



Income Tax (Trading and Other Income) Act 2005

2005 CHAPTER 5

PART 6

EXEMPT INCOME

CHAPTER 8

OTHER ANNUAL PAYMENTS

Certain annual payments by individuals

727 Certain annual payments by individuals

- (1) No liability to income tax arises under Part 5 in respect of an annual payment if it—
 - (a) is made by an individual, and
 - (b) arises in the United Kingdom.
- (2) Subsection (1) is subject to—
 - section 728 (commercial payments), and
 - section 729 (payments for non-taxable consideration).
- (3) Subsection (1) also applies to a payment made by an individual's personal representatives if—
 - (a) the individual would have been liable to make it, and
 - (b) that subsection would have applied if the individual had made it.
- (4) For the purposes of subsection (1) and section 728, “individual” includes a Scottish partnership if at least one partner is an individual.

Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 8. (See end of Document for details)

728 Commercial payments

A payment by an individual is not exempt from income tax under section 727(1) if it is made for commercial reasons in connection with the individual's trade, profession or vocation.

729 Payments for non-taxable consideration

- (1) A payment that meets condition A is only exempt from income tax under section 727(1) if condition B or C is met.
- (2) Condition A is that—
 - (a) the payment is made under a liability incurred at any time for consideration in money or money's worth, and
 - (b) some or all of the consideration is not required to be brought into account in calculating the payer's income for income tax purposes.
- (3) Condition B is that the payment is income within section 627(1) (payments on [F¹dissolution] or separation) in the recipient's hands.
- (4) Condition C is that the payment is made to an individual under a liability incurred at any time in consideration of the individual surrendering, assigning or releasing an interest in settled property to or in favour of a person with a subsequent interest.
- (5) In the application of subsection (4) to Scotland, the reference to settled property is to be read as a reference to property held in trust.

Textual Amendments

F1 Word in s. 729(3) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, 196

730 Foreign maintenance payments

- (1) No liability to income tax arises under Part 5 in respect of an annual payment if—
 - (a) it is a maintenance payment,
 - (b) it arises outside the United Kingdom, and
 - (c) had it arisen in the United Kingdom it would be exempt from income tax under section 727 (certain annual payments by individuals).
- (2) In subsection (1) “maintenance payment” means a periodical payment which meets conditions A and B.
- (3) Condition A is that the payment is made under a court order or a written or oral agreement.
- (4) Condition B is that the payment is made by a person—
 - (a) as one of the parties to a marriage [F²or civil partnership] to, or for the benefit of, and for the maintenance of, the other party,
 - (b) to any person under 21 for that person's own benefit, maintenance or education, or
 - (c) to any person for the benefit, maintenance or education of a person under 21.

Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 8. (See end of Document for details)

- (5) In subsection (4) “marriage” includes a marriage that has been dissolved or annulled [^{F3}, and “civil partnership” includes a civil partnership that has been dissolved or annulled] .
- (6) Subsection (1) also applies to a payment made by an individual's personal representatives if—
- the individual would have been liable to make it, and
 - that subsection would have applied if the individual had made it.

Textual Amendments

- F2** Words in s. 730(4)(a) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **197(2)**
- F3** Words in s. 730(5) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **197(3)**

Periodical payments of personal injury damages etc.

731 Periodical payments of personal injury damages

- (1) No liability to income tax arises for the persons specified in section 733 in respect of periodical payments to which subsection (2) applies or annuity payments to which subsection (3) applies.
- (2) This subsection applies to periodical payments made pursuant to—
- an order of the court, so far as it is made in reliance on section 2 of the Damages Act 1996 (c. 48) (periodical payments) (including an order as varied),
 - an order of a court outside the United Kingdom which is similar to an order made in reliance on that section (including an order as varied),
 - an agreement, so far as it settles a claim or action for damages in respect of personal injury (including an agreement as varied),
 - an agreement, so far as it relates to making payments on account of damages that may be awarded in such a claim or action (including an agreement as varied), or
 - a Motor Insurers' Bureau undertaking in relation to a claim or action in respect of personal injury (including an undertaking as varied).
- (3) This subsection applies to annuity payments made under an annuity purchased or provided—
- by the person by whom payments to which subsection (2) applies would otherwise fall to be made, and
 - in accordance with such an order, agreement or undertaking as is mentioned in subsection (2) or a varying order, agreement or undertaking.
- (4) In this section “damages in respect of personal injury” includes damages in respect of a person's death from personal injury.
- (5) In this section “personal injury” includes disease and impairment of physical or mental condition.

