



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 6

EXEMPT INCOME

CHAPTER 7

PURCHASED LIFE ANNUITY PAYMENTS

Partial exemption for purchased life annuity payments

717 Exemption for part of purchased life annuity payments

- (1) No liability to income tax arises under Chapter 7 of Part 4 in respect of so much of an annuity payment made under a purchased life annuity as is within this subsection in accordance with section 719 (extent of exemption).
- (2) Subsection (1) is subject to section 718.
- (3) The exemption under this section requires a claim.
- (4) In this Chapter “purchased life annuity” has the same meaning as in Chapter 7 of Part 4 (see section 423).

718 Excluded annuities

- (1) The exemption in section 717(1) does not apply to payments made under the annuities specified in subsection (2).
- (2) The annuities are—

Status: This is the original version (as it was originally enacted).

- (a) an annuity the whole or part of the consideration for which consisted of sums satisfying the conditions for relief under section 266 of ICTA (life assurance premiums),
 - (b) an annuity purchased following a direction in a will, and
 - (c) an annuity purchased to provide for an annuity payable as a result of a will or settlement out of income of property disposed of by the will or settlement.
- (3) For the purposes of subsection (2)(c), it does not matter whether or not capital could also be used to pay the annuity.

719 Extent of exemption under section 717

- (1) This section sets out the rules for determining the extent to which an annuity payment is within the exemption in section 717(1).
- (2) The rules depend on—
- (a) whether or not the amount of the annuity payments under the annuity depends solely on the duration of a human life or lives (see subsections (3) to (5)), and
 - (b) whether or not the annuity’s term depends solely on the duration of a human life or lives (see subsections (6) to (8)).
- (3) If the amount of the annuity payments depends solely on the duration of a human life or lives, the same proportion of each payment (“the exempt proportion”) is exempt.
- (4) But if the amount of the annuity payments also depends on another contingency, each payment is exempt so far as it does not exceed a fixed sum (“the exempt sum”).
- (5) If an annuity payment within subsection (4) is less than the exempt sum, the shortfall is added to the exempt sum for the next payment (and so on).
- (6) The ways to determine the exempt proportion and the exempt sum differ according to whether or not the annuity’s term depends solely on the duration of a human life or lives.
- (7) If the annuity’s term depends solely on the duration of a human life or lives—
- (a) the exempt proportion is determined as set out in section 720, and
 - (b) the exempt sum is determined as set out in section 721.
- (8) If the annuity’s term also depends on another contingency—
- (a) the exempt proportion is the proportion which is just and reasonable, having regard to the contingencies affecting the annuity and to section 720, and
 - (b) the exempt sum is the amount which is just and reasonable, having regard to the contingencies affecting the annuity and to section 721.

720 Exempt proportion: term dependent solely on duration of life

- (1) In the case of an annuity within section 719(7) (term dependent solely on duration of life), the exempt proportion is —

$$AP \times \frac{PP}{AV}$$

where—

AP is the annuity payment,

PP is the purchase price of the annuity, and
AV is the actuarial value of the annuity payments.

- (2) The purchase price of the annuity is the total amount or value of the consideration given for the annuity.
- (3) The actuarial value of the annuity payments is their value at the date when the first of the payments starts to accrue.
- (4) That value is determined—
 - (a) by reference to tables of mortality prescribed under section 724,
 - (b) taking the age at that date of a person during whose life the annuity is payable as that person's age in whole years on that date, and
 - (c) without discounting any payment for the time to elapse before it is payable.
- (5) But if it is not possible to determine that actuarial value by reference to the tables mentioned in subsection (4)(a), it is such amount as may be certified by the Government Actuary or the Deputy Government Actuary.

721 Exempt sum: term dependent solely on duration of life

- (1) In the case of an annuity within section 719(7) (term dependent solely on duration of life), the exempt sum is —

$$PP \times \frac{1}{TY} \times \frac{PM}{12}$$

where—

PP is the purchase price of the annuity,
TY is the expected term of the annuity in years (and any odd fraction of a year),
and
PM is the period in months (and any odd fraction of a month) in respect of which the annuity payment is made.

- (2) The purchase price of the annuity is the total amount or value of the consideration given for the annuity.
- (3) The expected term of the annuity is the period from the date when the first annuity payment starts to accrue to the date when it is expected that the last payment will become payable.
- (4) The expected term of the annuity is determined—
 - (a) as at the date when the first annuity payment starts to accrue,
 - (b) by reference to tables of mortality prescribed under section 724, and
 - (c) taking the age at that date of a person during whose life the annuity is payable as that person's age in whole years on that date.
- (5) But if it is not possible to determine that term by reference to the tables mentioned in subsection (4)(b), it is such period as may be certified by the Government Actuary or the Deputy Government Actuary.

