



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART IX

#### PENSION SCHEMES, LIFE ANNUITIES ETC

### CHAPTER I

#### PENSION SCHEMES GENERALLY, AND SOCIAL SECURITY BENEFITS AND CONTRIBUTIONS

#### **208 Approved superannuation funds**

- (1) Subject to the provisions of this section and to any regulations made thereunder, exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of income derived from investments or deposits of a superannuation fund ; and subject as aforesaid, any sum paid by an employer or employed person by way of contribution towards a superannuation fund shall, in computing profits or gains for the purpose of an assessment to tax under Case I or II of Schedule D or under Schedule E, be allowed to be deducted as an expense incurred in the chargeable period in which the sum is paid:

Provided that—

- (a) no allowance shall be made under the preceding provision in respect of any contribution by an employed person which is not an ordinary annual contribution, and, where a contribution by an employer is not an ordinary annual contribution, it shall, for the purpose of the preceding provision, be treated, as the Board may direct, either as an expense incurred in the chargeable period in which the sum is paid, or as an expense to be spread over such period of years as the Board think proper, and
- (b) no allowance shall be made under this section in respect of any payments in respect of which relief can be given under section 19 or 20 of this Act (relief for life insurance premiums and certain other payments).

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- (2) There shall be exempt from tax chargeable under Case VII of Schedule D any gain accruing to a person from his acquisition and disposal of investments or deposits held by him as part of a superannuation fund, and for the purposes of capital gains tax a gain shall not be a chargeable gain if accruing to a person from his disposal of investments held by him as part of a superannuation fund:

Provided that where part only of a fund is approved as a superannuation fund under this section the gain in question shall be exempt from tax or from being a chargeable gain to the same extent only as income derived from the assets would be exempt under subsection (1) above.

- (3) Income tax chargeable in respect of an annuity paid out of a superannuation fund to a person residing in the United Kingdom shall, if the Board so direct, be assessed and charged on the annuitant under Schedule E instead of being deducted and accounted for under section 53 of this Act (payments not out of profits or gains brought into charge); and where such a direction has been given, the annuity shall be deemed for all the purposes of the Income Tax Acts to be income assessable under that Schedule.
- (4) For the purposes of this section, " superannuation fund " means, unless the context otherwise requires, a fund which is approved for those purposes by the Board, and, subject as hereinafter provided, the Board shall not approve any fund unless it is shown to their satisfaction that—
- (a) the fund is a fund bona fide established under irrevocable trusts in connection with some trade or undertaking carried on in the United Kingdom by a person residing therein, and
  - (b) the fund has for its sole purpose the provision of annuities for all or any of the following persons in the events respectively specified, that is to say, for persons employed in the trade or undertaking, either on retirement at a specified age or on becoming incapacitated at some earlier age, or for the widows, children or dependants of persons who are or have been so employed, on the death of those persons, and
  - (c) the employer in the trade or undertaking is a contributor to the fund, and
  - (d) the fund is recognised by the employer and employed persons in the trade or undertaking:

Provided that the Board may, if they think fit, and subject to such conditions, if any, as they think proper to attach to the approval, approve a fund, or any part of a fund, as a superannuation fund for the purposes of this section—

- (i) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or
  - (ii) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or
  - (iii) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in the United Kingdom and by a person not residing therein.
- (5) The Board may make regulations generally for the purpose of carrying this section into effect and, in particular, and without prejudice to the generality of the preceding provision, may by such regulations—
- (a) provide for the charging of and accounting for tax in respect of contributions (including interest) repaid to a contributor to a superannuation fund and on lump sums paid in commutation of or in lieu of annuities payable out of a

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- superannuation fund as if any sums so repaid or paid were income of the chargeable period in which they are repaid or paid,
- (b) require the trustees or other persons having the management of a superannuation fund, or an employer whose employees contribute to a superannuation fund, to deliver to the Board such information and particulars as the Board may reasonably require for the purposes of this section,
  - (c) prescribe the manner in which applications for the approval of a superannuation fund are to be made,
  - (d) provide for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this section,
  - (e) provide for determining what contributions to a superannuation fund are to be treated as ordinary annual contributions for the purposes of this section.
- (6) The power conferred by subsection (5) above to make regulations shall be exercisable by statutory instrument.