Status: Point in time view as at 29/04/2009.

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- (6) In this section “a Motor Insurers' Bureau undertaking” means an undertaking given by —
- (a) the Motor Insurers' Bureau (being the company of that name incorporated on 14th June 1946 under the Companies Act 1929 (c. 23)), or
 - (b) an Article 75 insurer under the Bureau's Articles of Association.

732 Compensation awards

- (1) No liability to income tax arises for the persons specified in section 733 in respect of annuity payments if they are made under an annuity purchased or provided under an award of compensation made under the Criminal Injuries Compensation Scheme.
- (2) The Treasury may by order provide for sections 731, 733 and 734 to apply, with such modifications as they consider necessary, to periodical payments by way of compensation for personal injury for which provision is made under a scheme or arrangement other than the Criminal Injuries Compensation Scheme.
- (3) In this section—
 - “the Criminal Injuries Compensation Scheme” means—
 - (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995 (c. 53),
 - (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, or
 - (c) the scheme established under the Criminal Injuries (Northern Ireland) Order 2002 (S.I. 2002/796) (N.I.1), and
 - “personal injury” includes disease and impairment of physical or mental condition.

733 Persons entitled to exemptions for personal injury payments etc.

The persons entitled to the exemptions given by sections 731(1) and 732(1) for payments are—

- (a) the person entitled to the damages under the order, agreement, undertaking or to the compensation under the award in question (“A”),
- (b) a person who receives the payment in question on behalf of A, and
- (c) a trustee who receives the payment in question on trust for the benefit of A under a trust under which A is, while alive, the only person who may benefit.

734 Payments from trusts for injured persons

- (1) No liability to income tax arises for the persons specified in subsection (2) in respect of sums paid under a lifetime trust—
 - (a) to the person (“A”) who is entitled to—
 - (i) a payment under an order, agreement or undertaking within section 731(2) or an annuity purchased or provided as mentioned in section 731(3), or
 - (ii) compensation under an award within section 732(1), or
 - (b) for the benefit of A.

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- (2) The persons are—
 - (a) A, and
 - (b) if subsection (1)(b) applies, a person who receives the sum on behalf of A.
- (3) For the purposes of subsection (1), sums are paid under a lifetime trust if they are paid—
 - (a) by the trustees of a trust under which A is, while alive, the only person who may benefit, and
 - (b) out of payments within section 731(2) or (3) or 732(1) which are received by them on trust for A.

Health and employment insurance payments

735 Health and employment insurance payments

- (1) No liability to income tax arises under this Act in respect of an annual payment under an insurance policy if—
 - (a) the payment is a benefit provided under so much of the policy as insures against a health or employment risk (see section 736),
 - (b) no part of any premiums under the policy has been deductible in calculating the income of the insured for income tax purposes, and
 - (c) the conditions in sections 737 and 738 and, so far as applicable, those in sections 739 and 740 are met in relation to the policy.
- (2) Subsection (1)(b) is subject to section 743.
- (3) For the meaning of “the insured”, see sections 742 and 743(2).

736 Health and employment risks and benefits

- (1) For the purposes of sections 735 and 737 to 743, a policy insures against a health risk if it insures against the insured becoming, or becoming in any specified way, subject—
 - (a) to any physical or mental illness, disability, infirmity or defect, or
 - (b) to any deterioration in a condition resulting from any such illness, disability, infirmity or defect.
- (2) For the purposes of sections 735 and 737 to 743, a policy insures against an employment risk if it insures against circumstances arising as a result of which the insured ceases—
 - (a) to be employed or hold office, or
 - (b) to carry on any trade, profession or vocation.
- (3) For the purposes of section 735, this section and sections 737 to 743, references to insurance against a risk include insurance providing for benefits payable otherwise than by way of indemnity if the circumstances insured against occur.

