 March 1989.

F28 1989 s.75 and Sch.6 paras.6(3) and 18(4) for 1989-90 and subsequent years.

F29 1989 s.75 and Sch.6 paras.6(4)(5) and 18(4) for 1989-90 and subsequent years. Subs.(4) to (7) do not have effect as regards such remuneration as may be prescribed by regulations.

F30 Words in s. 594(7) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

Modifications etc. (not altering text)

C11 S. 594 applied (31.3.1995) by Judicial Pensions and Retirement Act 1993 (c. 8), ss. 10(4)(b)(ii), 31(2); S.I. 1995/631, art. 2

Marginal Citations

M12 Source-1970(F) s.22; 1972 s.74(3); 1987 (No.2) Sch.3 6

Status: Point in time view as at 01/05/1995. This version of this chapter contains provisions that are not valid for this point in time.

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Charge to tax in certain cases

595 Charge to tax in respect of certain sums paid by employer etc.

- ^{M13}(1) Subject to the provisions of this Chapter, where, pursuant to a retirement benefits scheme, the employer in any year of assessment pays a sum with a view to the provision of any relevant benefits for any employee of that employer, then (whether or not the accrual of the benefits is dependent on any contingency)—
- (a) the sum paid, if not otherwise chargeable to income tax as income of the employee, shall be deemed for all purposes of the Income Tax Acts to be income of that employee for that year of assessment and assessable to tax under Schedule E; and
 - (b) where the payment is made under such an insurance or contract as is mentioned in section 266, relief, if not otherwise allowable, shall be given to that employee under that section in respect of the payment to the extent, if any, to which such relief would have been allowable to him if the payment had been made by him and the insurance or contract under which the payment is made had been made with him.
- (2) *Subject to the provisions of this Chapter, where—*
- (a) *the circumstances in which any relevant benefits under a retirement benefits scheme are to accrue are not such as will render the benefits assessable to income tax under Schedule E as emoluments of the employee in respect of whom the benefits are paid, and*
 - (b) *the provision of those benefits is not, or is not fully, secured by the payment of sums by the employer with a view to the provision of those benefits, then (whether or not the accrual of the benefits is dependent on any contingency) an amount equal to the cost, estimated in accordance with subsection (3) below, of securing the provision by a third person of the benefits or, as the case may be, of the benefits so far as not already secured by the payment of such sums as are mentioned in subsection (1) above, shall be deemed for all purposes of the Income Tax Acts to be income of the employee for the year or years of assessment specified in subsection (3) below and assessable to income tax under Schedule E.*
- (3) *The cost referred to in subsection (2) above shall be estimated either—*
- (a) *as an annual sum payable in each year of assessment in which the scheme in question is in force or the employee is serving, up to and including the year of assessment in which the benefits accrue or there ceases to be any possibility of the accrual thereof, or*
 - (b) *as a single sum payable in the year of assessment in which falls the date when the employee acquired the right to the relevant benefits, or the date when he acquired the right to any increase in the relevant benefits;*
- as may be more appropriate in the circumstances of the case^{F31}.*
- (4) Where the employer pays any sum as mentioned in subsection (1) above in relation to more than one employee, the sum so paid shall, for the purpose of that subsection, be apportioned among those employees by reference to the separate sums which would have had to be paid to secure the separate benefits to be provided for them respectively, and the part of the sum apportioned to each of them shall be deemed for that purpose to have been paid separately in relation to that one of them.

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- (5) Any reference in this section to the provision for an employee of relevant benefits includes a reference to the provision of benefits payable to that employee's wife or widow, children, dependants or personal representatives.

Textual Amendments

F31 Repealed by 1989 ss.75 and 187 and Schs.6 paras.7 and 18(5) and 17 Part IV for 1988-89 and subsequent years.

Modifications etc. (not altering text)

C12 See s.189—lump sum benefits on retirement.

Marginal Citations

M13 Source-1970(F) s.23(1)-(5)

596 Exceptions from section 595.

- ^{M14}(1) [^{F32}Section 595(1) shall not] apply where the retirement benefits scheme in question is—
- an approved scheme, or
 - a [^{F33}relevant] statutory scheme, or
 - a scheme set up by a government outside the United Kingdom for the benefit, or primarily for the benefit of, its employees.
- (2) [^{F34}Section 595(1) shall not] apply for any year of assessment—
- where the employee performs the duties of his employment in such circumstances that no tax is chargeable under Case I or II of Schedule E in respect of the emoluments of his employment (or would be so chargeable were there such emoluments), or
 - where the emoluments from the employment are foreign emoluments within the meaning of section 192 and the Board are satisfied, on a claim made by the employee, that the retirement benefits scheme in question corresponds to such a scheme as is mentioned in paragraph (a), (b) or (c) of subsection (1) above.
- (3) Where, in respect of the provision for an employee of any relevant benefits—
- a sum has been deemed to be income of his by virtue *either*^{F35} of subsection (1) or subsection (2)^{F35} of section 595, and
 - subsequently, the employee proves to the satisfaction of the Board that—
 - no payment in respect of, or in substitution for, the benefits has been made, and
 - some event has occurred by reason of which no such payment will be made,and makes application for relief under this subsection within six years from the time when that event occurred,
- the Board shall give relief in respect of tax on that sum by repayment or otherwise as may be appropriate; and if the employee satisfies the Board as mentioned above in relation to some particular part, but not the whole, of the benefits, the Board may give such relief as may seem to them just and reasonable.

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Textual Amendments

- F32** 1989 s.75 and Sch.6 para.8(2)(a), 8(3) for 1988-89 and subsequent years. Previously “Neither subsection (1) nor subsection (2) of section 595 shall” in both places.
- F33** 1989 s.75 and Sch.6 paras.8(2)(b) and 18(1) on and after 14 March 1989.
- F34** 1989 s.75 and Sch.6 para.8(2)(a), 8(3) for 1988-89 and subsequent years. Previously “Neither subsection (1) nor subsection (2) of section 595 shall” in both places.
- F35** Words repealed by 1989 ss.75, 187 and Schs. 6 paras.8(4) and 18(6) and 17 Part IV except where a sum has been deemed to be income by virtue of s.592(2) before 6 April 1988.

Marginal Citations

- M14** Source-1970(F) s.24; 1974 s.21(7)

[^{F36}596A] Charge to tax: benefits under non-approved schemes.

- (1) Where in any year of assessment a person receives a benefit provided under a retirement benefits scheme which is not of a description mentioned in section 596(1) (a), (b) or (c), tax shall be charged in accordance with the provisions of this section.
- (2) Where the benefit is received by an individual, he shall be charged to tax under Schedule E for that year.
- (3) Where the benefit is received by a person other than an individual, the administrator of the scheme shall be charged to tax under Case VI of Schedule D for that year.
- (4) [^{F37}Subject to subsection (9) below] The amount to be charged to tax is—
 - (a) in the case of a cash benefit, the amount received, and
 - (b) in the case of a benefit in kind, an amount equal to whatever is the cash equivalent of the benefit.
- (5) In the case of the charge under Case VI of Schedule D, the rate of tax is 40 per cent. or such other rate (whether higher or lower) as may for the time being be specified by the Treasury by order.
- [^{F38}(6) Tax shall not be charged under this section in the case of—
 - (a) any pension or annuity which is chargeable to tax under Schedule E by virtue of section 19(1); or
 - (b) any pension or other benefit chargeable to tax under section 58.]
- (7) But where the amount chargeable to tax [^{F39}as mentioned in subsection (6)(a) above] is less than the amount which would be chargeable to tax under this section—
 - (a) [^{F40}subsection (6)(a) above] shall not apply, and
 - (b) the amount chargeable to tax under this section shall be reduced by the amount chargeable to tax by virtue of [^{F41}section 19(1)].
- [^{F42}(8) Subject to subsection (9) below, tax shall not be charged under this section (or section 19(1) or 148) in the case of a lump sum where—
 - (a) the employer has paid any sum or sums with a view to the provision of any relevant benefits under a retirement benefits scheme;

