



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 4

REGISTERED PENSION SCHEMES: TAX RELIEFS AND EXEMPTIONS

Members' contributions

189 Relevant UK individual

- (1) For the purposes of this Part an individual is a relevant UK individual for a tax year if—
- (a) the individual has relevant UK earnings chargeable to income tax for that year,
 - (b) the individual is resident in the United Kingdom at some time during that year,
 - (c) the individual was resident in the United Kingdom both at some time during the five tax years immediately before that year and when the individual became a member of the pension scheme, or
 - (d) the individual, or the individual's spouse [^{F1}or civil partner], has for the tax year general earnings from overseas Crown employment subject to UK tax.
- (2) In this Part “relevant UK earnings” means—
- (a) employment income,
 - (b) income which is chargeable under [^{F2}Part 2 of ITTOIA 2005] and is immediately derived from the carrying on or exercise of a trade, profession or vocation (whether individually or as a partner acting personally in a partnership), ^{F3}...
 - [^{F4}(ba) income which is chargeable under Part 3 of ITTOIA 2005 and is immediately derived from the carrying on of a UK furnished holiday lettings business (whether individually or as a partner acting personally in a partnership), ^{F5}...]

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Section 189. (See end of Document for details)

- [^{F6}(bb) income which is chargeable under Part 3 of ITTOIA 2005 and is immediately derived from the carrying on of an EEA furnished holiday lettings business (whether individually or as a partner acting personally in a partnership), and]
- [^{F7}(c) income to which subsection (2A) applies.]
- [^{F8}(2A) This subsection applies to income if—
- (a) it is patent income, and
 - (b) the individual, alone or jointly, devised the invention for which the patent in question was granted.]
- [^{F9}(2B) The income covered by subsection (2)(b) includes—
- (a) an amount treated as a profit under section 863J(2) of ITTOIA 2005, and
 - (b) income treated as received under section 863J(4) of that Act.]
- (3) For the purposes of this section and section 190 relevant UK earnings are to be treated as not being chargeable to income tax if, in accordance with arrangements having effect by [^{F10}under section 2(1) of the Taxation (International and Other Provisions) Act 2010] (double taxation agreements), they are not taxable in the United Kingdom.
- (4) “General earnings from overseas Crown employment subject to UK tax” has the meaning given by section 28 of ITEPA 2003.
- [^{F11}(5) “UK furnished holiday lettings business” means a UK property business so far as consisting of the commercial letting of furnished holiday accommodation (within the meaning of Chapter 6 of Part 3 of ITTOIA 2005).
- (6) If there is a letting of accommodation only part of which is holiday accommodation, just and reasonable apportionments are to be made for the purpose of determining what is comprised in a UK furnished holiday lettings business.
- [EEA furnished holiday lettings business” means an overseas property business so far
- ^{F12}(6A) as consisting of the commercial letting of furnished holiday accommodation (within the meaning of Chapter 6 of Part 3 of ITTOIA 2005) in one or more EEA states.
- (6B) If there is a letting of accommodation only part of which is holiday accommodation, just and reasonable apportionments are to be made for the purpose of determining what is comprised in an EEA furnished holiday lettings business.]
- (7) “Patent income” means—
- (a) royalties or other sums paid in respect of the use of a patent charged to tax under section 579 of ITTOIA 2005,
 - (b) amounts on which tax is payable under section 587 or 593 of ITTOIA 2005, or
 - (c) amounts on which tax is payable under—
 - (i) section 472(5) of the Capital Allowances Act, or
 - (ii) paragraph 100 of Schedule 3 to that Act.]

Textual Amendments

- F1** Words in s. 189(1)(d) inserted (with effect in accordance with reg. 1(7) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **176**
- F2** Words in s. 189(2)(b) substituted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **Sch. 1 para. 645(2)**, Sch. 2 para. 161 (with Sch. 2)
- F3** Word in s. 189(2) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 473(2)(a), **Sch. 3 Pt. 1** (with Sch. 2)

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- F4** S. 189(2)(ba) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(2\)\(b\)](#) (with [Sch. 2](#))
- F5** Word in s. 189(2)(ba) omitted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(2\)](#)
- F6** S. 189(2)(bb) inserted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(2\)](#)
- F7** S. 189(2)(c) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(2\)\(c\)](#) (with [Sch. 2](#))
- F8** S. 189(2A) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(3\)](#) (with [Sch. 2](#))
- F9** S. 189(2B) inserted (with effect in accordance with Sch. 17 para. 21 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 17 para. 18](#)
- F10** Words in s. 189(3) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 63](#) (with [Sch. 9 paras. 1-9, 22](#))
- F11** S. 189(5)-(7) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(4\)](#) (with [Sch. 2](#))
- F12** S. 189(6A)(6B) inserted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(3\)](#)

Modifications etc. (not altering text)

- C1** Pt. 4 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 35 para. 18](#)

Commencement Information

- I1** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Section 189.