



Finance Act 2018

2018 CHAPTER 3

PART 1

DIRECT TAXES

Employment

10 Termination payments: foreign service

- (1) Chapter 3 of Part 6 of ITEPA 2003 (payments, and other benefits, on termination of employment etc) is amended as follows.
- (2) In section 413 (exception from charge on termination etc payment where employee's work history includes sufficient foreign service), before subsection (1) insert—

“(A1) This section applies to a payment or other benefit if—

 - (a) the payment or other benefit is within section 401(1)(a), and the employee or former employee is non-UK resident for the tax year in which the employment terminates, or
 - (b) the payment or other benefit is within section 401(1)(b) or (c).”
- (3) In section 414(1) (reduction of termination etc payment where foreign service insufficient for section 413 exception)—
 - (a) before paragraph (a) insert—

“(za) either—

 - (i) the payment or other benefit is within section 401(1)(a), and the employee or former employee is non-UK resident for the tax year in which the employment terminates, or
 - (ii) the payment or other benefit is within section 401(1)(b) or (c),” and
 - (b) for paragraph (b) substitute—

Status: This is the original version (as it was originally enacted).

“(b) section 413(1) does not except the payment or other benefit from the application of this Chapter.”

(4) After section 414A insert—

“414B Exception in certain cases of foreign service as seafarer

- (1) This section applies to a payment or other benefit if—
 - (a) the payment or other benefit is within section 401(1)(a), and
 - (b) the employee or former employee is UK resident for the tax year in which the employment terminates.
- (2) This Chapter does not apply if the service of the employee or former employee in the employment in respect of which the payment or other benefit is received included foreign seafaring service comprising—
 - (a) three-quarters or more of the whole period of service ending with the date of the termination in question, or
 - (b) if the period of service ending with that date exceeded 10 years, the whole of the last 10 years, or
 - (c) if the period of service ending with that date exceeded 20 years, one-half or more of that period, including any 10 of the last 20 years.
- (3) In subsection (2) “foreign seafaring service” means service to which subsection (4), (5) or (7) applies.
- (4) This subsection applies to service in or after the tax year 2003-04 such that a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers’ earnings).
- (5) This subsection applies to service before the tax year 2003-04 and after the tax year 1973-74 such that a deduction equal to the whole amount of the emoluments from the employment was or would have been allowable under a seafarers’ earnings deduction provision.
- (6) In subsection (5) “seafarers’ earnings deduction provision” means—
 - (a) paragraph 1 of Schedule 2 to FA 1974 so far as relating to employment as a seafarer,
 - (b) paragraph 1 of Schedule 7 to FA 1977 so far as relating to employment as a seafarer,
 - (c) section 192A of ICTA, or
 - (d) section 193(1) of ICTA so far as relating to employment as a seafarer.
- (7) This subsection applies to service before the tax year 1974-75 in an employment as a seafarer such that tax was not chargeable in respect of the emoluments of the employment—
 - (a) in the tax year 1956-57 or later, under Case I of Schedule E, or
 - (b) in earlier tax years, under Schedule E,
 or it would not have been so chargeable had there been any such emoluments.
- (8) In this section “employment as a seafarer” is to be read in accordance with section 384.

414C Reduction in other cases of foreign service as seafarer

- (1) This section applies if—
 - (a) the payment or other benefit is within section 401(1)(a),
 - (b) the employee or former employee is UK resident for the tax year in which the employment terminates,
 - (c) the service of the employee or former employee in the employment in respect of which the payment or other benefit is received includes foreign service, and
 - (d) section 414B(2) does not except the payment or other benefit from the application of this Chapter.
 - (2) The taxable person may claim relief in the form of a proportionate reduction of the amount that would otherwise—
 - (a) be treated as earnings by section 402B(1), or
 - (b) count as employment income as a result of section 403.
 - (3) The proportion is that which the length of the foreign seafaring service bears to the whole length of service in the employment before the date of the termination in question.
 - (4) A person's entitlement to relief under this section is limited as mentioned in subsection (5) if the person is entitled—
 - (a) to deduct, retain or satisfy income tax out of a payment which the person is liable to make, or
 - (b) to charge any income tax against another person.
 - (5) The relief must not reduce the amount of income tax for which the person is liable below the amount the person is entitled so to deduct, retain, satisfy or charge.
 - (6) In this section “foreign seafaring service” has the same meaning as in section 414B(2).”
- (5) The amendments made by this section have effect—
- (a) where the date of the termination or change in question is, or is after, 6 April 2018, and
 - (b) the payment, or other benefit, is received after 13 September 2017.