737 Period for which payments may be made

- (1) The condition in this section is that the only annual payments provided for by the policy which relate to the health or employment risk it insures against (“the insured risk”) are payments in respect of one or more of the following periods.

Status: Point in time view as at 29/04/2009.

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- (2) They are—
- (a) a period throughout which an illness, disability, infirmity or defect insured against by the part of the policy relating to the insured risk continues,
 - (b) a period throughout which, in circumstances insured against by the part of the policy relating to the insured risk, the insured is unemployed, does not hold an office or is not carrying on a trade, profession or vocation,
 - (c) a period throughout which, in circumstances insured against by the part of the policy relating to the insured risk, the insured's income is less than it would otherwise have been, and
 - (d) where a period within paragraph (a), (b) or (c) ends with the death of the insured, a period immediately following that period.
- (3) For the purposes of subsection (2)(a), an illness, disability, infirmity or defect is treated as continuing during a period of convalescence or rehabilitation related to it.
- (4) For the purposes of subsection (2)(c), income from the policy is ignored.

738 Risk of significant loss

- (1) The condition in this section is that throughout the period that the policy has contained provisions relating to the health or employment risk those provisions have been such that any policy of insurance which only contained those provisions would involve the possibility that the insurer would make a significant loss on the premiums.
- (2) In determining whether a policy would involve that possibility, any return on the investment of the premiums is to be taken into account.
- (3) For this purpose reinsurance is ignored.

739 Conditions to be met by policies also providing other benefits

- (1) The conditions in this section only apply if the policy provides for the payment of benefits which do not all relate to the health or employment risk.
- (2) The conditions are that so far as the policy's terms relate to the health or employment risk—
 - (a) they do not differ significantly from what they would have been if the only benefits had been those relating to that risk, and
 - (b) the way in which they are given effect does not differ significantly from the way in which they would have been given effect in that case.
- (3) A difference relating only to the reduction of benefits payable to or in respect of a person because of other benefits being payable to or in respect of the person is to be ignored.
- (4) For the purposes of this section, all the persons for whose benefit the policy provides insurance against the health or employment risk are to be considered.

740 Conditions to be met where policies are linked

- (1) The conditions in this section only apply if—
 - (a) the insured is or has been the insured under one or more other policies (“connected policies”), and

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- (b) each of the connected policies has been in force either—
 - (i) at a time when the policy in question was in force, or
 - (ii) at the time immediately before it was entered into.
- (2) The conditions are that so far as the terms of the policy relate to the health or employment risk—
 - (a) they do not differ significantly from what they would have been if no connected policies had been entered into, and
 - (b) the way in which they are given effect does not differ significantly from the way in which they would have been given effect in that case.
- (3) A difference relating only to the reduction of benefits payable to or in respect of a person under the policy because of benefits being payable to or in respect of the person under any of the connected policies is to be ignored.
- (4) For the purposes of this section, all the persons for whose benefit the policy provides insurance against the health or employment risk are to be considered.

741 Aggregation of policies where employment ends for health reasons

- (1) This section applies if—
 - (a) payments are made to or in respect of a person who has left employment because of the occurrence of something insured against by an employment policy as a health risk,
 - (b) the payments are made under another policy (“the replacement policy”) which was entered into under, or in accordance with, provisions contained in the employment policy,
 - (c) the employment policy has ceased to apply to the person, and
 - (d) the rights in accordance with which the payments are made under the replacement policy superseded rights under the employment policy with effect from the time when that policy ceased to apply to the person.
- (2) The employment policy and the replacement policy are to be treated as a single policy for the purposes of sections 735 to 738, this section and section 743.
- (3) In this section—
 - “employment” includes an office, and “employees” and “employer” are to be read accordingly, and
 - “employment policy” means a policy entered into wholly or partly for the benefit of the employees of an employer against a health risk.

