



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 9

#### PENSION INCOME

### CHAPTER 17

#### EXEMPTIONS: ANY TAXPAYER

#### **638 Awards for bravery**

- (1) No liability to income tax arises on a pension or annuity if it is paid to the holder of an award for bravery in respect of the award.
- (2) In this section “award for bravery” means—
  - the Victoria Cross,
  - the George Cross,
  - the Albert Medal,
  - the Edward Medal,
  - the Military Cross,
  - the Distinguished Flying Cross,
  - the Distinguished Conduct Medal,
  - the Conspicuous Gallantry Medal,
  - the Distinguished Service Medal,
  - the Military Medal,
  - the Distinguished Flying Medal.

**639 Pensions in respect of death due to military or war service**

No liability to income tax arises on these pensions and allowances—

- (a) a pension or allowance payable by or on behalf of the Department of Work and Pensions under so much of any Order in Council, Royal Warrant, order or scheme as relates to death due to—
  - (i) service in the armed forces of the Crown,
  - (ii) wartime service in the merchant navy, or
  - (iii) war injuries;
- (b) a pension or allowance—
  - (i) payable by the Ministry of Defence in respect of death due to peacetime service in the armed forces of the Crown before 3rd September 1939, and
  - (ii) payable at rates, and subject to conditions, similar to those of a pension within paragraph (a);
- (c) a pension or allowance—
  - (i) payable under the law of a country other than the United Kingdom, and
  - (ii) of a character substantially similar to a pension within paragraph (a) or (b).

**640 Exemption under section 639 where income withheld**

- (1) This section applies if—
  - (a) an individual is entitled to both of the following—
    - (i) a pension or allowance mentioned in section 639 (“pension A”), and
    - (ii) any other pension or allowance (“pension B”), and
  - (b) the whole or a part of pension A is withheld because of the individual’s entitlement to pension B.
- (2) In such a case, an amount of pension B equal to the withheld amount of pension A is treated for the purposes of section 639 as part of pension A.

**641 Wounds and disability pensions**

- (1) No liability to income tax arises on—
  - (a) a wounds pension granted to a member of the armed forces of the Crown;
  - (b) retired pay of a disabled officer granted on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
  - (c) a disablement or disability pension granted to a member of the armed forces of the Crown, other than a commissioned officer, on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
  - (d) a disablement pension granted to a person who has been employed in the nursing services of any of the armed forces of the Crown on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown;
  - (e) an injury or disablement pension payable under any scheme made under—
    - (i) the Injuries in War (Compensation) Act 1914 (c. 30), or
    - (ii) the Injuries in War (Compensation) Act 1914 (Session 2) (5 & 6 Geo. 5 c. 18);

- (f) an injury or disablement pension payable under any War Risks Compensation Scheme for the Mercantile marine;
  - (g) a pension—
    - (i) granted to a person on account of disablement, and
    - (ii) payable under any scheme made under section 3, 4 or 5 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (c. 83).
- (2) But if the Secretary of State certifies that a pension or retired pay of a kind listed in subsection (1) is only partly attributable to disablement or disability, that subsection applies only to the part attributable to disablement or disability.

#### **642 Compensation for National-Socialist persecution**

No liability to income tax arises on a pension or annuity which is payable under any special provision for victims of National-Socialist persecution which is made by the law of—

- (a) the Federal Republic of Germany or any part of it, or
- (b) Austria.

#### **643 Malawi, Trinidad and Tobago and Zambia government pensions**

- (1) No liability to income tax arises on—
- (a) a Malawi government pension,
  - (b) a Trinidad and Tobago government pension, or
  - (c) a Zambia government pension,
- if conditions A, B and C are met.
- (2) Condition A is that the pension is paid to—
- (a) the original pensioner, or
  - (b) the widow or widower of the original pensioner.
- (3) Condition B is that the pension is now paid under section 1 of OPA 1973 (whether or not it is paid out of a fund established under a scheme made under that section).
- (4) Condition C is that, at the time the pension is paid, provision is made by double taxation relief arrangements which would exempt the pension from income tax in the United Kingdom if the pension were still paid by the relevant government (rather than under section 1 of OPA 1973).
- (5) Subsection (1) does not apply to any part of a pension which is paid because the Pensions (Increase) Act 1971 (c. 56) applies to it.
- (6) In this section—
- “double taxation relief arrangements” means arrangements specified in an Order in Council making any such provisions as are referred to in section 788 of ICTA;
- “Malawi government pension” means a pension payable by the government of Malawi for services rendered—
- (a) to the government of Malawi, or
  - (b) to the government of the Federation of Rhodesia and Nyasaland,

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

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in the discharge of government functions;

“Trinidad and Tobago government pension” means a pension payable by the government of Trinidad and Tobago for services rendered to the government of Trinidad and Tobago in the discharge of governmental functions;

“Zambia government pension” means a pension payable by the government of Zambia for services rendered—

- (a) to the government of Zambia,
- (b) to the government of Northern Rhodesia, or
- (c) to the government of the Federation of Rhodesia and Nyasaland,

in the discharge of governmental functions.

(7) For the purposes of this section a person is the “original pensioner” in relation to a pension if—

- (a) the pension is payable by virtue of the person’s service, and
- (b) the person retired from that service before 6th April 1973.

#### **644 Pensions payable where employment ceased due to disablement**

(1) No liability to income tax arises on the exempt amount of a disablement pension.

(2) For the purposes of this section a pension is a “disablement pension” if—

- (a) the pension is payable because a person has ceased to hold an employment or office because of disablement, and
- (b) that disablement is attributable to—
  - (i) performance of the duties of the employment or office, or
  - (ii) war injuries.

But “disablement pension” does not include any pension to which section 580 or 590 applies.

(3) The exempt amount of a disablement pension is determined in accordance with the following steps.

##### *Step 1*

Determine what pension would have been payable if—

- (a) the person had ceased to hold the employment or office because of the disablement mentioned in subsection (2)(a), but
- (b) the disablement had not been attributable to—
  - (i) performance of the duties of the employment or office, or
  - (ii) war injuries.

##### *Step 2*

If no pension would have been payable, the exempt amount is the amount of the disablement pension.

If a pension of a smaller amount than the disablement pension would have been payable, the exempt amount is the amount by which the disablement pension exceeds the smaller amount.

In any other case, the exempt amount is nil.

- (4) For the purposes of 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.

**645 Social security pensions: increases in respect of children**

- (1) No liability to income tax arises on a part of a social security pension which is attributable to an increase in respect of a child.
- (2) In this section “social security pension” means—
- (a) any pension, benefit or allowance to which section 577 applies, and
  - (b) any pension, benefit or allowance which—
    - (i) is payable under the law of a country or territory outside the United Kingdom, and
    - (ii) is substantially similar in character to a pension, benefit or allowance to which section 577 applies.

**646 Former miners etc: coal and allowances in lieu of coal**

- (1) No liability to income tax arises on—
- (a) the provision of coal or smokeless fuel—
    - (i) to a former colliery worker, or
    - (ii) to the widow or widower of a former colliery worker, or
  - (b) any allowance paid to such a person in lieu of such provision, if the condition in subsection (2) is met.
- (2) That condition is that the amount of coal or fuel provided or in respect of which the allowance is paid does not substantially exceed the amount reasonably required for personal use.
- (3) That condition is assumed to be met unless the contrary is shown.
- (4) In this section “former colliery worker” means—
- (a) any person who has ceased to be employed as a coal miner, or
  - (b) any other person who has ceased to be employed at or about a colliery otherwise than in clerical, administrative or technical work.