



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

### CHAPTER IV

PERSONAL PENSION SCHEMES

#### *Tax reliefs*

#### **639 Member's contributions**

- (1) A contribution paid by an individual under approved personal pension arrangements made by him shall, subject to the provisions of this Chapter, be deducted from or set off against any relevant earnings of his for the year of assessment in which the payment is made.

Except where subsections (2) to (4) below apply, relief under this subsection in respect of a contribution shall be given only on a claim made for the purpose.

- (2) In such cases and subject to such conditions as the Board may prescribe in regulations, relief under subsection (1) above shall be given in accordance with subsections (3) and (4) below.
- (3) An individual who is entitled to such relief in respect of a contribution may deduct from the contribution when he pays it, and may retain, an amount equal to income tax at the basic rate on the contribution.
- (4) The scheme administrator—
- (a) shall accept the amount paid after the deduction in discharge of the individual's liability to the same extent as if the deduction had not been made; and
  - (b) may recover an amount equal to the deduction from the Board.

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- (5) Regulations under this section may make provision for carrying subsections (3) and (4) above into effect and, without prejudice to the generality of that, may provide—
- (a) for the manner in which claims for the recovery of a sum under subsection (4) (b) may be made;
  - (b) for the giving of such information, in such form, as may be prescribed by or under the regulations;
  - (c) for the inspection by persons authorised by the Board of books, documents and other records.
- (6) Where relief under this section for any year of assessment is claimed and allowed (whether or not it then falls to be given for that year), and afterwards an assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax is made, there shall also be made such consequential adjustments in the relief allowed or given under this section for that or any subsequent year as are appropriate.
- (7) Where relief under this section is claimed and allowed for any year of assessment in respect of a contribution, relief shall not be given in respect of it under any other provision of the Income Tax Acts for the same or any subsequent year, nor (in the case of a contribution under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.
- (8) References in the Income Tax Acts to relief in respect of life assurance premiums shall not be taken to include relief under this section.

#### **640 Maximum amount of deductions**

- (1) The maximum amount that may be deducted or set off in any year of assessment by virtue of section 639(1) shall be 17.5 per cent. of the individual's net relevant earnings for that year.
- (2) In the case of an individual whose age at the beginning of the year of assessment is within a range specified in the first column of the following table, subsection (1) above shall have effect with the substitution for 17.5 per cent. of the relevant percentage specified in the second column.

51 to 55	20 per cent.
56 to 60	22.5 per cent.
61 or more	27.5 per cent.

- (3) Without prejudice to subsection (1) above, the maximum amount that may be deducted or set off in any year of assessment in respect of contributions paid by an individual to secure benefits satisfying the conditions in section 637(1) shall be 5 per cent. of the individual's net relevant earnings for that year.
- (4) Where personal pension arrangements are made by an employee whose employer makes contributions under the arrangements, the maximum amount that may be deducted or set off in any year of assessment shall be reduced by the amount of the employer's contributions in the year.
- (5) Any minimum contributions treated by virtue of section 649(3) as paid by the individual in respect of whom they are paid shall be disregarded for the purposes of this section.

## **641 Carry-back of contributions**

- (1) An individual who pays a contribution under approved personal pension arrangements in a year of assessment (whether or not a year for which he has relevant earnings) may elect that the contribution, or part of it, shall be treated as paid—
  - (a) in the year of assessment preceding that year; or
  - (b) if he had no net relevant earnings in that preceding year of assessment, in the year of assessment before that.
- (2) Where for any year of assessment an individual—
  - (a) has relevant earnings as an underwriting member of Lloyd's or by way of commission calculated by reference to the profits of Lloyd's underwriting business; and
  - (b) there is an amount of unused relief attributable to those earnings,the individual may elect that there shall be treated as paid in that year so much of any contributions paid by him under approved personal pension arrangements in the next year of assessment but two as does not exceed the amount of the unused relief.
- (3) Subject to section 655(2), references in subsection (2) above to an amount of unused relief attributable to the earnings mentioned in subsection (2)(a) are to an amount which could have been deducted from or set off against those earnings under section 639(1) if—
  - (a) the individual had paid contributions under approved personal pension arrangements in the year of assessment for which he has the earnings; or
  - (b) any such contributions paid by him in that year had been greater.
- (4) An election under this section must be made not later than three months after the end of the year of assessment in which the contributions treated as paid in another year are actually paid.
- (5) Where an election is made under this section in respect of a contribution or part of a contribution, the other provisions of this Chapter shall have effect as if the contribution or part had been paid in the year specified in the election and not in the year in which it was actually paid.