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- (b) an employee has been assessed to tax in respect of the sum or sums by virtue of section 595(1); and
 - (c) the lump sum is provided under the scheme to the employee, any person falling within section 595(5) in relation to the employee or any other individual designated by the employee.
- (9) Where any of the income or gains accruing to the scheme under which the lump sum is provided is not brought into charge to tax, tax shall be charged under this section on the amount of the lump sum received less any deduction applicable under subsection (10) or (11) below.
- (10) Subject to subsection (11) below, the deduction applicable is the aggregate of—
- (a) any sum or sums in respect of which the employee has been assessed as mentioned in subsection (8)(b) above, and
 - (b) any sum or sums paid by the employee,
- which in either case were paid by way of contribution to the provision of the lump sum.
- (11) Where—
- (a) the lump sum is provided under the scheme on the disposal of a part of any asset or the surrender of any part of or share in any rights in any asset, and
 - (b) the employee, any person falling within section 595(5) in relation to the employee or any person connected with the employee has any right to receive or any expectation of receiving a further lump sum (or further lump sums) under the scheme on a further disposal of any part of the asset or a further surrender of any part of or share in any rights in the asset,
- the deduction applicable shall be determined in accordance with the formula in subsection (12) below.
- (12) The formula is—

$$D = S \times \frac{A}{B}$$

- (13) For the purposes of the formula in subsection (12) above—
- D is the deduction applicable;
 - S is the aggregate amount of any sum or sums of a description mentioned in paragraphs (a) and (b) of subsection (10) above;
 - A is the amount of the lump sum received in relation to which the deduction applicable falls to be determined;
 - B is the market value of the asset in relation to which the disposal or surrender occurred, on the assumption that the valuation is made immediately before the disposal or surrender.
- (14) An individual may not claim that a deduction is applicable in relation to a lump sum more than once.
- (15) For the purposes of subsections (8) and (9) above, it shall be assumed unless the contrary is shown—

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- (a) that no sums have been paid, and the employee has not been assessed in respect of any sums paid, with a view to the provision of relevant benefits;
 - (b) that the income or gains accruing to a scheme under which the benefit is provided are not brought into charge to tax; and
 - (c) that no deduction is applicable under subsection (10) or (11) above.
- (16) Section 839 shall apply for the purposes of subsection (11) above.
- (17) In subsection (13) above “market value” shall be construed in accordance with section 272 of the 1992 Act.]]

Textual Amendments

- F36** Ss. 596A, 596B inserted (with effect in accordance with Sch. 6 para. 18(7) of the amending Act) by Finance Act 1989 (c. 26), Sch. 6 para. 9
- F37** Words in s. 596A(4) inserted (with effect in accordance with s. 108(6) of the amending Act) by Finance Act 1994 (c. 9), s. 108(2)
- F38** S. 596A(6) substituted (with effect in accordance with s. 108(6) of the amending Act) by Finance Act 1994 (c. 9), s. 108(3)
- F39** Words in s. 596A(7) substituted (with effect in accordance with s. 108(6) of the amending Act) by Finance Act 1994 (c. 9), s. 108(4)(a)
- F40** Words in s. 596A(7)(a) substituted (with effect in accordance with s. 108(6) of the amending Act) by Finance Act 1994 (c. 9), s. 108(4)(b)
- F41** Words in s. 596A(7)(b) substituted (with effect in accordance with s. 108(6) of the amending Act) by Finance Act 1994 (c. 9), s. 108(4)(c)
- F42** S. 596(8)-(17) substituted for s. 596A(8)(9) (with effect in accordance with s. 108(6) of the amending Act) by Finance Act 1994 (c. 9), s. 108(5)

Modifications etc. (not altering text)

- C13** S. 596A applied (with effect in accordance with s. 92(11) of the affecting Act) by Finance Act 1995 (c. 4), s. 92(9)

596B Section 596A: supplementary provisions.

- (1) For the purposes of section 596A the cash equivalent of a benefit in kind is—
- (a) in the case of a benefit other than living accommodation, the amount which would be the cash equivalent of the benefit under Chapter II of Part V if it were chargeable under the appropriate provision of that Chapter (treating any sum made good by the recipient as made good by the employee), and
 - (b) in the case of living accommodation, an amount equal to the value of the accommodation to the recipient determined in accordance with the following provisions of this section less so much of any sum made good by him to those at whose cost the accommodation is provided as is properly attributable to the provision of the accommodation.
- (2) Where the cost of providing the accommodation does not exceed £75,000, the value of the accommodation to the recipient in any period is the rent which would have been payable for the period if the premises had been let to him at an annual rent equal to their annual value as ascertained under section 837.
- (3) But for a period in which those at whose cost the accommodation is provided pay rent at an annual rate greater than the annual value as so ascertained, the value of the

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accommodation to the recipient is an amount equal to the rent payable by them for the period.

- (4) Where the cost of providing the accommodation does exceed £75,000, the value of the accommodation to the recipient shall be taken to be the aggregate of the value of the accommodation to him determined in accordance with subsections (2) and (3) above and the additional value of the accommodation to him determined in accordance with subsections (5) and (6) below.
- (5) The additional value of the accommodation to the recipient in any period is the rent which would have been payable for that period if the premises had been let to him at an annual rent equal to the appropriate percentage of the amount by which the cost of providing the accommodation exceeds £75,000.
- (6) Where throughout the period of six years ending with the date when the recipient first occupied the property any estate or interest in the property was held by a relevant person (whether or not it was the same estate, interest or person throughout), the additional value shall be calculated as if in subsection (7) below—
 - (a) the amount referred to in paragraph (a) were the market value of that property as at that date, and
 - (b) the amount referred to in paragraph (b) did not include expenditure on improvements made before that date.
- (7) For the purposes of this section, the cost of providing any living accommodation shall be taken to be the aggregate of—
 - (a) the amount of any expenditure incurred in acquiring the estate or interest in the property held by a relevant person, and
 - (b) the amount of any expenditure incurred by a relevant person before the year of assessment in question on improvements to the property.
- (8) The aggregate amount mentioned in subsection (7) above shall be reduced by the amount of any payment made by the recipient to a relevant person, so far as that amount represents a reimbursement of any such expenditure as is mentioned in paragraph (a) or (b) of that subsection or represents consideration for the grant to the recipient of a tenancy of the property.
- (9) For the purposes of this section, any of the following persons is a relevant person—
 - (a) the person providing the accommodation;
 - (b) any person, other than the recipient, who is connected with a person falling within paragraph (a) above.
- (10) In this section—

“the appropriate percentage” means the rate applicable for the purposes of section 160 as at the beginning of the year of assessment in question;

“market value”, in relation to any property, means the price which that property might reasonably be expected to fetch on a sale in the open market with vacant possession, no reduction being made, in estimating the market value, on account of any option in respect of the property held by the recipient, or a person connected with him, or by any of the persons mentioned in subsection (9) above;

“property”, in relation to any living accommodation, means the property consisting of that living accommodation;

“tenancy” includes a sub-tenancy;

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and section 839 shall apply for the purposes of this section.

VALID FROM 31/07/1998

[^{F43}596C] Notional interest treated as paid if amount charged in respect of beneficial loan.