742 Meaning of “the insured”

In sections 735 to 737 “the insured” includes—

- (a) the insured's spouse [^{F4}or civil partner] ,
- (b) any child under 21 of the insured or the insured's spouse [^{F4}or civil partner] , and
- (c) any person on whom any liabilities arising from an actual or proposed transaction identified in the policy will fall jointly with the insured or the insured's spouse.

Status: Point in time view as at 29/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 8. (See end of Document for details)

Textual Amendments

- F4** Words in s. 742 inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1, **198**

743 Policies for the benefit of others who contribute to premiums

- (1) This section applies if—
- (a) a policy of insurance is taken out by one person (“A”) wholly or partly for the benefit of another (“B”),
 - (b) B makes payments or contributions in respect of the premiums, and
 - (c) annual payments under the policy are wholly or partly attributable, on a just and reasonable basis, to the payments or contributions made by B.
- (2) So far as those benefits are so attributable, B is to be treated as the insured in relation to that policy for the purposes of sections 735 to 742.
- (3) So far as those benefits are so attributable, payments or contributions not made by B are ignored for the purposes of section 735(1)(b) (no part of the premiums to have been deductible in calculating the insured's income).

Payments to adopters

744 Payments to adopters: England and Wales

No liability to income tax arises in respect of the following payments—

- (a) any payment or reward falling within section 57(3) of the Adoption Act 1976 (c. 36) (payments authorised by the court) which is made to a person who has adopted or intends to adopt a child,
- (b) payments under section 57(3A)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt),
- (c) payments of allowances under regulations under section 57A of that Act (permitted allowances to persons who have adopted or intend to adopt children),
- (d) payments of financial support made in the course of providing adoption support services within the meaning of the Adoption and Children Act 2002 (c. 38) (see section 2(6) and (7) of that Act), and
- (e) payments made under regulations under paragraph 3(1) of Schedule 4 to that Act (transitional and transitory provisions: adoption support services).

745 Payments to adopters: Scotland

No liability to income tax arises in respect of the following payments—

- (a) any payment or reward falling within section 51(3) of the Adoption (Scotland) Act 1978 (c. 28) (payments authorised by the court) which is made to a person who has adopted or intends to adopt a child,
- (b) payments under section 51(4)(a) of that Act (payments by adoption agencies of legal or medical expenses of persons seeking to adopt),

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- (c) payments of allowances by virtue of section 51B of that Act (transitional provisions) in accordance with a scheme approved under section 51(5) of that Act (schemes for payment of allowances to persons who have adopted or intend to adopt a child), and
- (d) payments of allowances in accordance with an adoption allowances scheme under section 51A of that Act.

746 Payments to adopters: Northern Ireland

No liability to income tax arises in respect of the following payments—

- (a) any payment or reward falling within Article 59(2)(b) of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22)) (payments authorised by the court) which is made to a person who has adopted or intends to adopt a child,
- (b) any payment under Article 59(2)(c) of that Order (payments by registered adoption societies) which is made to a person who has adopted or intends to adopt a child, and
- (c) payments of allowances under regulations under Article 59A of that Order (permitted allowances to persons who have adopted or intend to adopt children).

747 Power to amend sections 744 to 746

The Treasury may by order amend section 744, 745 or 746 for the purposes of—

- (a) adding a description of payment, or
- (b) removing a description of payment if the power to make a payment of that description has been repealed or revoked or has otherwise ceased to be exercisable.

Payments by persons liable to pool betting duty

748 Payments by persons liable to pool betting duty

- (1) No liability to income tax arises in respect of a payment which meets condition A and either condition B or C.
- (2) Condition A is that the payment is made, in consequence of a reduction in pool betting duty, by a person liable to that duty.
- (3) Condition B is that the payment is in order to meet (directly or indirectly) capital expenditure incurred in improving the safety or comfort of spectators at a ground to be used for the playing of association football.
- (4) Condition C is that the payment is to trustees established mainly for the support of athletic sports or athletic games but with power to support the arts.

Status:

Point in time view as at 29/04/2009.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Chapter 8.