## **209 Contributions under statutory pension schemes**

- (1) Where, in pursuance of any public general Act of Parliament, superannuation allowances or gratuities are payable to individuals holding an office or employment on their retirement, or to their legal personal representatives on their death, and such individuals are by any such Act required to make contributions towards the expenses of providing the allowances and gratuities, the sums so contributed by any such individual for any year may be deducted from the amount of his emoluments to be assessed to income tax for that year.
- (2) Where any such sums as are mentioned in subsection (1) above are to be repaid to any individual under the authority of any such Act as is therein mentioned, the person by or through whom the sums are to be repaid shall deduct from those sums an amount equal to the total amount of the income tax which would have been paid in respect of those sums if they had not been allowed as deductions under the authority of this section, and, if those sums are repaid with any interest thereon, shall also deduct therefrom an amount equal to the total amount of the income tax which would have been paid in respect of that interest if it had actually been paid to the individual in the several years in respect of which it is paid, and the provisions of subsections (2) and (3) of section 53 of this Act (payments not out of profits or gains brought into charge) shall apply in regard to the accounting for and recovery of the amounts so deducted.
- (3) Any person having the custody of the books containing the assessments to income tax on any individual for the several years in respect of which sums are repayable to him as aforesaid shall, notwithstanding anything contained in any declaration made by that person in pursuance of section 6 of the Taxes Management Act 1970, on application by the person by or through whom the sums are repayable, furnish to him such particulars as may be necessary to enable him to compute the appropriate amount of income tax to be deducted and paid over by him as aforesaid.

## **210 Disallowance of contributions for widows' and other pensions**

Relief from income tax shall not be allowed under any provision of the Income Tax Acts to any person in respect of—

- (a) any contributions made by him under Part III or IV of the Superannuation Act 1965, or

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- (b) any contributions made by him under any enactments of the Parliament of Northern Ireland corresponding to the said Parts III and IV, and, in particular, under Parts II and III of the Superannuation Act (Northern Ireland) 1967, or
- (c) any contribution under section 8 or 9 of the Administration of Justice (Pensions) Act 1950.

## 211 Parliamentary pension funds

- (1) The salary of a Member of the House of Commons shall, for all the purposes of the Income Tax Acts, be treated as reduced by the amounts deducted in pursuance of section 1 of the House of Commons Members' Fund Act 1939 ; but a Member shall not by reason of any such deduction be entitled to relief under any other provision of the Income Tax Acts.

In this subsection the reference to salary shall be construed as mentioned in subsection (3) of the said section 1, the reference to amounts deducted includes a reference to amounts required to be set aside under that subsection, and " deduction " shall be construed accordingly.

- (2) The respective trustees of—
- (a) the House of Commons Members' Fund established under section 1 of the said Act of 1939,
  - (b) the Members' Contributory Pension Fund constituted under section 4(2) of the Ministerial Salaries and Members' Pensions Act 1965, and
  - (c) the Members' Contributory Pension (Northern Ireland) Fund constituted under section 3(2) of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965,

shall be entitled to exemption from income tax in respect of all income derived from the said Funds or any investment thereof. A claim under this subsection shall be made to the Board.

- (3) A gain accruing to a person from his acquisition and disposal of assets held by him as part of any Fund mentioned in subsection (2) above shall be exempt from tax chargeable under Case VII of Schedule D, and shall not be a chargeable gain for the purposes of capital gains tax.
- (4) Periodical payments granted out of the House of Commons Members' Fund (including periodical payments granted out of sums appropriated from that Fund or out of the income from those sums) shall be charged to income tax under Schedule
- (5) Any sum payable out of the Members' Contributory Pension Fund or the Members' Contributory Pension (Northern Ireland) Fund under section 13(1) of the Ministerial Salaries and Members' Pensions Act 1965 or, as the case may be, section 12(1) of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965 (transfer to other pension schemes of sums representing accrued pension rights) shall be treated for the purposes of the Income Tax Acts as having been paid in commutation of an annuity payable by a superannuation fund within the meaning of section 208 of this Act; and each such Fund shall be treated as such a superannuation fund for the purposes of any regulations made under the said section 208.

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## **212 National insurance supplementary schemes etc.**

- (1) All income receivable from any source whatsoever for the purposes of any supplementary scheme under section 46 of the National Insurance Act 1965, under section 45 of the National Insurance Act (Northern Ireland) 1966, under section 82 of the National Insurance (Industrial Injuries) Act 1965 or under section 77 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 by the body charged with the administration of the scheme shall be exempt from income tax.
- (2) The body incorporated by Royal Charter under the name of the Royal Seamen's Pension Fund or other the persons in whom the seamen's special fund is for the time being vested shall, in respect of the income derived from that Fund, be entitled to exemption from income tax.