- (1) This section applies where a person is chargeable to tax under section 596A in any year of assessment on an amount which consists of or includes an amount representing the cash equivalent of the benefit of a loan determined (by virtue of section 596B(1)(a)) in accordance with Part II of Schedule 7.
- (2) Where this section applies, the person chargeable is treated as having paid interest on the loan of the same amount as the cash equivalent so determined.
- (3) The interest is treated as paid for all the purposes of the Tax Acts (other than those relating to the charge under section 596A) but not so as to make it—
 - (a) income of the person making the loan, or
 - (b) relevant loan interest to which section 369 applies (mortgage interest payable under deduction of tax).
- (4) The interest is treated as accruing during and paid at the end of the year of assessment or, if different, the period in that year during which the loan is outstanding.]

Textual Amendments

F43 S. 596C inserted (with effect in accordance with s. 93(4) of the amending Act) by Finance Act 1998 (c. 36), s. 93(3)

597 Charge to tax: pensions.

- ^{M15}(1) Subject to subsection (2) below, all pensions paid under any scheme which is approved or is being considered for approval under this Chapter shall be charged to tax under Schedule E, and section 203 shall apply accordingly.
- (2) As respects any scheme which is approved or is being considered for approval under this Chapter, the Board may direct that, until such date as the Board may specify, pensions under the scheme shall be charged to tax as annual payments under Case III of Schedule D, and tax shall be deductible under sections 348 and 349 accordingly.
- [^{F44}(3) Without prejudice to subsection (1) above, where funds held for the purposes of any scheme which is approved or is being considered for approval under this Chapter are used to acquire an annuity—
 - (a) the annuity shall be charged to tax under Schedule E and section 203 shall apply accordingly;
 - (b) the annuity shall not be charged to tax under Case III of Schedule D.]

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Textual Amendments

F44 S. 597(3) inserted (with application in accordance with s. 110(2) of the amending Act) by Finance Act 1994 (c. 9), s. 110(1)

Modifications etc. (not altering text)

C14 See 1989 s.41—*tax charged on amount accruing (1989-90 and subsequent years of assessment).*

Marginal Citations

M15 Source-1970(F) Sch.5 Part II 1

598 Charge to tax: repayment of employee's contributions.

- ^{M16}(1) Subject to the provisions of this section, tax shall be charged under this section on any repayment to an employee during his lifetime of any contributions (including interest on contributions, if any) if the payment is made under—
- (a) a scheme which is or has at any time been an exempt approved scheme, or
 - (b) a [^{F45}relevant] statutory scheme established under a public general Act.
- (2) Where any payment is chargeable to tax under this section, the administrator of the scheme shall be charged to income tax under Case VI of Schedule D and, subject to subsection (3) below, the rate of tax shall be 10 per cent.
- (3) The Treasury may by order from time to time increase or decrease the rate of tax under subsection (2) above.
- (4) The tax shall be charged on the amount paid or, if the rules permit the administrator to deduct the tax before payment, on the amount before deduction of tax, and the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.
- (5) Subsection (1)(a) above shall not apply in relation to a contribution made after the scheme ceases to be an exempt approved scheme (unless it again becomes an exempt approved scheme).
- (6) This section shall not apply where the employee's employment was carried on outside the United Kingdom.
- (7) In relation to a statutory scheme, "employee" in this section includes any officer.

Textual Amendments

F45 1989 s.75 and Sch.6 paras.10 and 18(1) on and after 14 March 1989.

Modifications etc. (not altering text)

C15 20 per cent. on and after 6 April 1988—see S.I. 1988 No.504 in Part III Vol.5

Marginal Citations

M16 Source-1970(F) Sch.5 Part II 2, 3; 1971 Sch.3 7; 1987 (No.2) Sch.3 9

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599 Charge to tax: commutation of entire pension in special circumstances.

^{M17}(1) Where a scheme to which this section applies contains a rule allowing, in special circumstances, a payment in commutation of an employee's entire pension, and any pension is commuted, whether wholly or not, under the rule, tax shall be charged on the amount by which the sum receivable exceeds—

- (a) the largest sum which would have been receivable in commutation of any part of the pension if the scheme had secured that the aggregate value of the relevant benefits payable to an employee on or after retirement, excluding any pension which was not commutable, could not exceed three-eighths of his final remuneration (disregarding any excess of that remuneration over the permitted maximum) for each year of service up to a maximum of 40; or
- (b) the largest sum which would have been receivable in commutation of any part of the pension under any rule of the scheme authorising the commutation of part (but not the whole) of the pension, or which would have been so receivable but for those special circumstances;

whichever gives the lesser amount chargeable to tax.

(2) This section applies to—

- (a) a scheme which is or has at any time been an approved scheme, or
- (b) a [^{F46}relevant] statutory scheme established under a public general Act.

(3) Where any amount is chargeable to tax under this section the administrator of the scheme shall be charged to income tax under Case VI of Schedule D on that amount, and section 598(2), (3) and (4) shall apply as they apply to tax chargeable under that section.

(4) This section shall not apply where the employee's employment was carried on outside the United Kingdom.

(5) In relation to a statutory scheme, "employee" in this section includes any officer.

(6) In applying paragraph (a) or (b) of subsection (1) above—

- (a) the same considerations shall be taken into account, including the provisions of any other relevant scheme, as would have been taken into account by the Board in applying section 590; and
- (b) where the scheme has ceased to be an approved scheme, account shall only be taken of the rules in force when the scheme was last an approved scheme.

(7) Where the pension has been secured by means of an annuity contract with an insurance company and the sum receivable is payable under that contract by the insurance company, the references to the administrator of the scheme in subsection (3) above and in section 598(2) and (4) as applied by that subsection are to be read as references to the insurance company.

[^{F47}(8) In subsection (7) above "insurance company" has the meaning given by section 659B.]

(9) In relation to payments made under schemes approved or established before 17th March 1987 to employees who became members before that date, subsection (1)(a) above shall have effect with the omission of the words "(disregarding any excess of that remuneration over the permitted maximum)".

[^{F48}(10) In subsection (1)(a) above "the permitted maximum" means, as regards a charge to tax arising under this section in a particular year of assessment, the figure found for that year by virtue of subsections (11) and (12) below.

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- (11) For the years 1988-89 and 1989-90 the figure is £60,000.
- (12) For any subsequent year of assessment the figure is the figure found for that year, for the purposes of section 590C, by virtue of section 590C(4) [^{F49}to (5A)].]

Textual Amendments

- F46** 1989 s.75 and Sch.6 paras.11(2) and 18(1) on and after 14 March 1989.
- F47** S. 599(8) substituted (with application in accordance with s. 60(2) of the amending Act) by Finance Act 1995 (c. 4), s. 59(3)
- F48** 1989 s.75 and Sch.6 paras.11(3) and 18(8) where the charge to tax under s.559 arises on or after 14 March 1989 except where the scheme came into being before that date and the employee became a member before 1 June 1989.
- F49** Words in s. 599(12) substituted (27.7.1993 with effect for the year 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 107(6)(8)

Modifications etc. (not altering text)

- C16** S. 599 applied (1.4.1998) by The Local Government Pension Scheme (Scotland) Regulations 1998 (S.I. 1998/366), regs. 1, 48(8), 49(3)

Marginal Citations

- M17** Source-1970(F) Sch.5 Part II 2, 3; 1971 Sch.3 7; 197 (No.2) Sch.3 9

[^{F50}599A Charge to tax: payments out of surplus funds.

