



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

CHAPTER I

RETIREMENT BENEFIT SCHEMES

Charge to tax in certain cases

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

^{M1}(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*

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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^{F1}.

- (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.*

- (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

F1 *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)

C2 *See s.189—lump sum benefits on retirement.*

Marginal Citations

M1 *Source-1970(F) s.23(1)-(5)*

596 Exceptions from section 595.

^{M2}(1) [^{F2}Section 595(1) shall not] apply where the retirement benefits scheme in question is—

- (a) an approved scheme, or
- (b) a [^{F3}relevant] statutory scheme, or

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- (c) a scheme set up by a government outside the United Kingdom for the benefit, or primarily for the benefit of, its employees.
- (2) [^{F4}Section 595(1) shall not] apply for any year of assessment—
- (a) 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
- (b) 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) a sum has been deemed to be income of his by virtue *either*^{F5} of subsection (1) *or subsection (2)*^{F5} of section 595, and
- (b) subsequently, the employee proves to the satisfaction of the Board that—
- (i) no payment in respect of, or in substitution for, the benefits has been made, and
- (ii) 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.

Textual Amendments

F2 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.

F3 1989 s.75 and Sch.6 paras.8(2)(b) and 18(1) on and after 14 March 1989.

F4 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.

F5 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

M2 Source-1970(F) s.24; 1974 s.21(7)

[^{F6}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.

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- (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) [^{F7}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
 - [^{F8}(b) in the case of a non-cash benefit, whichever is the greater of—
 - (i) the amount which would be chargeable to tax under section 19(1) if the benefit were taxable as an emolument of the employment under Case I of Schedule E, or
 - (ii) the cash equivalent of the benefit determined in accordance with section 596B.]
- (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.
- [^{F9}(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 [^{F10}as mentioned in subsection (6)(a) above] is less than the amount which would be chargeable to tax under this section—
- (a) [^{F11}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 [^{F12}section 19(1)].
- [^{F13}(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;
 - (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

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- (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—

- (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

F6 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

F7 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)

F8 S. 596A(4)(b) substituted (with effect in accordance with s. 93(4) of the amending Act) by Finance Act 1998 (c. 36), s. 93(1)

F9 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)

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- F10** 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)
- F11** 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)
- F12** 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)
- F13** 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)

- C3** 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 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

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- (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;
 - [^{F14}(b) the employer or former employer; or
 - (c) any person, other than the recipient, who is connected with a person falling within paragraph (a) or (b) 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;
- and section 839 shall apply for the purposes of this section.

Textual Amendments

F14 S. 596B(9)(b)(c) substituted for s. 596B(9)(b) (with effect in accordance with s. 93(4) of the amending Act) by Finance Act 1998 (c. 36), s. 93(2)

[^{F15}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.

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- (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

F15 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.

- ^{M3}(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.
- [^{F16}(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.]

Textual Amendments

F16 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)

C4 See 1989 s.41—*tax charged on amount accruing (1989-90 and subsequent years of assessment).*

Marginal Citations

M3 Source-1970(F) Sch.5 Part II 1

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

- ^{M4}(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 [^{F17}relevant] statutory scheme established under a public general Act.

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- (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

F17 1989 s.75 and Sch.6 paras.10 and 18(1) on and after 14 March 1989.

Modifications etc. (not altering text)

C5 20 per cent. on and after 6 April 1988—see S.I. 1988 No.504 in Part III Vol.5

Marginal Citations

M4 Source-1970(F) Sch.5 Part II 2, 3; 1971 Sch.3 7; 1987 (No.2) Sch.3 9

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

^{M5}(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 [^{F18}relevant] statutory scheme established under a public general Act.

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- (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.
- [^{F19}(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)".
- [^{F20}(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.
- (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) [^{F21}to (5A)].]

Textual Amendments

- F18** 1989 s.75 and Sch.6 paras.11(2) and 18(1) on and after 14 March 1989.
- F19** 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)
- F20** 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.
- F21** 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)

- C6** 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)

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Marginal Citations

M5 Source-1970(F) Sch.5 Part II 2, 3; 1971 Sch.3 7; 197 (No.2) Sch.3 9

[^{F22}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 ^{F23} . . . no repayment of income tax shall be made to the employee.
- (7) ^{F24}
- (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

- F22** 1989 s.75 and Sch.6 paras.12 and 18(9) in relation to payments made on or after 27 July 1989.
- F23** Words in s. 599A(6) repealed (with effect in accordance with s. 121(8) of the repealing Act) by Finance Act 1996 (c. 8), s. 122(7)(b), Sch. 41 Pt. 5(6), Note 3
- F24** S. 599A(7) repealed (with effect in accordance with s. 121(8) of the repealing Act) by Finance Act 1996 (c. 8), s. 122(7)(c), Sch. 41 Pt. 5(6), Note 3

Status: Point in time view as at 16/06/1999.

Changes to legislation: Income and Corporation Taxes Act 1988, Cross Heading: Charge to tax in certain cases is up to date with all changes known to be in force on or before 11 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)

Modifications etc. (not altering text)

- C7** S. 599A(2) modified (6.4.2000) by [The Income Tax \(Charge to Tax\) \(Payments out of Surplus Funds\) \(Relevant Rate\) Order 2000 \(S.I. 2000/600\)](#), [art. 2](#)

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

- ^{M6}(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^{F25} held for the purposes of a scheme which is or has at any time been^{F25} 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 [^{F26}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

F25 *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.*

F26 *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.”.

Modifications etc. (not altering text)

C8 *See s.189—lump sum benefit on retirement.*

Marginal Citations

M6 *Source-1971 Sch.3 9*

601 Charge to tax: payments to employers.

- ^{M7}(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.

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

Marginal Citations

M7 Source-1986 Sch.12 1; 1970(F) Sch.5 Part II 4; 1971 Sch.3 12(5)

602 Regulations relating to pension fund surpluses.

- ^{M8}(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

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- (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—
- (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)

- C9** For regulations see Part III Vol.5 (under "Pension Schemes Surpluses: administration").

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Marginal Citations

M8 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.

Status:

Point in time view as at 16/06/1999.

Changes to legislation:

Income and Corporation Taxes Act 1988, Cross Heading: Charge to tax in certain cases is up to date with all changes known to be in force on or before 11 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.