In this subsection " the seamen's special fund " means the fund referred to as such in paragraph 19(c) of Schedule 11 to the National Insurance Act 1965.

- (3) A claim under subsection (1) or (2) above shall be made to the Board.
- (4) A gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund of which income is exempt from tax under subsection (1) or (2) above shall be exempt from tax chargeable under Case VII of Schedule D, and shall not be a chargeable gain for the purposes of capital gains tax.

## **213 Indian family pension funds**

- (1) Any interest or dividends received by the Commissioners in whom is vested any of the Family Pension Funds mentioned in section 273 of the Government of India Act 1935 on sums forming part of that fund shall be exempt from income tax.
- (2) A gain accruing to the Commissioners from their acquisition and disposal of assets held by them as part of any such fund shall be exempt from tax chargeable under Case VII of Schedule D, and shall not be a chargeable gain for the purposes of capital gains tax.

## **214 Indian, Pakistan and colonial pensions and pension funds**

- (1) A pension of any of the following descriptions—
  - (a) a pension paid under the authority of the Pensions (India, Pakistan and Burma) Act 1955,
  - (b) a pension paid out of any fund established in the United Kingdom by the government of any country which is, or forms part of, a country mentioned in section 1(3) of the British Nationality Act 1948 by virtue of any enactment passed after 1956, an associated state, a colony, a protectorate, a protected state or a United Kingdom trust territory, or by a government constituted for two or more such countries, if the fund was established for the sole purpose of providing pensions, whether contributory or not, payable in respect of service under that government,
  - (c) a pension paid out of the fund formed under the Overseas Superannuation Scheme (formerly known as the Colonial Superannuation Scheme),

shall not be liable to charge to income tax if it is the income of a person who satisfies the Board that he is not resident in the United Kingdom:

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Provided that this subsection shall not apply to so much of any pension falling within paragraph (a) thereof as is paid by virtue of the application to the pension of the Pensions (Increase) Acts.

- (2) Income derived from investments or deposits of any fund referred to in paragraph (b) or (c) of subsection (1) above shall not be charged to income tax, and any income tax deducted from any such income shall be repaid by the Board to the persons entitled to receive the income.
- (3) A claim under subsection (1) or (2) above shall be made to the Board.
- (4) A gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund referred to in paragraph (b) or (c) of subsection (1) above shall be exempt from tax chargeable under Case VII of Schedule D, and shall not be a chargeable gain for the purposes of capital gains tax.
- (5) In this section—

" pension " includes a gratuity or any sum payable on or in respect of death, and a return of contributions with or without interest thereon or any other addition thereto,

" Pensions (Increase) Acts " means the Pensions (Increase) Acts 1944 and 1947, the Pensions (Increase) Act 1952, the Pensions (Increase) Act 1954, the Pensions (Increase) Act 1956, the Pensions (Increase) Act 1959, the Pensions (Increase) Act 1962, the Pensions (Increase) Act 1965 and any Act passed after 3rd August 1966 for purposes corresponding to the purposes of the said Act of 1965,

" United Kingdom trust territory " means a territory administered by the government of the United Kingdom under the trusteeship system of the United Nations, and references to a government constituted for two or more countries include references to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more countries.

## **215 Pensions under Overseas Service Act 1958**

- (1) So much of any pension paid to or in respect of any person—
  - (a) under an order made under section 2 of the Overseas Service Act 1958, or under a pension scheme provided and maintained under such an order, or
  - (b) under section 4(2) of that Act,

as may be certified by the Secretary of State to be attributable to the employment of that person in the public services of an overseas territory shall not be liable to charge to income tax if it is the income of a person who satisfies the Board that he is not resident in the United Kingdom.

- (2) A claim under subsection (1) above shall be made to the Board.
- (3) In subsection (1) above—

" pension " includes a gratuity or any sum payable on or in respect of death, and a return of contributions with or without interest thereon or any addition thereto,

" overseas territory " means any territory or country outside the United Kingdom, and the reference in that subsection to employment in the public services of an overseas territory shall be construed as if it occurred in the said

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Act of 1958, and subsections (2) and (3) of section 7 of that Act shall apply accordingly.

