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Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 6

EMPLOYMENT INCOME: INCOME WHICH IS NOT EARNINGS OR SHARE-RELATED

CHAPTER 2

BENEFITS FROM ^[F1]EMPLOYER-FINANCED RETIREMENT BENEFITS]

Benefits treated as employment income

^[F1]393 Application of this Chapter

- (1) This Chapter applies to relevant benefits provided under an employer-financed retirement benefits scheme.
- (2) Section 393A defines “employer-financed retirement benefits scheme” and section 393B defines “relevant benefits”.]

Textual Amendments

F1 Ss. 393-393B substituted for s. 393 (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(3), 284(1)** (with [Sch. 36](#))

^[F1]393A Employer-financed retirement benefits scheme

- (1) In this Chapter “employer-financed retirement benefits scheme” means a scheme for the provision of benefits consisting of or including relevant benefits to or in respect of employees or former employees of an employer.

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- (2) But neither—
- (a) a registered pension scheme, nor
 - (b) a section 615(3) scheme,
- is an employer-financed retirement benefits scheme.
- (3) “Section 615(3) scheme” means a superannuation fund to which section 615(3) of ICTA applies.
- (4) “Scheme” includes a deed, agreement, series of agreements, or other arrangements.

Textual Amendments

F1 Ss. 393-393B substituted for s. 393 (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(3), 284(1)** (with [Sch. 36](#))

393B Relevant benefits

- (1) In this Chapter “relevant benefits” means any lump sum, gratuity or other benefit (including a non-cash benefit) provided (or to be provided)—
- (a) on or in anticipation of the retirement of an employee or former employee,
 - (b) on the death of an employee or former employee,
 - (c) after the retirement or death of an employee or former employee in connection with past service,
 - (d) on or in anticipation of, or in connection with, any change in the nature of service of an employee, or
 - (e) to any person by virtue of a pension sharing order or provision relating to an employee or former employee.
- (2) But—
- (a) benefits charged to tax under Part 9 (pension income),
 - (b) benefits chargeable to tax by virtue of Schedule 34 to FA 2004 (which applies certain charges under Part 4 of that Act in relation to non-UK schemes), and
 - (c) excluded benefits,
- are not relevant benefits.
- (3) The following are “excluded benefits”—
- (a) benefits in respect of ill-health or disablement of an employee during service,
 - (b) benefits in respect of the death by accident of an employee during service,
 - (c) benefits under a relevant life policy, and
 - (d) benefits of any description prescribed by regulations made by the Board of Inland Revenue.
- (4) In subsection (3)(c) “relevant life policy” means—
- [^{F2}(a) an excepted group life policy as defined in section 480 of ITTOIA 2005,]
 - (b) a policy of life insurance the terms of which provide for the payment of benefits on the death of a single individual and with respect to which [^{F3}—
 - (i) condition A in section 481 of that Act would be met if paragraph (a) in that condition referred to the death, in any circumstances or except in specified circumstances, of that individual (rather than the death in

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- any circumstances of each of the individuals insured under the policy) and if the condition did not include paragraph (b), and
- (ii) conditions C and D in that section and conditions A and C in section 482 of that Act are met, or]
- (c) a policy of life insurance that would be within paragraph (a) or (b) but for the fact that it provides for a benefit which is an excluded benefit under or by virtue of paragraph (a), (b) or (d) of subsection (3).
- [Regulations under subsection (3)(d) may include provision having effect in relation ^{F4}(4A) to times before they are made.]
- (5) In subsection (1)(e) “pension sharing order or provision” means any such order or provision as is mentioned in section 28(1) of WRPA 1999 or Article 25(1) of WRP(NIO) 1999.]

Textual Amendments

- F1** Ss. 393-393B substituted for s. 393 (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(3)**, 284(1) (with [Sch. 36](#))
- F2** S. 393B(4)(a) substituted by 2004 c. 12, s. 249(3) (as amended (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 651(2)(a)**, [Sch. 2 para. 161](#) (with [Sch. 2](#)))
- F3** Words in s. 393B(4)(b) substituted by 2004 c. 12, s. 249(3) (as amended (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 651(2)(b)**, [Sch. 2 para. 161](#) (with [Sch. 2](#)))
- F4** S. 393B(4A) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 20 paras. 21**, 24(3)

394 Charge on benefit to which this Chapter applies

- (1) If a benefit to which this Chapter applies is received by an individual, the amount of the benefit counts as employment income of the individual for the relevant tax year.
- [^{F5}(1A) Subsection (1) does not apply in relation to the benefit if the total amount of the benefits to which this Chapter applies received by the individual in the relevant tax year does not exceed £100.]
- (2) If a benefit to which this Chapter applies is received by a person who is not an individual, the [^{F6}person who is (or persons who are) the responsible person in relation to] the scheme under which the benefit is provided is chargeable [^{F7}to income tax] on the amount of the benefit for the relevant tax year.
- (3) In [^{F8}this section] the “relevant tax year” is the tax year in which the benefit is received.
- (4) For the purposes of subsection (2), the rate of tax is 40% or such other rate as may for the time being be specified by the Treasury by order.
- (5) No liability to income tax arises by virtue of any other provision of this Act in respect of a benefit to which this Chapter applies.

Textual Amendments

- F5** S. 394(1A) inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(5)**, 284(1) (with [Sch. 36](#))
- F6** Words in s. 394(2) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(6)**, 284(1) (with [Sch. 36](#))
- F7** Words in s. 394(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 1 para. 595** (with [Sch. 2](#))

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F8 Words in s. 394(3) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(7)**, 284(1) (with [Sch. 36](#))

Modifications etc. (not altering text)

C1 S. 394 restricted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 36 paras. 54\(2\)\(3\)\(a\)](#), **55(2)** (with [s. 283\(5\)](#), [Sch. 36](#))

[^{F9}395 Reduction where employee has contributed

- (1) This section applies in relation to a relevant benefit under an employer-financed retirement benefits scheme in the form of a lump sum where, under the scheme, an employee has paid any sum or sums by way of contribution to the provision of the lump sum.
- (2) The amount which, by virtue of section 394, counts as employment income, or is chargeable to tax under [^{F10}subsection (2) of that section], is the amount of the lump sum reduced by the sum, or the aggregate of the sums, paid by the employee by way of contribution to the provision of the lump sum.
- (3) A reduction under this section may not be claimed in respect of the same contribution in relation to more than one lump sum.
- (4) It is to be assumed, unless the contrary is shown, that no reduction is applicable under this section.]

Textual Amendments

F9 S. 395 substituted for ss. 395-397 (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(8)**, 284(1) (with [Sch. 36](#))

F10 Words in s. 395 substituted by 2004 c. 12, s. 249(8) (as amended (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 651(3)**, [Sch. 2 para. 161](#) (with [Sch. 2](#)))

Modifications etc. (not altering text)

C2 S. 395 modified (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 36 paras. 54\(3\)\(b\)](#), **55(3)** (with [s. 283\(5\)](#), [Sch. 36](#))

^{F9}396 Certain lump sums not taxed by virtue of section 394

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Textual Amendments

F9 S. 395 substituted for ss. 395-397 (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(8)**, 284(1) (with [Sch. 36](#))

^{F9}397 Certain lump sums: calculation of amount taxed by virtue of section 394

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Textual Amendments

F9 S. 395 substituted for ss. 395-397 (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 249(8)**, 284(1) (with [Sch. 36](#))

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