



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART V

PROVISIONS RELATING TO THE SCHEDULE E CHARGE

CHAPTER I

SUPPLEMENTARY CHARGING PROVISIONS OF GENERAL APPLICATION

Payments on retirement, sick pay etc.

148 Payments on retirement or removal from office or employment

- (1) Subject to the provisions of this section and section 188, tax shall be charged under Schedule E in respect of any payment to which this section applies which is made to the holder or past holder of any office or employment, or to his executors or administrators, whether made by the person under whom he holds or held the office or employment or by any other person.
- (2) This section applies to any payment (not otherwise chargeable to tax) which is made, whether in pursuance of any legal obligation or not, either directly or indirectly in consideration or in consequence of, or otherwise in connection with, the termination of the holding of the office or employment or any change in its functions or emoluments, including any payment in commutation of annual or periodical payments (whether chargeable to tax or not) which would otherwise have been so made.
- (3) For the purposes of this section and section 188, any payment made to the spouse or any relative or dependant of a person who holds or has held an office or employment, or made on behalf of or to the order of that person, shall be treated as made to that person, and any valuable consideration other than money shall be treated as a payment of money equal to the value of that consideration at the date when it is given.
- (4) Any payment which is chargeable to tax by virtue of this section shall be treated as income received on the following date, that is to say—

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- (a) in the case of a payment in commutation of annual or other periodical payments, the date on which the commutation is effected; and
- (b) in the case of any other payment, the date of the termination or change in respect of which the payment is made;

and shall be treated as emoluments of the holder or past holder of the office or employment assessable to tax under Schedule E; and any such payment shall be treated for all the purposes of the Income Tax Acts as earned income.

- (5) In the case of the death of any person who, if he had not died, would have been chargeable to tax in respect of any such payment, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.
- (6) This section shall not apply to any payment made in pursuance of an obligation incurred before 6th April 1960.
- (7) Where any payment chargeable to tax under this section is made to any person in any year of assessment, it shall be the duty of the person by whom it is made to deliver particulars thereof in writing to the inspector not later than 30 days after the end of that year.

149 Sick pay

- (1) Where a person holding an employment is absent from work for any period by reason of sickness or disability, any sums which—
 - (a) are paid to, or to the order or for the benefit of, that person (or a member of his family or household) in respect of any such absence from work; and
 - (b) are, by reason of his employment, paid as a result of any arrangements entered into by his employer,

shall be chargeable to income tax under Schedule E as emoluments of the employment for that period if, apart from this section, they would not be so chargeable for that or any other period.

- (2) Where the funds for making payments under any arrangements are attributable partly to contributions made by the employer and partly to contributions made by the persons employed by him, subsection (1) above shall apply only to such part of the sums paid as a result of the arrangements as it is just and reasonable to regard as attributable to the employer's contributions.
- (3) In this section "employment" means an office or employment the emoluments of which fall to be assessed under Schedule E and related expressions shall be construed accordingly; and the reference to a person's family or household is to his spouse, his sons and daughters and their spouses, his parents and his dependants.

150 Job release scheme allowances, maternity pay and statutory sick pay

The following payments shall be charged to income tax under Schedule E by virtue of this section if they would not otherwise be, that is to say—

- (a) allowances paid under a scheme of the kind described in the Job Release Act 1977, being a scheme which provides for the payment of allowances for periods beginning earlier than one year before the date on which the recipient attains pensionable age, as defined in that Act;

- (b) maternity pay (whether paid during the subsistence of a contract of employment or not) within the meaning of section 33 of the Employment Protection (Consolidation) Act 1978 or, in Northern Ireland, Article 15 of the Industrial Relations (No.2) (Northern Ireland) Order 1976;
- (c) payments of statutory sick pay within the meaning of section 1 of the Social Security and Housing Benefits Act 1982 or, in Northern Ireland, Article 3 of the Social Security (Northern Ireland) Order 1982; and
- (d) payments of statutory maternity pay under Part V of the Social Security Act 1986 or, in Northern Ireland, under Part VI of the Social Security (Northern Ireland) Order 1986.