722 Consideration for the grant of annuities

- (1) This section applies if the amount or value given for an annuity is to be determined for the purposes of sections 720(2) or 721(2) and either—
 - (a) consideration is not given solely for the annuity, or
 - (b) it appears that the amount or value of the consideration nominally given for it affected, or was affected by, the consideration given for something else.
- (2) For the purposes of subsection (1), consideration given for a right to a return of premiums or of other consideration for an annuity is treated as given solely for the annuity.
- (3) If subsection (1)(a) applies, the consideration is to be apportioned in such way as is just and reasonable.
- (4) If subsection (1)(b) applies, the total amount or value of the considerations given is to be apportioned in such way as is just and reasonable.

723 Determinations

- (1) Any question—
 - (a) whether an annuity is a purchased life annuity for the purposes of section 717, or
 - (b) how much of an annuity payment is exempt,
 is to be determined by the Inland Revenue.
- (2) A person aggrieved by the Inland Revenue's determination may appeal to the Special Commissioners.
- (3) If a person making a payment under an annuity—
 - (a) has been given notice of such a determination in the way prescribed under section 724, and
 - (b) has not been notified of any alteration of it,
 the determination is conclusive for determining the amount of income tax the person may or must deduct from it or for which the person is liable in respect of it.
- (4) A notification of an alteration of a previous determination of any question is itself a determination for the purposes of this Chapter.
- (5) Subsection (6) applies if a person making an annuity payment to which the exemption in section 717(1) applies has not been given notice in the way prescribed under section 724 of the amount which is exempt.
- (6) The amount of income tax the person may or must deduct, or for which the person is liable, is the amount it would be if none of the payment were exempt.
- (7) A person who knowingly makes any false statement or false representation for the purpose of obtaining any exemption from or repayment of tax for any person under sections 717 to 722, this section or section 724 is liable to a penalty not exceeding £3,000.

724 Regulations

- (1) The Board of Inland Revenue may by regulations—

- (a) prescribe the procedure to be used in giving effect to sections 717 to 723 and this section where no provision is made in those provisions,
 - (b) apply any provision of the Income Tax Acts, with or without modifications, for the purposes of those provisions or the regulations,
 - (c) prescribe tables of mortality for the purposes of sections 720(4) and 721(4).
- (2) The regulations may, in particular, make provision about—
- (a) the time limit for making a claim for exemption from tax under section 717(1) or any consequential repayment of tax,
 - (b) the information to be provided in connection with the determination of the questions mentioned in section 723(1) and the persons who may be required to provide it,
 - (c) the way in which such a determination is to be notified to the person making the annuity payments,
 - (d) the way in which such a determination is to be given effect and the making of assessments for that purpose on the person entitled to the annuity,
 - (e) the extent to which such a determination is to be binding and the circumstances in which it may be reviewed, and
 - (f) the time limit for appealing against such a determination.
- (3) Subsection (2)(d) applies despite anything in section 348 of ICTA (charges on income).

Immediate needs annuities

725 Annual payments under immediate needs annuities

- (1) No liability to income tax arises under Chapter 7 of Part 4 in respect of so much of an annual payment made under an immediate needs annuity as is made—
- (a) for the benefit of the person protected under that annuity, and
 - (b) to a care provider or a local authority in respect of the provision of care for that person.
- (2) In this section “immediate needs annuity” means a contract for a purchased life annuity—
- (a) the purpose or one of the purposes of which is to protect a person against the consequences of the person being unable, at the time the contract is made, to live independently without assistance because of a condition to which subsection (3) applies, and
 - (b) under which benefits are payable in respect of the provision of care for the person protected.
- (3) This subsection applies to—
- (a) mental or physical impairment, or
 - (b) injury, sickness or other infirmity,
- which is expected to be permanent.
- (4) In this section and section 726 “care” means accommodation, goods or services which it is necessary or desirable to provide to a person because of a condition to which subsection (3) applies.

- (5) In this section—
- “care provider” has the meaning given in section 726, and
 - “purchased life annuity” has the same meaning as in Chapter 7 of Part 4 (see section 423).
- (6) The Treasury may by order amend—
- (a) subsection (2), and
 - (b) subsection (3), so far as it applies for the purposes of subsection (2).

726 Meaning of “care provider”

- (1) In section 725 “care provider” means a person who—
- (a) carries on a trade, profession or vocation which consists of or includes the provision of care, and
 - (b) meets the care registration requirement.
- (2) A person meets the care registration requirement in relation to care provided in England and Wales if the person is registered under Part 2 of the Care Standards Act 2000 (c. 14) in respect of the provision of care.
- (3) A person meets the care registration requirement in relation to care provided in Scotland if the person provides care as, or as part of, a service which is registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (asp 8).
- (4) A person meets the care registration requirement in relation to care provided in Northern Ireland if the person is registered in respect of the provision of care under—
- (a) Part 2 or 3 of the Registered Homes (Northern Ireland) Order 1992 (S.I. 1992/3204 (N.I. 20)), or
 - (b) Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)).
- (5) A person meets the care registration requirement in relation to care provided in a territory outside the United Kingdom if the person meets requirements under the law of that territory relating to the provision of care that are comparable to those mentioned in subsections (2) to (4).
- (6) The Treasury may by order amend this section.