- (1) This subsection applies to any payment which is made to or for the benefit of an employee or to his personal representatives out of funds which are or have been held for the purposes of—
- (a) a scheme which is or has at any time been an exempt approved scheme, or
 - (b) a relevant statutory scheme established under a public general Act, and which is made in pursuance of a duty to return surplus funds.
- (2) On the making of a payment to which subsection (1) above applies, the administrator of the scheme shall be charged to income tax under Case VI of Schedule D at the relevant rate on such amount as, after deduction of tax at that rate, would equal the amount of the payment.
- (3) Subject to subsection (4) below, the relevant rate shall be 35 per cent.
- (4) The Treasury may by order from time to time increase or decrease the relevant rate.
- (5) Where a payment made to or for the benefit of an employee is one to which subsection (1) above applies, it shall be treated in computing the total income of the employee for the year in which it is made as income for that year which is—
- (a) received by him after deduction of income tax at the basic rate from a corresponding gross amount, and
 - (b) chargeable to income tax under Case VI of Schedule D.
- (6) But, subject to subsection (7) below, no assessment to income tax shall be made on, and no repayment of income tax shall be made to, the employee.

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- (7) Subsection (6) above shall not prevent an assessment in respect of income tax at a rate other than the basic rate [^{F51}or the lower rate].
- (8) Subsection (5) above applies whether or not the employee is the recipient of the payment.
- (9) Any payment chargeable to tax under this section shall not be chargeable to tax under section 598, 599 or 600 or under the Regulations mentioned in paragraph 8 of Schedule 3 to the Finance Act 1971.
- (10) In this section—
 “employee”, in relation to a relevant statutory scheme, includes any officer;
 references to any payment include references to any transfer of assets or other transfer of money’s worth.]

Textual Amendments

F50 1989 s.75 and Sch.6 paras.12 and 18(9) in relation to payments made on or after 27 July 1989.

F51 Words in s. 599A(7) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 19(2)(7)

600 Charge to tax: unauthorised payments to or for employees.

- ^{M18}(1) This section applies to any payment to or for the benefit of an employee, otherwise than in course of payment of a pension, being a payment made out of funds which are or have been ^{F52}held for the purposes of a scheme which is or has at any time been ^{F52}approved for the purposes of—
- (a) this Chapter;
 - (b) Chapter II of Part II of the Finance Act 1970; or
 - (c) section 208 or Chapter II of Part IX of the 1970 Act.
- (2) If the payment [^{F53}is not expressly authorised by the rules of the scheme or by virtue of paragraph 33 of Schedule 6 to the Finance Act 1989] the employee (whether or not he is the recipient of the payment) shall be chargeable to tax on the amount of the payment under Schedule E for the year of assessment in which the payment is made.
- (3) Any payment chargeable to tax under this section shall not be chargeable to tax under section 598 or 599 or under the Regulations mentioned in paragraph 8 of Schedule 3 to the Finance Act 1971.
- (4) References in this section to any payment include references to any transfer of assets or other transfer of money’s worth.

Textual Amendments

F52 Words repealed by 1989 ss.75, 187 and Schs.6 paras.13(2) and 18(9) and 17 Part IV in relation to payments made on or after 27 July 1989.

F53 1989 s.75 and Sch.6 paras.13(3) and 18(9) in relation to payments made on or after 27 July 1989. Previously

“—(a) is not expressly authorised by the rules of the scheme, or (b) is made at a time when the scheme is not approved for the purposes of any of the enactments mentioned in subsection (1) above, and would not have been expressly authorised by the rules of the scheme when it was last so approved.”

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Modifications etc. (not altering text)

C17 See s.189—lump sum benefit on retirement.

Marginal Citations

M18 Source-1971 Sch.3 9

601 Charge to tax: payments to employers.

^{M19}(1) Subsection (2) below applies where a payment is made to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme and whether or not the payment is made in pursuance of Schedule 22.

(2) An amount equal to 40 per cent. of the payment shall be recoverable by the Board from the employer.

(3) Subsection (2) above does not apply to any payment—

- (a) to the extent that, if this section had not been enacted, the employer would have been exempt, or entitled to claim exemption, from income tax or corporation tax in respect of the payment; or
- (b) made before the scheme became an exempt approved scheme; or
- (c) of any prescribed description; or
- (d) made in pursuance of the winding-up of the scheme where the winding-up commenced on or before 18th March 1986; or
- (e) made in pursuance of an application which—
 - (i) was made to the Board on or before that date and was not withdrawn before the making of the payment, and
 - (ii) sought the Board's assurance that the payment would not lead to a withdrawal of approval under section 19(3) of the Finance Act 1970;

(4) Subsection (2) above does not apply where the employer is a charity (within the meaning of section 506).

(5) Where any payment is made or becomes due to an employer out of funds which are or have been held for the purposes of a scheme which is or has at any time been an exempt approved scheme then—

- (a) if the scheme relates to a trade, profession or vocation carried on by the employer, the payment shall be treated for the purposes of the Tax Acts as a receipt of that trade, profession or vocation receivable when the payment falls due or on the last day on which the trade, profession or vocation is carried on by the employer, whichever is the earlier;
- (b) if the scheme does not relate to such a trade, profession or vocation, the employer shall be charged to tax on the amount of the payment under Case VI of Schedule D.

This subsection shall not apply to a payment which fell due before the scheme became an exempt approved scheme or to a payment to which subsection (2) above applies or would apply but for subsection (3)(a) or (4) above.

(6) In this section—

- (a) references to any payment include references to any transfer of assets or other transfer of money's worth; and

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- (b) “prescribed” means prescribed by regulations made by the Treasury.

Marginal Citations

M19 Source-1986 Sch.12 1; 1970(F) Sch.5 Part II 4; 1971 Sch.3 12(5)

602 Regulations relating to pension fund surpluses.

- ^{M20}(1) In relation to an amount recoverable as mentioned in section 601(2), the Treasury may by regulations make any of the provisions mentioned in subsection (2) below; and for this purpose the amount shall be treated as if it were—
- (a) an amount of income tax chargeable on the employer under Case VI of Schedule D for the year of assessment in which the payment is made; or
 - (b) where the employer is a company, an amount of corporation tax chargeable on the company for the accounting period in which the payment is made.
- (2) The provisions are—
- (a) provision requiring the administrator of the scheme or the employer (or both) to furnish to the Board, in respect of the amount recoverable and of the payment concerned, information of a prescribed kind;
 - (b) provision enabling the Board to serve a notice or notices requiring the administrator or employer (or both) to furnish to the Board, in respect of the amount and payment, particulars of a prescribed kind;
 - (c) provision requiring the administrator to deduct out of the payment the amount recoverable and to account to the Board for it;
 - (d) provision as to circumstances in which the employer may be assessed in respect of the amount recoverable;
 - (e) provision that, in a case where the employer has been assessed in respect of an amount recoverable but has not paid it (or part of it) within a prescribed period, the administrator may be assessed and charged (in the employer’s name) in respect of the amount (or part unpaid);
 - (f) provision that, in a case where the amount recoverable (or part of it) has been recovered from the administrator by virtue of an assessment in the employer’s name, the administrator is entitled to recover from the employer a sum equal to the amount (or part);
 - (g) provision enabling the employer or administrator (as the case may be) to appeal against an assessment made on him in respect of the amount recoverable;
 - (h) provision as to when any sum in respect of the amount recoverable is payable to the Board by the administrator or employer and provision requiring interest to be paid on any sum so payable;
 - (j) provision that an amount paid to the Board by the administrator shall be treated as paid on account of the employer’s liability under section 601(2).
- (3) For the purpose of giving effect to any provision mentioned in subsection (2)(c) to (j) above, regulations under this section may include provision applying (with or without modifications) provisions of the enactments relating to income tax and corporation tax.
- (4) Subject to any provision of regulations under this section—

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- (a) a payment to which section 601(2) applies shall not be treated as a profit or gain brought into charge to income tax or corporation tax and shall not be treated as part of the employer's income for any purpose of this Act; and
 - (b) the amount recoverable shall not be subject to any exemption or reduction (by way of relief, set-off or otherwise) or be available for set-off against other tax.
- (5) If the employer is a company and a payment to which section 601(1) and (2) applies is made at a time not otherwise within an accounting period of the company, an accounting period of the company shall for the purposes of subsection (1)(b) above be treated as beginning immediately before the payment is made.

