

SCHEDULES

SCHEDULE 16

BENEFITS UNDER PENSION SCHEMES

PART 1

CHANGES TO BENEFITS AVAILABLE UNDER PENSION SCHEMES ETC

Foreign pensions: temporary non-residents

21 (1) In Part 9 of ITEPA 2003 (pension income), Chapter 4 (foreign pensions: general rules) is amended as follows.

(2) In section 574 (“pension”: interpretation)—

(a) for subsection (1) substitute—

“(1) For the purposes of this Chapter “pension” includes—

- (a) an annuity under, or purchased with sums or assets held for the purposes of, or representing acquired rights under, a relevant non-UK scheme or an overseas pension scheme,
- (b) an amount paid under a relevant non-UK scheme or an overseas pension scheme which, if the scheme were a registered pension scheme, would be income withdrawal or dependants’ income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to FA 2004), and
- (c) if conditions A and B are met, a pension which is paid voluntarily or is capable of being discontinued.”;

(b) for subsection (4) substitute—

“(4) In this section—

“office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders;

“overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act);

“relevant non-UK scheme” is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004.”

(3) In section 575(1) (taxable pension income), at the end insert “and section 576A”.

(4) After section 576 insert—

Status: This is the original version (as it was originally enacted).

“576A Temporary non-residents

- (1) If this section applies in relation to a tax year, any relevant non-UK income withdrawal under a relevant non-UK scheme which—
- (a) is paid to a person in respect of a flexible drawdown arrangement relating to the person under the scheme,
 - (b) is paid in a year of non-residence, and
 - (c) would not, apart from this section, be chargeable to tax under this Part,
- is to be treated for the purposes of section 575 as if it arose in that tax year.
- (2) This section applies in relation to a tax year if—
- (a) the person satisfies the residence requirements for the tax year (“the year of return”),
 - (b) the person did not satisfy those requirements for one or more tax years immediately before the year of return but did satisfy those requirements for an earlier tax year,
 - (c) there are fewer than 5 tax years between—
 - (i) the last tax year before the year of return for which the person satisfied those requirements (“the year of departure”), and
 - (ii) the year of return, and
 - (d) the person satisfied those requirements for at least 4 out of the 7 tax years immediately before the year of departure.
- (3) For the purposes of this section—
- (a) a person satisfies the residence requirements for a tax year if the person—
 - (i) is resident in the United Kingdom during that year, and
 - (ii) is not Treaty non-resident at any time in that year;
 - (b) a person is Treaty non-resident at any time if, at that time, the person falls to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.
- (4) If—
- (a) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the person for the year of return, and
 - (b) the person—
 - (i) is not domiciled in the United Kingdom in that year, or
 - (ii) is not ordinarily resident in the United Kingdom in that year,
 any amounts of relevant non-UK income withdrawal falling within subsection (1) which were remitted in a year of non-residence are treated as remitted in the year of return.
- (5) This section does not apply to any relevant non-UK income withdrawal paid to or in respect of a relieved member of a relevant non-UK scheme unless the payment is referable to the member’s UK tax-relieved fund under the scheme.

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

- (6) This section does not apply to any relevant non-UK income withdrawal paid to or in respect of a transfer member of a relevant non-UK scheme unless the payment is referable to the member's relevant transfer fund under the scheme.
- (7) Nothing in any double taxation relief arrangements is to be read as preventing the person from being chargeable to income tax in respect of any relevant non-UK income withdrawal treated by virtue of this section as arising in the year of return (or as preventing a charge to that tax from arising as a result).
- (8) In this section—
- “double taxation relief arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010;
 - “flexible drawdown arrangement” means an arrangement to which section 165(3A) or 167(2A) of FA 2004 applies;
 - “member's relevant transfer fund” has the same meaning as in Schedule 34 to FA 2004 (see paragraph 4(2) of that Schedule);
 - “member's UK tax-relieved fund” has the same meaning as in that Schedule (see paragraph 3(2));
 - “relevant non-UK income withdrawal”, in relation to a relevant non-UK scheme, means an amount paid under the scheme which, if the scheme were a registered pension scheme, would be income withdrawal or dependants' income withdrawal (within the meaning of paragraphs 7 and 21 of Schedule 28 to FA 2004);
 - “relevant non-UK scheme” is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004;
 - “relieved member” and “transfer member” have the same meaning as in that Schedule (see paragraph 1(7) and (8));
 - “year of non-residence” means any tax year which falls between the year of departure and the year of return.”