



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

### CHAPTER IV

PERSONAL PENSION SCHEMES

#### *Tax reliefs*

#### **644 Meaning of “relevant earnings”.**

- <sup>M1</sup>(1) In this Chapter, “relevant earnings”, in relation to an individual, means any income of his which is chargeable to tax for the year of assessment in question and is within subsection (2) below.
- (2) Subject to subsections (3) to [F<sup>1</sup>(6F)] below, income is within this subsection if it is—
- [F<sup>2</sup>general earnings] from an office or employment held by the individual;
  - income from any property which is attached to or forms part of the [F<sup>3</sup>earnings from] an office or employment held by him;
  - income which is chargeable under Schedule D and is immediately derived by him from the carrying on or exercise by him of his trade, profession or vocation (either as an individual or as a partner acting personally in a partnership);
  - income treated as earned income by virtue of section 529.
- (3) Where section 645 applies to an office or employment held by the individual, neither [F<sup>4</sup>general earnings] from the office or employment nor income from any property which is attached to it or forms part of its [F<sup>4</sup>general earnings] are within subsection (2) above.
- (4) The following are not income within subsection (2) above—

*Status: Point in time view as at 06/04/2003. This version of this provision has been superseded.*

*Changes to legislation: Income and Corporation Taxes Act 1988, Section 644 is up to date with all changes known to be in force on or before 13 August 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)*

- (a) anything in respect of which tax is chargeable under [F<sup>5</sup>ITEPA 2003] and which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares;
  - (b) anything in respect of which tax is chargeable by virtue of [F<sup>6</sup>Chapter 3 of Part 6 of ITEPA 2003 (payments and benefits on termination of employment etc.)].
- (5) [F<sup>7</sup>general earnings] of an individual as director of a company are not income within subsection (2) above if—
- (a) the income of the company consists wholly or mainly of investment income; and
  - (b) the individual, either alone or together with any other persons who are or have been at any time directors of the company, controls the company;
- and section 840 shall apply for the purposes of this subsection.
- (6) For the purposes of subsection (5) above—
- “director” includes any person occupying the position of director by whatever name called; and
- [F<sup>8</sup>“investment income” means income which if the company were an individual, would not be earned income.]
- [F<sup>9</sup>(6A) [F<sup>10</sup>general earnings] of an individual as an employee of a company are not income within subsection (2) above if—
- (a) he is a controlling director of the company at any time in the year of assessment in question or has been a controlling director of the company at any time in the ten years immediately preceding that year of assessment, and
  - (b) any of subsections (6B) to (6E) below applies in his case.
- (6B) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a relevant superannuation scheme, and
  - (b) the benefits are payable in respect of past service with the company.
- (6C) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a personal pension scheme.
  - (b) the scheme has received a transfer payment relating to him from a relevant superannuation scheme, and
  - (c) the transfer payment is in respect of past service with the company.
- (6D) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a relevant superannuation scheme,
  - (b) the benefits are payable in respect of past service with another company,
  - (c) the [F<sup>11</sup>general earnings] are for a period during which the company mentioned in subsection (6A) above has carried on a trade or business previously carried on by the other company, and
  - (d) the other company carried on the trade or business at anytime during the period of service in respect of which the benefits are payable.
- (6E) This subsection applies in the case of the individual if—
- (a) at any time in the year of assessment in question he is in receipt of benefits under a personal pension scheme,

*Status: Point in time view as at 06/04/2003. This version of this provision has been superseded.*

*Changes to legislation: Income and Corporation Taxes Act 1988, Section 644 is up to date with all changes known to be in force on or before 13 August 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)*

- (b) the scheme has received a transfer payment relating to him from a relevant superannuation scheme,
- (c) the transfer payment is in respect of past service with another company,
- (d) the [<sup>F12</sup>general earnings] are for a period during which the company mentioned in subsection (6A) above has carried on a trade or business previously carried on by the other company, and
- (e) the other company carried on the trade or business at any time during the period of service in respect of which the transfer payment was made.

[ Where—

- <sup>F13</sup>(6EA)
- (a) there is a time at which a person would be in receipt of any benefits under a scheme but for any debit to which any of his rights under that scheme became subject by virtue of any pension sharing order or provision, and
  - (b) the benefits he would be in receipt of are benefits payable in respect of past service with a company,

that person shall be deemed for the purposes of subsections (6A) to (6E) above to be in receipt at that time of benefits under that scheme and the benefits which he is deemed to be in receipt of shall be deemed to be benefits in respect of past service with that company.]