Modifications etc. (not altering text)

C18 For regulations see Part III Vol.5 (under “Pension Schemes Surpluses: administration”).

Marginal Citations

M20 Source-1986 Sch.12 2(1), (i), (2), (4)-(6)

603 Reduction of surpluses.

Schedule 22 (which provides for the reduction of certain pension fund surpluses) shall have effect.

Supplementary provisions

604 Application for approval of a scheme.

^{M21}(1) An application for the approval for the purposes of this Chapter of any retirement benefits scheme shall be made in writing by the administrator of the scheme to the Board before the end of the first year of assessment for which approval is required, and shall be accompanied by—

- (a) two copies of the instrument or other document constituting the scheme; and
- (b) two copies of the rules of the scheme and, except where the application is being sought on the setting up of the scheme, two copies of the accounts of the scheme for the last year for which such accounts have been made up; and
- (c) such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the setting up of the scheme) as the Board may consider relevant.

(2) The form in which an application for approval is to be made, or in which any information is to be given, in pursuance of this section may be prescribed by the Board.

Marginal Citations

M21 Source-1970(F) Sch.5 Part II 6, 7, 8, 9; 1987 (No.2), Sch.3 11, 13-15

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605 Information.

^{M22}(1) In the case of every approved scheme, the administrator of the scheme, and every employer who pays contributions under the scheme, shall, within 30 days from the date of a notice from the inspector requiring them so to do—

- (a) furnish to the inspector a return containing such particulars of contributions paid under the scheme as the notice may require;
- (b) prepare and deliver to the inspector a return containing particulars of all payments under the scheme, being—
 - (i) payments by way of return of contributions (including interest on contributions, if any);
 - (ii) payments by way of commutation of, or in lieu of, pensions, or other lump sum payments;
 - (iii) other payments made to an employer;
- (c) furnish to the inspector a copy of the accounts of the scheme up to the last date previous to the notice to which such accounts have been made up together with such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the conduct of the scheme during the period to which the accounts relate) as the inspector considers relevant.

^{F54}(1A) The Board may by regulations make any of the following provisions—

- (a) provision requiring prescribed persons to furnish to the Board at prescribed times information relating to any of the matters mentioned in subsection (1B) below;
- (b) provision enabling the Board to serve a notice requiring prescribed persons to furnish to the Board, within a prescribed time, particulars relating to any of those matters;
- (c) provision enabling the Board to serve a notice requiring prescribed persons to produce to the Board, within a prescribed time, documents relating to any of those matters;
- (d) provision enabling the Board to serve a notice requiring prescribed persons to make available for inspection on behalf of the Board books, documents and other records, being books, documents and records which relate to any of those matters;
- (e) provision requiring prescribed persons to preserve for a prescribed time books, documents and other records, being books, documents and records which relate to any of those matters.

(1B) The matters referred to in subsection (1A) above are—

- (a) an approved scheme;
- (b) a relevant statutory scheme;
- (c) an annuity contract by means of which benefits provided under an approved scheme or a relevant statutory scheme have been secured;
- (d) a retirement benefits scheme which is not an approved scheme but in relation to which an application for approval for the purposes of this Chapter has been made.

(1C) A person who fails to comply with regulations made under subsection (1A)(e) above shall be liable to a penalty not exceeding £3,000.

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- (1D) Regulations under subsection (1A) above may make different provision for different descriptions of case.
- (1E) In subsection (1A) above “prescribed” means prescribed by regulations made under that subsection.]
- (2) Where benefits provided for an employee under an approved scheme or a [F55 relevant] statutory scheme have been secured by means of an annuity contract with an insurance company (within the meaning given by section 599(8)), the insurance company shall, within 30 days from the date of a notice from the inspector requiring it to do so, prepare and deliver to the inspector a return containing particulars of—
- (a) any payments under the contract by way of commutation of, or in lieu of, a pension, or any other lump sum payments under the contract; and
 - (b) any payments made under the contract to the employer.
- (3) It shall be the duty of every employer—
- (a) if there subsists in relation to any of his employees a retirement benefits scheme to which he contributes and which is neither an approved scheme nor a [F55 relevant] statutory scheme, to deliver particulars of that scheme to the Board within three months beginning with the date on which the scheme first comes into operation in relation to any of his employees, and
 - (b) when required to do so by notice given by the Board, to furnish within the time limited by the notice such particulars as the Board may require with regard to—
 - (i) any retirement benefits scheme relating to the employer which is neither an approved scheme nor a [F55 relevant] statutory scheme; and
 - (ii) the employees of his to whom any such scheme relates.
- (4) It shall be the duty of the administrator of a retirement benefits scheme which is neither an approved scheme nor a [F55 relevant] statutory scheme, when required to do so by notice given by the Board, to furnish within the time limited by the notice such particulars as the Board may require with regard to the scheme.

Textual Amendments

F54 S. 605(1A)-(1E) inserted (3.5.1994) by Finance Act 1994 (c. 9), s. 105(2)

F55 1989 s.75 and Sch.6 paras.14 and 18(1) on and after 14 March 1989.

Marginal Citations

M22 Source-1970(F) Sch.5 Part II 6, 7, 8, 9; 1987 (No.2) Sch.3 11, 13-15

[F56] 605A False statements etc.

- (1) A person who fraudulently or negligently makes a false statement or false representation on making an application for the approval for the purposes of this Chapter of—
- (a) a retirement benefits scheme, or
 - (b) an alteration in such a scheme,
- shall be liable to a penalty not exceeding £3,000.
- (2) In a case where—

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- (a) a person fraudulently or negligently makes a false statement or false representation, and
 - (b) in consequence that person, or any other person, obtains relief from or repayment of tax under this Chapter,
- the person mentioned in paragraph (a) above shall be liable to a penalty not exceeding £3,000.]

Textual Amendments

F56 S. 605A inserted (with application in accordance with s. 106(2) of the amending Act) by Finance Act 1994 (c. 9), s. 106(1)

[^{F57} 606 Default of administrator etc.

- (1) This section applies in relation to a retirement benefits scheme if at any time—
 - (a) there is no administrator of the scheme, or
 - (b) the person who is, or all of the persons who are, the administrator of the scheme cannot be traced, or
 - (c) the person who is, or all of the persons who are, the administrator of the scheme is or are in default for the purposes of this section.
- (2) If the scheme is a trust scheme, then—
 - (a) if subsection (1)(b) or (c) above applies and at the time in question the condition mentioned in subsection (3) below is fulfilled, the trustee or trustees shall at that time be responsible for the discharge of all duties imposed on the administrator under this Chapter (whenever arising) and liable for any tax due from the administrator in the administrator's capacity as such (whenever falling due);
 - (b) if subsection (1)(a) above applies, or subsection (1)(b) or (c) above applies and at the time in question the condition mentioned in subsection (3) below is not fulfilled, the employer shall at that time be so responsible and liable;

and paragraph (b) above shall apply to a person in his capacity as the employer even if he is also the administrator, or a trustee, of the scheme.
- (3) The condition is that there is at least one trustee of the scheme who—
 - (a) can be traced,
 - (b) is resident in the United Kingdom, and
 - (c) is not in default for the purposes of this section.
- (4) If the scheme is a non-trust scheme, then—
 - (a) if subsection (1)(b) or (c) above applies and at the time in question the condition mentioned in subsection (5) below is fulfilled, the scheme sponsor or scheme sponsors shall at that time be responsible for the discharge of all duties imposed on the administrator under this Chapter (whenever arising) and liable for any tax due from the administrator in the administrator's capacity as such (whenever falling due);
 - (b) if subsection (1)(a) above applies, or subsection (1)(b) or (c) above applies and at the time in question the condition mentioned in subsection (5) below is not fulfilled, the employer shall at that time be so responsible and liable;

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and paragraph (b) above shall apply to a person in his capacity as the employer even if he is also the administrator of the scheme, or a scheme sponsor.