#### **216 Central African Pension Fund**

- (1) A pension paid out of the Central African Pension Fund shall not be liable to charge to income tax if it is the income of a person who, on a claim to the Board for relief under this subsection, satisfies the Board that he is not resident in the United Kingdom.
- (2) Income derived from investments or deposits of that Fund shall not be charged to income tax, and any income tax deducted from any such income shall be repaid by the Board to the persons entitled to receive the income.
- (3) A gain accruing to a person from his acquisition and disposal of assets held by him as part of that Fund shall be exempt from tax chargeable under Case VII of Schedule D, and shall not be a chargeable gain for the purposes of capital gains tax.
- (4) In this section " the Central African Pension Fund " means the fund established under that name by section 24 of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963, and " pension " includes a gratuity or any sum payable on or in respect of death, and a return of contributions with or without interest thereon or any other addition thereto.

#### **217 Overseas Service Pensions Fund**

- (1) A pension paid out of the Overseas Service Pensions Fund shall not be liable to charge to income tax if it is the income of a person who, on a claim to the Board for relief under this subsection, satisfies the Board that he is not resident in the United Kingdom.
- (2) In respect of income derived from investments or deposits of that Fund, the Board shall give by way of repayment such relief from income tax as is necessary to secure that the income is exempt to the like extent (if any) as if it were income of a person not domiciled, ordinarily resident or resident in the United Kingdom.
- (3) A gain accruing to a person from his acquisition and disposal of assets held by him as part of that Fund shall be exempt from tax chargeable under Case VII of Schedule D, and shall not be a chargeable gain for the purposes of capital gains tax.
- (4) In this section " the Overseas Service Pensions Fund " means the Fund established under that name pursuant to section 7(1) of the Overseas Aid Act 1966, and "pension" includes a gratuity or any sum payable on or in respect of death or ill-health, and a return of contributions with or without interest thereon or any other addition thereto.

#### **218 Pension funds for overseas employees**

- (1) In respect of dividends and other income derived from investments, deposits or other property of a superannuation fund to which this section applies, the Board shall, on a claim being made to them for the purpose, give by way of repayment such relief from income tax as is necessary to secure that they are exempt to the like extent (if any) as if they were income of a person not domiciled, ordinarily resident or resident in the United Kingdom.
- (2) A gain accruing to a person from his acquisition and disposal of assets held by him as part of a fund to which this section applies shall be exempt from tax chargeable

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under case VII of Schedule D, and shall not be a chargeable gain for the purposes of capital gains tax.

- (3) Where an annuity is paid from a superannuation fund to which this section applies to a person who is not resident in the United Kingdom, income tax shall not be deducted from any payment of the annuity or accounted for under section 53 of dais Act (payments not out of profits or gains brought into charge) by the trustees or other persons having the control of the fund.
- (4) This section applies to any superannuation fund which—
- (a) is bona fide established under irrevocable trusts in connection with some trade or undertaking carried on wholly or partly outside the United Kingdom,
  - (b) has for its sole purpose the provision of superannuation benefits in respect of persons' employment in the trade or undertaking wholly outside the United Kingdom, and
  - (c) is recognised by the employer and employed persons in the trade or undertaking;

and for the purposes of this subsection duties performed in the United Kingdom the performance of which is merely incidental to the performance of other duties outside the United Kingdom shall be treated as performed outside the United Kingdom.

## **219 Social security benefits and contributions**

- (1) The following payments shall be charged to income tax under Schedule E—
- (a) payments of benefit under the National Insurance Act 1965, or the National Insurance Act (Northern Ireland) 1966, except (within the meaning of those Acts) unemployment benefit, sickness benefit, maternity benefit and death grant, and
  - (b) payments on account of allowances under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966.
- (2) Payments of benefit under the Ministry of Social Security Act 1966, or the Supplementary Benefits &c. Act (Northern Ireland) 1966, shall not be treated as income for any purpose of the Income Tax Acts.
- (3) No relief or deduction shall be given or allowed in respect of any contribution paid by any person under the National Insurance Act 1965 or the National Insurance Act (Northern Ireland) 1966:

Provided that nothing in this subsection shall apply to any employer's contribution within the meaning of the said Acts of 1965 and 1966 which is allowable as a deduction in computing profits or gains, in computing expenses of management under section 304 of this Act (investment companies) or that section as applied by section 305 of this Act (insurance companies), or in computing expenses of management or supervision under section 158 of this Act (owners of mineral rights).