

*These notes refer to the Income Tax (Earnings and Pensions)
Act 2003 (c.1) which received Royal Assent on 6th March 2003*

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Example 3

Ne = £5,000; Da = 183; De = 183; Smg = 0

Part 9: Pension Income

Overview

Chapter 10: Other employment-related annuities

Overview

2422. This Chapter identifies various purchased life annuities as pension income. It applies to purchased life annuities in the nature of pension income that are not identified in other Chapters of the pension income Part.
2423. In ICTA there is no specific charge on the annuities included in this Chapter. They are taxed as annual payments under the ordinary rules of Schedule D Case III. There are two reasons for creating a specific charge on these annuities in the pension income Part.
2424. First, the pension income Part should include all the income in the nature of pension income.
2425. Second, it is the clearest way of dealing with sections 656 and 657 of ICTA.
2426. A purchased annuity includes a payment of income and an element that in economic terms is the return of capital. Section 656 of ICTA exempts the capital element of an annuity payment from income tax. But this relief is not given to the annuities listed in section 657(2) of ICTA. Those annuities are:
- annuities paid by the tax-advantaged schemes including those paid to give effect to pension sharing orders. The tax-advantaged schemes are approved retirement benefits schemes, approved personal pension schemes and retirement annuity contracts;
 - annuities in the nature of pension income other than those paid by the tax-advantaged schemes; and
 - annuities purchased in accordance with a direction in a will, or to provide for an annuity payable by virtue of a will or settlement out of income of property disposed of by the will or settlement.
2427. This Chapter taxes the annuities described in the second bullet in paragraph 2426. Other Chapters of the pension income Part tax the annuities described in the first bullet. This

will allow section 657 of ICTA to be rewritten so it applies only to the annuities in the third bullet.

Section 609: Annuities for the benefit of dependants

2428. This section applies to annuities if their purchase qualified for relief under section 273 of ICTA. It derives in part from section 18(1)(a)(i) of ICTA and in part is new.
2429. *Subsection (1)* is new. It identifies the annuities as pension income.
2430. *Subsection (2)* derives from section 18(1)(a)(i) of ICTA. It limits the scope of the section if the annuity is a foreign annuity. Foreign annuities are taxable only if paid to persons resident in the United Kingdom.

Section 610: Annuities under sponsored superannuation schemes

2431. This section applies to an annuity purchased under a sponsored superannuation scheme. It derives in part from section 18(1)(a)(i) of ICTA and in part is new.
2432. *Subsection (1)* is new. It identifies the annuities to be taxed as pension income. To do this the section has to describe the process under which the annuities are paid. It does this using the same language that section 580 uses to identify annuities paid by approved retirement benefits schemes.
2433. *Subsection (2)* derives from section 18(1)(a)(i) of ICTA. It limits the scope of the section if the annuity is a foreign annuity. Foreign annuities are taxable only if they are paid to persons resident in the United Kingdom.
2434. *Subsection (3)* ensures there is no overlap with other sections in the pension income Part. The definition of “sponsored superannuation scheme” in section 624(1) of ICTA predates the introduction of approved retirement benefits schemes in Chapter 1 of Part 14 of ICTA. An approved retirement benefits scheme is likely to be within the definition of “sponsored superannuation scheme”. In ICTA an annuity paid by an approved retirement benefits scheme is taxed under Schedule E. The annuities identified in this section are taxed under Schedule D. A Schedule E charge takes priority over a Schedule D charge. This subsection preserves that order of priority.
2435. *Subsection (4)* defines “sponsored superannuation scheme”. It cross-refers to section 624(1) of ICTA. The definition of “sponsored superannuation scheme” in section 624(1) of ICTA is as follows:

‘a sponsored superannuation scheme’ means a scheme or arrangement -

- (a) relating to service in particular offices or employments, and
- (b) having for its object or one of its objects to make provision in respect of persons serving in those offices or employments against future retirement or partial retirement, against future termination of service through death or disability, or against similar matters,

being a scheme or arrangement under which any part of the cost of the provision so made is or has been borne otherwise than by those persons by reason of their service (whether it is the cost or part of the cost of the benefits provided, or of paying premiums or other sums in order to provide those benefits, or of administering or instituting the scheme or arrangement).

Section 611: Annuities in recognition of another’s services

2436. This section applies to an annuity purchased by any person in recognition of another’s services. It derives in part from section 18(1)(a)(i) of ICTA and in part is new.
2437. *Subsection (1)* is new. It identifies the annuities to be taxed as pension income.

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2438. *Subsection (2)* derives from section 18(1)(a)(i) of ICTA. It limits the scope of the section if the annuity is a foreign annuity. Foreign annuities are taxable only if they are paid to persons resident in the United Kingdom.
2439. *Subsection (3)* ensures there is no overlap with other sections in the pension income Part. An annuity paid by an approved retirement benefits scheme may be purchased in recognition of another's services. In ICTA an annuity paid by an approved retirement benefits scheme is taxed under Schedule E. The annuities identified in this section are taxed under Schedule D. A Schedule E charge takes priority over a Schedule D charge. This subsection preserves that order of priority.
2440. *Subsection (4)* gives the meaning of "office". It applies section 5 in Part 2 (Employment Income: charge to tax).

Section 612: Taxable pension income: UK annuities

2441. This section deals with the basis of assessment if the annuity arises from a source in the United Kingdom. It identifies the amount of taxable pension income, which feeds into the computation of net taxable pension income in section 567.
2442. The section derives from section 64 of ICTA.

Section 613: Taxable pension income: foreign annuities

2443. This section deals with the basis of assessment if the annuity arises from a source outside the United Kingdom. It identifies the amount of taxable pension income, which feeds into the computation of net taxable pension income in section 567.
2444. The section invokes sections 65, 68, 584 and 585 of ICTA. It is new.
2445. In ICTA the basis of assessment for a foreign pension is given by the rules of Schedule D Case V. The pension income Part does not repeat those rules but cross-refers the reader to them.
2446. *Subsection (4)* makes it clear that the 10% deduction in section 65(2) of ICTA and the relief in section 585(2) of ICTA apply to these annuities. See *Change 138* in Annex 1.

Section 614: Person liable for tax

2447. This section identifies the person chargeable for all the annuities in this Chapter. It derives from section 59(1) of ICTA.