151 Income support etc

- (1) Subject to the following provisions of this section, payments to any person of income support under the Social Security Act 1986 in respect of any period shall be charged to income tax under Schedule E if during that period—
 - (a) his right to income support is subject to the condition specified in section 20(3)(d)(i) of that Act (availability for employment); or
 - (b) he is one of a married or unmarried couple and section 23 of that Act (trade disputes) applies to him but not to the other person;
- (2) In this section “married couple” and “unmarried couple” have the same meaning as in Part II of the Social Security Act 1986.
- (3) Where the amount of income support paid to any person in respect of any week or part of a week exceeds the taxable maximum for that period as defined below, the excess shall not be taxable.
- (4) Where payments of unemployment benefit and payments of income support are made to any person in respect of the same week or part of a week, the amount taxable in respect of that period in respect of those payments shall not exceed the taxable maximum for that period within the meaning of subsection (3) above.
- (5) For the purposes of subsections (3) and (4) above, the taxable maximum in respect of a week shall be determined in accordance with subsections (6) to (8) below and the taxable maximum in respect of part of a week shall be equal to one-sixth of the taxable maximum in respect of a week multiplied by the number of days in the part.
- (6) Where the income support is paid to one of a married or unmarried couple in a case not falling within subsection (1)(b) above, the taxable maximum in respect of a week shall be equal to the aggregate of—
 - (a) the weekly rate specified for the week in question in relation to unemployment benefit in paragraph 1 of Part I of Schedule 4 to the Social Security Act 1975; and
 - (b) the increase for an adult dependant specified for that week in paragraph 1(a) of Part IV of that Schedule.
- (7) Where the income support is paid to one of a married or unmarried couple in a case falling within subsection (1)(b) above, the taxable maximum in respect of a week shall—
 - (a) if the applicable amount (within the meaning of Part II of the Social Security Act 1986) consists only of an amount in respect of them, be equal to one half of that amount; and

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- (b) if the applicable amount includes other amounts, be equal to one half of the portion of it which is included in respect of them.
- (8) Where the income support is paid to a person who is not one of a married or unmarried couple, the taxable maximum in respect of a week shall be equal to the weekly rate referred to in subsection (6)(a) above.
- (9) In its application to Northern Ireland this section shall have effect as if—
 - (a) for the references to the Social Security Act 1986, to Part II of that Act and to sections 20(3)(d)(i) and 23 of that Act there were substituted respectively references to the Social Security (Northern Ireland) Order 1986, Part III of that Order and Articles 21(3)(d)(i) and 24 of that Order; and
 - (b) for the references to paragraph 1 of Part 1 of Schedule 4 to the Social Security Act 1975 and paragraph 1(a) of Part IV of that Schedule there were substituted respectively references to paragraph 1 of Part I of Schedule 4 to the Social Security (Northern Ireland) Act 1975 and paragraph 1(a) of Part IV of that Schedule.

152 Notification of amount taxable under section 151

- (1) A benefit officer may by notice notify a person who is taxable in respect of any unemployment benefit or income support of the amount on which he is taxable and any such notification shall state the date on which it is issued and shall inform the person to whom it is given that he may object to the notification by notice given within 60 days after the date of issue of the notification.
- (2) Where—
 - (a) no objection is made to a notification of an amount under subsection (1) above within the period specified in that subsection (or such further period as may be allowed by virtue of subsection (5) below); or
 - (b) an objection is made but is withdrawn by the objector by notice,
 that amount shall not be questioned in any appeal against any assessment in respect of income including that amount.
- (3) Where—
 - (a) an objection is made to a notification of an amount under subsection (1) above within the period specified in that subsection (or such further period as may be allowed by virtue of subsection (5) below), and
 - (b) the benefit officer and the objector come to an agreement that the amount notified should be varied in a particular manner, and
 - (c) the officer confirms the agreement to vary in writing,
 then, subject to subsection (4) below, that amount as so varied shall not be questioned in any appeal against any assessment in respect of income including that amount.
- (4) Subsection (3) above shall not apply if, within 60 days from the date when the agreement was come to, the objector gives notice to the benefit officer that he wishes to repudiate or resile from the agreement.
- (5) An objection to a notification may be made later than 60 days after the date of the issue of the notification if, on an application for the purpose—
 - (a) a benefit officer is satisfied that there was a reasonable excuse for not objecting within that time, and

- (b) the objection was made thereafter without unreasonable delay, and
 - (c) the officer gives consent in writing;
- and if the officer is not so satisfied he shall refer the application for determination—
- (i) by the General Commissioners for the division in which the objector ordinarily resides or,
 - (ii) in a case where an appeal has been made against an assessment in respect of income including the amount in question, the General Commissioners or the Special Commissioners having jurisdiction in that appeal.
- (6) Where a benefit officer has notified an amount to a person under subsection (1) above, he may by another notice notify the person of an alteration in the amount previously notified and, if he does so, the original notification shall be cancelled and this section shall apply to such a subsequent notification as it applies to the original notification.
- (7) In this section “benefit officer” means the appropriate officer, in Great Britain, of the Department of Employment or of the Department of Health and Social Security, as the case may be, or, in Northern Ireland, of the Department of Health and Social Services.