(6F) For the purposes of subsections (6A) to [<sup>F14</sup>(6EA)] above—

- (a) a person is a controlling director of a company if he is a director (as defined by section 612(1)), and he is within paragraph (b) of section 417(5), in relation to the company;
- (b) “relevant superannuation scheme” has the same meaning as in section 645(1);
- (c) references to benefits payable in respect of past service with a company include references to benefits payable partly in respect of past service with the company [<sup>F15</sup>but do not include references to benefits which (within the meaning of section 590) are provided for him as an ex-spouse]; and
- (d) references to a transfer payment in respect of past service with a company include references to a transfer payment partly in respect of past service with the company [<sup>F16</sup>but do not include references to any transfer payment made for the purpose of giving effect to a pension sharing order or provision.]]

(7) *For the purposes of this Chapter, a married woman’s relevant earnings shall not be treated as her husband’s relevant earnings, notwithstanding that her income chargeable to tax is treated as his income<sup>F17</sup>.*

#### Textual Amendments

- F1** 1989 s.77 and Sch.7 para.5(2) from 6 April 1989. Previously “(5)”.
- F2** Words in s. 644(2)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(2\)](#) (with [Sch. 7](#))
- F3** Words in s. 644(2)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(3\)](#) (with [Sch. 7](#))
- F4** Words in s. 644(3) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(4\)](#) (with [Sch. 7](#))
- F5** Words in s. 644(4)(a) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(5\)](#) (with [Sch. 7](#))
- F6** Words in s. 644(4)(b) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(6\)](#) (with [Sch. 7](#))

*Status: Point in time view as at 06/04/2003. This version of this provision has been superseded.*

*Changes to legislation: Income and Corporation Taxes Act 1988, Section 644 is up to date with all changes known to be in force on or before 13 August 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)*

- F7** Words in s. 644(5) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(7\)\(a\)](#) (with [Sch. 7](#))
- F8** 1989 s.107 and Sch. 12 para.16 in relation to accounting periods beginning after 31 March 1989. Previously  
 “ “investment income” shall be construed in accordance with paragraph 7 of Schedule 19.”.
- F9** 1989 s.77 and Sch.7 para.5(3) from 6 April 1989.
- F10** Words in s. 644(6A) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(7\)\(b\)](#) (with [Sch. 7](#))
- F11** Words in s. 644(6D)(c) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(7\)\(c\)](#) (with [Sch. 7](#))
- F12** Words in s. 644(6E)(d) substituted (6.4.2003 with effect in accordance with s. 723(1) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 92\(7\)\(d\)](#) (with [Sch. 7](#))
- F13** [S. 644\(6EA\)](#) inserted (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), [Sch. 10 para. 15\(1\)](#)
- F14** Words in s. 644(6F) substituted (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), [Sch. 10 para. 15\(2\)\(a\)](#)
- F15** Words in s. 644(6F)(c) inserted (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), [Sch. 10 para. 15\(2\)\(b\)](#)
- F16** Words in s. 644(6F)(d) inserted (27.7.1999) by [Finance Act 1999 \(c. 16\)](#), [Sch. 10 para. 15\(2\)\(c\)](#)
- F17** Repealed by 1988(F) s.148 and Sch.14 Part VIII for 1990-91 and subsequent years.

#### **Modifications etc. (not altering text)**

- C1** [S. 644](#) modified (6.4.2003 with effect in accordance with s. 723(1) of the modifying Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [s. 56\(8\)](#) (with [s. 48\(2\)](#))
- C2** [S. 644\(2\)\(c\)](#) extended (with effect in accordance with s. 44 of the extending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 6 paras. 1, 2](#)
- C3** [S. 644\(2\)\(c\)](#) extended (with effect in accordance with Sch. 22 paras. 16-18 of the extending Act) by [Finance Act 2002 \(c. 23\)](#), [Sch. 22 para. 4](#)

#### **Marginal Citations**

- M1** [Source-1987 \(No.2\)](#) s.35

**Status:**

Point in time view as at 06/04/2003. This version of this provision has been superseded.

**Changes to legislation:**

Income and Corporation Taxes Act 1988, Section 644 is up to date with all changes known to be in force on or before 13 August 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.