

INCOME TAX (TRADING AND OTHER INCOME) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2: Transitionals and savings etc.

Part 9: Exempt income

Paragraph 143: Purchased life annuity payments: old determinations concerning capital elements

3681. This paragraph ensures that determinations as to the capital element of a purchased life annuity made before 6 April 2005 translate into exempt amounts for the purposes of Chapter 7 of Part 6 of this Act so that the determination continues to have effect after 6 April 2005.

Paragraph 144: Purchased life annuity payments: carry forward of excess capital elements

3682. If the amount of an annuity payment is less than the capital element calculated under the constant sum method in section 656(2) of ICTA, ESC A46 allows the excess of the capital element over the gross annuity to be carried forward to increase the capital element to be set against the next annuity payment. Section 719(5) of this Act gives statutory effect to that concession. This paragraph enables such excesses that were not absorbed by annuity payments made before the tax year 2004-05 to be carried forward by increasing the exempt amount of the first payment made after 5 April 2005. See *Change 119*.

Paragraph 145: Purchased life annuity payments: penalty for false statements

3683. This paragraph makes clear that it is the date of the statement or representation which determines which penalty provision applies.

Paragraph 146: Certain annual payments by individuals

3684. Sections 727 and 730 of this Act provide exemption from income tax in respect of certain annual payments. They are based on section 347A of ICTA. Section 347A of ICTA applies to all payments falling due on or after 6 April 2000 and also to certain payments falling due before that date but on or after 16 March 1988. Although unlikely, it is possible for payments to fall due at a time when section 347A of ICTA did not apply but to be paid after 6 April 2005. The transitional provision determines whether the exemptions apply.

Paragraph 147: Annuity payments for non-taxable consideration

3685. A payment made by an individual is not exempt from income tax in the recipient's hands under section 729 of this Act if the payment is made for non-taxable consideration unless either condition B or C in that section is satisfied. This paragraph adds a further condition which, if satisfied, renders the payment exempt in the recipient's hands.

Paragraph 148: Periodical payments of personal injury damages etc.

3686. [Sections 731](#) and [732](#) provide exemptions from income tax for periodical payments in respect of damages for personal injury and annuity payments under annuities purchased under an award made under the Criminal Injuries Compensation Scheme. They are based on sections 329AA and 329AB of ICTA as amended by section 100(2) of the Courts Act 2003. Section 100(2) of the Courts Act 2003 was not in force when the Bill was introduced into Parliament. But sections 731 and 732 were rewritten on the assumption that on enactment of this Act, section 100(2) of the Courts Act 2003 would be in force. The transitional provision was added to ensure that the pre-Courts Act 2003 version of the legislation in ICTA continued in effect until such time as section 100(2) of the Courts Act 2003 was brought into effect.