- (5) The condition is that there is at least one scheme sponsor who—
- (a) can be traced,
 - (b) is resident in the United Kingdom, and
 - (c) is not in default for the purposes of this section.
- (6) Where at any time—
- (a) paragraph (b) or (c) of subsection (1) above applies in relation to a scheme, and
 - (b) a person is by virtue of this section responsible for the discharge of any duties, or liable for any tax, in relation to the scheme,
- then at that time the person or persons mentioned in paragraph (b) or (as the case may be) paragraph (c) of subsection (1) above shall not, by reason only of being the administrator of the scheme, be responsible for the discharge of those duties or liable for that tax.
- (7) Where the scheme is a trust scheme and the employer is not a contributor to the scheme, subsection (2) above shall have effect as if—
- (a) for “the employer”, in the first place where those words occur, there were substituted “the scheme sponsor or scheme sponsors”, and
 - (b) for “the employer”, in the second place where those words occur, there were substituted “scheme sponsor”.
- (8) Where the scheme is a non-trust scheme and the employer is not a contributor to the scheme, subsection (4) above shall have effect as if paragraph (b) and the words after that paragraph were omitted.
- (9) No liability incurred under this Chapter—
- (a) by the administrator of a scheme, or
 - (b) by a person by virtue of this section,
- shall be affected by the termination of a scheme or by its ceasing to be an approved scheme or to be an exempt approved scheme.
- [^{F58}(9A) Where by virtue of this section any person is the person, or one of the persons, responsible for the discharge of the duties of the administrator of a scheme, any power or duty by virtue of this Part to serve any notice on, or to do any other thing in relation to, the administrator may be exercised or performed, instead, by the service of that notice on that person or, as the case may be, by the doing of that other thing in relation to that person.]
- (10) Where by virtue of this section a person becomes responsible for the discharge of any duties, or liable for any tax, the Board shall, as soon as is reasonably practicable, notify him of that fact; but any failure to give such notification shall not affect that person’s being responsible or liable by virtue of this section.
- (11) A person is in default for the purposes of this section if—
- (a) he has failed to discharge any duty imposed on him under this Chapter, or
 - (b) he has failed to pay any tax due from him by virtue of this Chapter,
- and (in either case) the Board consider the failure to be of a serious nature.
- (12) References in this section to a trust scheme, a non-trust scheme, trustees and scheme sponsors shall be construed in accordance with section 611AA.

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- (13) References in this section to the employer include, where the employer is resident outside the United Kingdom, references to any branch or agent of the employer in the United Kingdom, and in this subsection “branch or agent” has the meaning given by section 118(1) of the Management Act.
- (14) This section does not apply for the purposes of sections 602 and 603 and Schedule 22.]

Textual Amendments

- F57** S. 606 substituted (with application in accordance with s. 104(3) of the amending Act) by Finance Act 1994 (c. 9), s. 104(1)
- F58** S. 606(9A) inserted (retrospectively) by Finance Act 1998 (c. 36), Sch. 15 para. 5(1)

VALID FROM 31/07/1998

^{F59} 606A Recourse to scheme members.

- (1) This section applies where—
- (a) an approval of a retirement benefits scheme has ceased to have effect;
 - (b) a person (“the employer”) has become liable by virtue of section 606 to any tax chargeable on the administrator of the scheme under section 591C;
 - (c) the employer has failed, either in whole or in part, to pay that tax; and
 - (d) a person falling within subsection (2) below (“the relevant member”) was a member of the scheme at the time (“the relevant time”) immediately before the date of the cessation of its approval.
- (2) A person falls within this subsection in relation to any tax chargeable under section 591C if—
- (a) at the relevant time or at any time before that time he was a controlling director of the employer; or
 - (b) he is a person by or in respect of whom any contributions were made by reference to which the condition in subsection (6A) of that section has been satisfied for the purpose of the charge to that tax.
- (3) Subject to subsection (4) below, if in a case where this section applies—
- (a) the employer has ceased to exist, or
 - (b) the Board notify the relevant member that they consider the failure of the employer to pay the unpaid tax to be of a serious nature,
- the relevant member shall be treated as included in the persons on whom the unpaid tax was charged and shall be assessable accordingly.
- (4) The amount of tax for which the relevant member shall be taken to be assessable by virtue of this section shall not exceed the amount determined by—
- (a) taking the amount equal to 40 per cent. of his share of the scheme; and
 - (b) subtracting from that amount his share of any tax charged under section 591C that has already been paid otherwise than by another person on whom it is treated as charged in accordance with this section.
- (5) For the purposes of this section the relevant member’s share of the scheme is the amount equal to so much of the value of the assets held for the purposes of the

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scheme at the relevant time (taking the value at that time) as, on a just and reasonable apportionment, would have fallen to be treated as the value at that time of the assets then held for the purposes of the provision under the scheme of benefits to or in respect of the relevant member.

- (6) For the purposes of this section the relevant member's share of an amount of tax already paid is such sum as bears the same proportion to the amount paid as is borne by his share of the scheme to the total value at the relevant time of the assets then held for the purposes of the scheme.
- (7) The reference in subsection (5) above to the provision of benefits to or in respect of the relevant member includes a reference to the provision of a benefit to or in respect of a person connected with the relevant member.
- (8) For the purposes of this section a person is a controlling director of a company if he is a director of the company and is within section 417(5)(b) in relation to the company.
- (9) A notification given to any person for the purposes of subsection (3)(b) above may be included in any assessment on that person of the tax to which he becomes liable by virtue of the notification.
- (10) An assessment to tax made by virtue of this section shall not be out of time if it is made within three years after the date on which the tax which the employer has failed to pay first became due from him.
- (11) Subsections (1) to (3) of section 591D shall apply to the determination of the value at any time of an asset held for the purposes of a scheme as they apply for the purposes of section 591C(2).
- (12) Subsections (7) and (8) of section 591D shall apply for the purposes of this section as they apply for the purposes of subsection (1) of section 591C and section 591C, respectively.
- (13) Section 839 (connected persons) shall apply for the purposes of this section.]

Textual Amendments

F59 S. 606A inserted (with effect in accordance with Sch. 15 para. 6(2) of the amending Act) by Finance Act 1998 (c. 36), Sch. 15 para. 6(1)

607 Pilots' benefit fund.

^{M23}(1) The Board may, if they think fit, and subject to such conditions as they think proper to attach to the approval, approve a pilots' benefit fund for the purposes of this Chapter as if it were a retirement benefits scheme and notwithstanding that it does not satisfy one or more of the conditions set out in section 590(2) and (3).