## **642 Carry-forward of relief**

- (1) Where—
  - (a) for any year of assessment an individual has relevant earnings from any trade, profession, vocation, office or employment carried on or held by him, and
  - (b) there is an amount of unused relief for that year,relief may be given under section 639(1), up to the amount of the unused relief, in respect of so much of any contributions paid by him under approved personal pension arrangements in any of the next six years of assessment as exceeds the maximum applying for that year under section 640.
- (2) In this section, references to an amount of unused relief for any year are to an amount which could have been deducted from or set off against the individual's relevant earnings for that year under section 639(1) if—
  - (a) the individual had paid contributions under approved personal pension arrangements in that year; or
  - (b) any such contributions paid by him in that year had been greater.

- (3) Relief by virtue of this section shall be given for an earlier year rather than a later year, the unused relief taken into account in giving relief for any year being deducted from that available for giving relief in subsequent years and unused relief derived from an earlier year being exhausted before unused relief derived from a later year.
- (4) Where a relevant assessment to tax in respect of a year of assessment becomes final and conclusive more than six years after the end of that year and there is an amount of unused relief for that year which results from the making of the assessment—
- (a) that amount shall not be available for giving relief by virtue of this section for any of the six years following that year; but
  - (b) the individual may, within the period of six months beginning with the date on which the assessment becomes final and conclusive, elect that relief shall be given under section 639(1), up to that amount, in respect of so much of any contributions paid by him under approved personal pension arrangements within that period as exceeds the maximum applying under section 640 for the year of assessment in which they are paid;
- and to the extent to which relief in respect of any contributions is given by virtue of this subsection it shall not be given by virtue of subsection (1) above.
- (5) In this section “a relevant assessment to tax” means an assessment on the individual’s relevant earnings or on the profits or gains of a partnership from which the individual derives relevant earnings.

#### **643 Employer’s contributions and personal pension income etc**

- (1) Where contributions are paid by an employer under approved personal pension arrangements made by his employee, those contributions shall not be regarded as emoluments of the employment chargeable to tax under Schedule E.
- (2) Income derived by a person from investments or deposits held by him for the purposes of an approved personal pension scheme shall be exempt from income tax.
- (3) An annuity payable under approved personal pension arrangements shall be treated as earned income of the annuitant.
- (4) Subsection (3) above applies only in relation to the annuitant to whom the annuity is made payable by the terms of the arrangements.

#### **644 Meaning of “relevant earnings”**

- (1) In this Chapter, “relevant earnings”, in relation to an individual, means any income of his which is chargeable to tax for the year of assessment in question and is within subsection (2) below.
- (2) Subject to subsections (3) to (5) below, income is within this subsection if it is—
  - (a) emoluments chargeable under Schedule E from an office or employment held by the individual;
  - (b) income from any property which is attached to or forms part of the emoluments of an office or employment held by him;
  - (c) income which is chargeable under Schedule D and is immediately derived by him from the carrying on or exercise by him of his trade, profession or vocation (either as an individual or as a partner acting personally in a partnership);

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- (d) income treated as earned income by virtue of section 529.
- (3) Where section 645 applies to an office or employment held by the individual, neither emoluments from the office or employment nor income from any property which is attached to it or forms part of its emoluments are within subsection (2) above.
- (4) The following are not income within subsection (2) above—
  - (a) anything in respect of which tax is chargeable under Schedule E and which arises from the acquisition or disposal of shares or an interest in shares or from a right to acquire shares;
  - (b) anything in respect of which tax is chargeable by virtue of section 148.
- (5) Emoluments of an individual as director of a company are not income within subsection (2) above if—
  - (a) the income of the company consists wholly or mainly of investment income; and
  - (b) the individual, either alone or together with any other persons who are or have been at any time directors of the company, controls the company;and section 840 shall apply for the purposes of this subsection.
- (6) For the purposes of subsection (5) above—
  - “director” includes any person occupying the position of director by whatever name called; and
  - “investment income” shall be construed in accordance with paragraph 7 of Schedule 19.
- (7) For the purposes of this Chapter, a married woman’s relevant earnings shall not be treated as her husband’s relevant earnings, notwithstanding that her income chargeable to tax is treated as his income.

