



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 6

EMPLOYMENT INCOME: INCOME WHICH IS NOT EARNINGS OR SHARE-RELATED

CHAPTER 2

BENEFITS FROM NON-APPROVED PENSION SCHEMES

Benefits treated as employment income

395 Application of sections 396 and 397: general rules

- (1) Section 394 is subject to—
 - (a) section 396 (which provides that certain lump sums are not taxed by virtue of section 394), and
 - (b) section 397 (which provides for the calculation of the amount taxed by virtue of section 394 in relation to certain lump sums).
- (2) Section 396 applies in relation to a lump sum only if the condition in subsection (4) below is met.
- (3) Section 397 applies in relation to a lump sum only if—
 - (a) the condition in subsection (4) below is met, or
 - (b) an employee has paid any sum or sums with a view to the provision of any relevant benefits under the scheme under which the lump sum is provided.
- (4) The condition mentioned in subsections (2) and (3)(a) is that—
 - (a) an employer has paid any sum or sums with a view to the provision of any relevant benefits under the scheme under which the lump sum is provided, and

Status: This is the original version (as it was originally enacted).

- (b) an employee has been assessed to tax in respect of the sum or sums so paid—
 - (i) by virtue of section 595(1) of ICTA, or
 - (ii) by virtue of the sum or sums counting as employment income of the employee under section 386(1) of this Act.
- (5) For the purposes of this section it must be assumed that, unless the contrary is shown—
 - (a) no sums have been paid with a view to the provision of relevant benefits, and
 - (b) an employee has not been assessed in respect of a sum or sums as mentioned in subsection (4)(b).