(2) If a fund is approved by virtue of this section—

- (a) sections 592, 597 to 600 and 604 to 606 shall have effect in relation to the fund with the modifications specified in subsection (3) below;
- (b) pensions paid out of the fund and any sums chargeable to tax in connection with the fund under section 600 shall be treated for the purposes of the Income Tax Acts as earned income; and

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- (c) Chapter III of this Part shall have effect as if a member of the fund were the holder of a pensionable office or employment and his earnings as a pilot (estimated in accordance with the provisions of Case II of Schedule D) were remuneration from such an office or employment.
- (3) The modifications referred to in subsection (2)(a) above are as follows—
- (a) in section 592, for the references in subsection (7) to an employee and Schedule E there shall be substituted respectively references to a member of the fund and Schedule D, and subsections (4) to (6), and in subsection (7) the words from “incurred” onwards, shall be omitted;
- (b) in sections 597 to 606 (except sections 601 to 603)—
- (i) for references to an employee there shall be substituted references to a member or former member of the fund;
- (ii) in section 599(1)(a) for the reference to a year of service there shall be substituted a reference to a year as a pilot licensed by a pilotage authority or authorised by a competent harbour authority;
- (iii) [F60 section 606(2)(b), (4)(b), (7), (8) and (13)] and so much of any other provision as applies to an employer shall be omitted; and
- (iv) in section 600, for references to Schedule E there shall be substituted references to Case VI of Schedule D.
- (4) In this section “pilots’ benefit fund” means a fund established under section 15(1)(i) of the ^{M24}Pilotage Act 1983 or any scheme supplementing or replacing any such fund.

Textual Amendments

F60 Words in s. 607(3)(b)(iii) substituted (with application in accordance with s. 104(3) of the amending Act) by Finance Act 1994 (c. 9), s. 104(2)

Modifications etc. (not altering text)

C19 See Sch.1 para.4 Pilotage Act 1987—continuation of fund following repeal of s.15(1)(i) Pilotage Act 1983 by Pilotage Act 1987 (on and after 1February 1988by virtue of S.I. 1987 No. 2138).

Marginal Citations

M23 Source-1980 s.35

M24 1983 c. 21.

608 Superannuation funds approved before 6th April 1980.

- ^{M25}(1) This section applies to any fund which immediately before 6th April 1980 was an approved superannuation fund for the purposes of section 208 of the 1970 Act if—
- (a) it has not been approved under this Chapter (or under Chapter II of Part II of the Finance Act 1970); and
- (b) no sum has been paid to it by way of contribution since 5th April 1980.
- (2) Subject to subsection (3) below, exemption from income tax shall, on a claim being made in that behalf, be allowed to a fund to which this section applies in respect of—
- (a) income derived from investments or deposits of the fund;
- (b) any underwriting commissions which apart from this subsection would be chargeable to tax under Case VI of Schedule D; and

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- (c) any profits or gains which (apart from this subsection) would be chargeable to tax under Case VI of Schedule D by virtue of section 56(1)(a) and (2); if, or to such extent as the Board are satisfied that, the income, commissions, profits or gains are applied for the purposes of the fund.
- (3) No claim under subsection (2) above shall be allowed unless the Board are satisfied that the terms on which benefits are payable from the fund have not been altered since 5th April 1980.
- (4) An annuity paid out of a fund to which this section applies shall be charged to tax under Schedule E and section 203 shall apply accordingly.

Marginal Citations

M25 Source-1980 s.36 (1), (2), (4), (6)

609 Schemes approved before 23rd July 1987.

Schedule 23 to this Act, which makes provision with respect to retirement benefit schemes approved before 23rd July 1987, shall have effect.

610 Amendments of schemes.

- ^{M26}(1) This section applies to any amendment of a retirement benefits scheme proposed in connection with an application for the Board's approval for the purposes of this Chapter which is needed in order to ensure that approval is so given, or designed to enhance the benefits under the scheme up to the limits suitable in a scheme for which approval is sought.
- (2) A provision, however expressed, designed to preclude any amendment of a scheme which would have prejudiced its approval under section 208 or 222 of the 1970 Act shall not prevent any amendment to which this section applies.
- (3) In the case of a scheme which contains no powers of amendment, the administrator of the scheme may, with the consent of all the members of the scheme, and of the employer (or of each of the employers), make any amendment to which this section applies.

Marginal Citations

M26 Source-1971 s.22(1)-(3)

611 Definition of “retirement benefits scheme”.

- (1) ^{M27}In this Chapter “retirement benefits scheme” means, subject to the provisions of this section, a scheme for the provision of benefits consisting of or including relevant benefits, but does not include any national scheme providing such benefits.
- (2) References in this Chapter to a scheme include references to a deed, agreement, series of agreements, or other arrangements providing for relevant benefits notwithstanding that it relates or they relate only to—
- (a) a small number of employees, or to a single employee, or

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- (b) the payment of a pension starting immediately on the making of the arrangements.
- (3) The Board may, if they think fit, treat a retirement benefits scheme relating to employees of two or more different classes or descriptions as being for the purposes of this Chapter two or more separate retirement benefits schemes relating respectively to such one or more of those classes or descriptions of those employees as the Board think fit.
- (4) For the purposes of this section, and of any other provision of this Chapter—
 - (a) employees may be regarded as belonging to different classes or descriptions if they are employed by different employers; and
 - (b) a particular class or description of employee may consist of a single employee, or any number of employees, however small.
- (5) ^{M28}Without prejudice to subsections (3) and (4) above, the Board may continue to treat as two different schemes, for the purposes of this Chapter, any retirement benefits scheme which, in pursuance of paragraph 5 of Schedule 3 to the Finance Act 1971 (schemes in existence before 5th April 1973), they treated, immediately before the coming into force of this Chapter, as two separate schemes for the purposes of Chapter II of Part II of the Finance Act 1970.

Marginal Citations

M27 Source-1970(F) s.25

M28 Source-1971 Sch.3 5

[^{F61}611A] Definition of relevant statutory scheme.

- (1) In this Chapter any reference to a “relevant statutory scheme” is a reference to a statutory scheme—
 - (a) established before 14th March 1989, or
 - (b) established on or after that date and entered in the register maintained by the Board for the purposes of this section.
- (2) The Board shall maintain a register for the purposes of this section and shall enter in it the relevant particulars of any statutory scheme established on or after 14th March 1989 which is reported to the Board by the authority responsible for establishing it as a scheme the provisions of which correspond with those of an approved scheme.
- (3) The reference in subsection (2) above to the relevant particulars, in relation to a scheme, is a reference to—
 - (a) the identity of the scheme,
 - (b) the date on which it was established,
 - (c) the authority responsible for establishing it, and
 - (d) the date on which that authority reported the scheme to the Board.
- (4) Where the Board enter the relevant particulars of a scheme in the register maintained by them for the purposes of this section, they shall inform the authority responsible for establishing the scheme of the date of the entry.

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Textual Amendments

F61 S. 611A inserted (14.3.1989) by Finance Act 1989 (c. 26), Sch. 6 paras. 15, 18(1)

Modifications etc. (not altering text)

C20 *Definition employed for purposes of S.I. 1987 No.1749, regn.5(2), (“The Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987”—in Part III Vol.5).*

[^{F62}611A] Definition of the administrator.