#### **645 Earnings from pensionable employment**

- (1) This section applies to an office or employment held by an individual if—
  - (a) service in it is service to which a relevant superannuation scheme relates; and
  - (b) the individual is a participant in the scheme; and
  - (c) neither subsection (4) nor subsection (5) below applies to his participation in the scheme.
- (2) This section applies whether or not the duties of the office or employment are performed wholly or partly in the United Kingdom or the individual is chargeable to tax in respect of it.
- (3) In subsection (1) above “a relevant superannuation scheme” means a scheme or arrangement—
  - (a) the object or one of the objects of which is the provision, in respect of persons serving in particular offices or employments, of relevant benefits within the meaning of section 612; and
  - (b) which is established by a person other than the individual.
- (4) This subsection applies to an individual’s participation in a scheme if the scheme provides no benefits in relation to him other than—
  - (a) an annuity payable to his surviving spouse or a dependant of his;
  - (b) a lump sum payable on his death in service.

- (5) This subsection applies to an individual's participation in a scheme if any sums paid pursuant to the scheme with a view to the provision of relevant benefits for him are treated as his income for the purposes of the Income Tax Acts.

#### **646 Meaning of “net relevant earnings”**

- (1) Subject to subsections (3) to (7) below, in this Chapter “net relevant earnings”, in relation to an individual, means the amount of his relevant earnings for the year of assessment in question, less the amount of any deductions within subsection (2) below which fall to be made from the relevant earnings in computing for the purposes of income tax his total income for that year.
- (2) Deductions are within this subsection if they are—
- (a) deductions which but for section 74(m), (p) or (q) could be made in computing the profits or gains of the individual;
  - (b) deductions made by virtue of section 198, 201 or 332(3);
  - (c) deductions in respect of relief under Schedule 9 to the Finance Act 1981 (stock relief);
  - (d) deductions in respect of losses or capital allowances, being losses or capital allowances arising from activities profits or gains of which would be included in computing relevant earnings of the individual or the individual's wife or husband.
- (3) For the purposes of this section, an individual's relevant earnings shall be taken to be those earnings before giving effect to any capital allowances, other than deductions allowable in computing profits or gains, but after taking into account the amounts on which charges fall to be made under the 1968 Act (including the enactments which under this Act or the 1970 Act are to be treated as contained in Part I of the 1968 Act); and in subsections (4) and (5) below, references to income (other than references to total income) shall be construed similarly.
- (4) In the case of an individual's partnership profits, the amount to be included in arriving at his net relevant earnings shall be his share of the partnership income (estimated in accordance with the Income Tax Acts) after making from it any such deductions in respect of—
- (a) payments made by the partnership;
  - (b) relief given to the partnership under Schedule 9 to the Finance Act 1981; or
  - (c) capital allowances falling to be made to the partnership,
- as would be made in computing the tax payable in respect of that income.
- (5) Where, in a year of assessment for which an amount is deducted or set off under section 639(1) against the net relevant earnings of an individual—
- (a) a deduction in respect of such a loss or allowance of the individual as is mentioned in subsection (2)(d) above falls to be made in computing the total income of the individual or the individual's wife or husband; and
  - (b) the deduction or part of it falls to be so made from income other than relevant earnings;
- the amount of the deduction made from that other income shall be treated as reducing the individual's net relevant earnings for subsequent years of assessment in accordance with subsection (6) below.

- (6) The deduction shall be made so far as possible from the individual's net relevant earnings for the first of the subsequent years of assessment (whether or not he is entitled to relief under section 639(1) for that year), and then, so far as it cannot be so made, from those of the next year, and so on.
- (7) An individual's net relevant earnings for any year of assessment shall be computed without regard to any deduction or set off under section 639(1) which falls to be made for that year in respect of the individual or the individual's wife of husband.