- (1) In this Chapter references to the administrator, in relation to a retirement benefits scheme, are to the person who is, or the persons who are, for the time being the administrator of the scheme by virtue of the following provisions of this section.
- (2) Subject to subsection (7) below, where—
 - (a) the scheme is a trust scheme, and
 - (b) at any time the trustee, or any of the trustees, is or are resident in the United Kingdom,the administrator of the scheme at that time shall be the trustee or trustees of the scheme.
- (3) Subject to subsection (7) below, where—
 - (a) the scheme is a non-trust scheme, and
 - (b) at any time the scheme sponsor, or any of the scheme sponsors, is or are resident in the United Kingdom,the administrator of the scheme at that time shall be the scheme sponsor or scheme sponsors.
- (4) At any time when the trustee of a trust scheme is not resident in the United Kingdom or (if there is more than one trustee) none of the trustees is so resident, the trustee or trustees shall ensure that there is a person, or there are persons—
 - (a) resident in the United Kingdom, and
 - (b) appointed by the trustee or trustees to be responsible for the discharge of all duties relating to the scheme which are imposed on the administrator under this Chapter.
- (5) At any time when the scheme sponsor of a non-trust scheme is not resident in the United Kingdom or (if there is more than one scheme sponsor) none of the scheme sponsors is so resident, the scheme sponsor or scheme sponsors shall ensure that there is a person, or there are persons—
 - (a) resident in the United Kingdom, and
 - (b) appointed by the scheme sponsor or scheme sponsors to be responsible for the discharge of all duties relating to the scheme which are imposed on the administrator under this Chapter.
- (6) Without prejudice to subsections (4) and (5) above—
 - (a) the trustee or trustees of a trust scheme, or
 - (b) the scheme sponsor or scheme sponsors of a non-trust scheme,may at any time appoint a person who is, or persons who are, resident in the United Kingdom to be responsible for the discharge of all duties relating to the scheme which are imposed on the administrator under this Chapter.

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- (7) Where at any time there is or are a person or persons—
- (a) for the time being appointed under subsection (4), (5) or (6) above as regards a scheme, and
 - (b) resident in the United Kingdom,
- the administrator of the scheme at that time shall be that person or those persons (and no other person).
- (8) Any appointment under subsection (4), (5) or (6) above—
- (a) must be in writing, and
 - (b) if made after the time when the scheme is established, shall constitute an alteration of the scheme for the purposes of section 591B(2).
- (9) In this section—
- (a) references to a trust scheme are to a retirement benefits scheme established under a trust or trusts;
 - (b) references to the trustee or trustees, in relation to a trust scheme and to a particular time, are to the person who is the trustee, or the persons who are the trustees, of the scheme at that time;
 - (c) references to a non-trust scheme are to a retirement benefits scheme not established under a trust or trusts, and
 - (d) references to the scheme sponsor or scheme sponsors, in relation to a retirement benefits scheme and to a particular time, are references to any person who established the scheme and is in existence at that time or, if more than one, all such persons.]

Textual Amendments

F62 S. 611AA inserted (with application in accordance with s. 103(3) of the amending Act) by Finance Act 1994 (c. 4), s. 103(1)

Modifications etc. (not altering text)

C21 S. 611AA excluded (temp. 6.4.2005 to 5.4.2006) by The Pension Protection Fund (Tax) (2005-06) Regulations 2005 (S.I. 2005/1907), regs. 1, 9(2)

611A Definition of relevant statutory scheme.

- (1) In this Chapter any reference to a “relevant statutory scheme” is a reference to a statutory scheme—
- (a) established before 14th March 1989, or
 - (b) established on or after that date and entered in the register maintained by the Board for the purposes of this section.
- (2) The Board shall maintain a register for the purposes of this section and shall enter in it the relevant particulars of any statutory scheme established on or after 14th March 1989 which is reported to the Board by the authority responsible for establishing it as a scheme the provisions of which correspond with those of an approved scheme.
- (3) The reference in subsection (2) above to the relevant particulars, in relation to a scheme, is a reference to—
- (a) the identity of the scheme,

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- (b) the date on which it was established,
 - (c) the authority responsible for establishing it, and
 - (d) the date on which that authority reported the scheme to the Board.
- (4) Where the Board enter the relevant particulars of a scheme in the register maintained by them for the purposes of this section, they shall inform the authority responsible for establishing the scheme of the date of the entry.]

Textual Amendments

F61 S. 611A inserted (14.3.1989) by Finance Act 1989 (c. 26), Sch. 6 paras. 15, 18(1)

Modifications etc. (not altering text)

C20 Definition employed for purposes of S.I. 1987 No.1749, regn.5(2), (“The Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987”—in Part III Vol.5).

612 Other interpretative provisions, and regulations for purposes of this Chapter.

- (1)^{M29} In this Chapter, except where the context otherwise requires—

F63
...

“approved scheme” means a retirement benefits scheme for the time being approved by the Board for the purposes of this Chapter;

“director” in relation to a company includes—

- (a) in the case of a company the affairs of which are managed by a board of directors or similar body, a member of that board or body,
- (b) in the case of a company the affairs of which are managed by a single director or similar person, that director or person,
- (c) in the case of a company the affairs of which are managed by the members themselves, a member of that company;

and includes a person who is to be or has been a director;

“employee”—

- (a) in relation to a company, includes any officer of the company, any director of the company and any other person taking part in the management of the affairs of the company, and
- (b) in relation to any employer, includes a person who is to be or has been an employee;

and “employer” and other cognate expressions shall be construed accordingly;

“exempt approved scheme” has the meaning given by section 592(1);

“final remuneration” means the average annual remuneration of the last three years’ service;

“pension” includes annuity;

“the permitted maximum” has the meaning given by section 590(3);

“relevant benefits” means any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death, or in anticipation of retirement, or, in connection with past service, after retirement or death, or to be given on or in anticipation of or in connection with any change in the nature of the service of the employee in question, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a person

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occurring during his service or of his death by accident so occurring and for no other reason;

“remuneration” does not include—

(a) anything in respect of which tax is chargeable under Schedule E and which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares; or

(b) anything in respect of which tax is chargeable by virtue of section 148; “service” means service as an employee of the employer in question and other expressions, including “retirement”, shall be construed accordingly; and “statutory scheme” means a retirement benefits scheme established by or under any enactment—

(a) the particulars of which are set out in any enactment, or in any regulations made under any enactment, or

(b) which has been approved as an appropriate scheme by a Minister or government department (including the head of a Northern Ireland department or a Northern Ireland department).

- (2) ^{M30} Any reference in this Chapter to the provision of relevant benefits, or of a pension, for employees of an employer includes a reference to the provision of relevant benefits or a pension by means of a contract between the administrator or the employer or the employee and a third person; and any reference to pensions or contributions paid, or payments made, under a scheme includes a reference to pensions or contributions paid, or payments made, under such a contract entered into for the purposes of the scheme.
- (3) ^{M31} The Board may make regulations generally for the purpose of carrying the preceding provisions of this Chapter into effect.

Textual Amendments

F63 S. 612(1): definition of “administrator” repealed (with effect in accordance with s. 103(3) of the repealing Act) by [Finance Act 1994 \(c. 9\)](#), s. 103(2), [Sch. 26 Pt. 5\(12\)](#), Note 4

Modifications etc. (not altering text)

C22 Definition employed for purposes of S.I. [1987 No.1749](#), regn.2(1A) (“The Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987”—in Part III Vol.5).

C23 See s.686—liability to additional rate of certain income of discretionary trusts.

C24 Interpretation employed for purposes of S.I. [1987 No.1749](#), regn.2(1) (“The Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987” in Part III Vol.5).

C25 For regulations see Part III Vol.5

Marginal Citations

M29 Source-1970(F) s.26 (1); 1971 Sch.3 12(4); 1986 Sch.12 1(10); 1987 (No.2) Sch.3 7

M30 Source-1970(F) s.26(2); 1987 (No.2) Sch.3 8

M31 Source-1970(F) Sch.5 Part II 10; 1971 Sch.3 13(3)

Status:

Point in time view as at 01/05/1995. This version of this chapter contains provisions that are not valid for this point in time.

Changes to legislation:

Income and Corporation Taxes Act 1988, CHAPTER I is up to date with all changes known to be in force on or before 24 June 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.