



Income Tax (Earnings and Pensions) Act 2003

2003 CHAPTER 1

PART 9

PENSION INCOME

CHAPTER 1

INTRODUCTION

565 Structure of Part 9

The structure of this Part is as follows— Chapter 2—

- (a) imposes the charge to tax on pension income, and
- (b) provides for deductions to be made from the amount of income chargeable;

Chapters 3 to 15 set out the types of income which are charged to tax under this Part and, for each type of income, identify—

- (a) the amount of income chargeable to tax for a tax year, and
- (b) the person liable to pay any tax charged;

Chapters 16 to 18 deal with exemptions from the charge to tax (whether under this Part or any other provision).

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

CHAPTER 2

TAX ON PENSION INCOME

566 Nature of charge to tax on pension income and relevant definitions

- (1) The charge to tax on pension income under this Part is a charge to tax on that income excluding any exempt income.
- (2) “Pension income” means the pensions, annuities and income of other types to which the provisions listed in subsection (4) apply.

This definition applies for the purposes of the Tax Acts.

- (3) “Exempt income” means pension income on which no liability to income tax arises as a result of any provision of Chapters 16 to 18 of this Part.

This definition applies for the purposes of this Part.

- (4) These are the provisions referred to in subsection (2)—

<i>Provision</i>	<i>Income</i>	<i>Chapter (of this Part)</i>
Section 569	United Kingdom pensions	Chapter 3
Section 573	Foreign pensions	Chapter 4
Section 577	United Kingdom social security pensions	Chapter 5
Section 580	Pensions or annuities from approved retirement benefits schemes	Chapter 6
Section 583	Unauthorised payments from— (a) approved retirement benefits schemes, or (b) former approved superannuation funds (see section 593)	Chapter 6
Section 590	Annuities paid under former approved superannuation funds	Chapter 7
Section 595	Annuities from approved personal pension schemes	Chapter 8
Section 598	Income withdrawals under approved personal pension arrangements	Chapter 8
Section 601	Unauthorised personal pension payments	Chapter 8
Section 605	Annuities under retirement annuity contracts	Chapter 9

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Section 609	Annuities for the benefit of dependants	Chapter 10
Section 610	Annuities under sponsored superannuation schemes	Chapter 10
Section 611	Annuities in recognition of another's services	Chapter 10
Section 615	Certain overseas government pensions paid in the United Kingdom	Chapter 11
Section 619	The House of Commons Members' Fund	Chapter 12
Section 623	Return of surplus employee additional voluntary contributions	Chapter 13
Section 629	Pre-1973 pensions paid under OPA 1973	Chapter 14
Section 633	Voluntary annual payments	Chapter 15

567 Amount charged to tax

- (1) The amount of pension income which is charged to tax under this Part for a particular tax year is as follows.
- (2) In relation to each pension, annuity or other item of pension income, the amount charged to tax is the “net taxable pension income” for the tax year.
- (3) The net taxable pension income for a pension, annuity or other item of pension income for a tax year is given by the formula—

TPI- DPI

where—

TPI means the amount of taxable pension income for that pension, annuity or item of pension income for that year (see subsection (4)), and

DPI means the total amount of any deductions allowed from the pension, annuity or item of pension income (see subsection (5)).

- (4) For the purposes of this Act—
 - (a) the amount of taxable pension income for a pension, annuity or other item of pension income for a tax year is determined in accordance with Chapters 3 to 15 of this Part (which contain provisions relating to this amount for each type of pension income); and
 - (b) in determining the amount of taxable pension income for a pension, annuity or other item of pension income, any exempt income is to be excluded.
- (5) The deductions allowed from a pension, annuity or other item of pension income are those under—

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section 617 (10% deduction from an overseas government pension to which section 615 applies);

Part 12 (payroll giving).

568 Person liable for tax

For the provision identifying which person is liable for any tax charged under this Part on a pension, annuity or other item of pension income, see Chapters 3 to 15.

CHAPTER 3

UNITED KINGDOM PENSIONS: GENERAL RULES

569 United Kingdom pensions

- (1) This section applies to any pension paid by or on behalf of a person who is in the United Kingdom.
- (2) But this section does not apply to a pension if any provision of Chapters 5 to 14 of this Part applies to it.
- (3) For pensions paid by or on behalf of a person who is outside the United Kingdom, see Chapter 4 of this Part.

570 “Pension”: interpretation

In this Chapter “pension” includes a pension which is paid voluntarily or is capable of being discontinued.

571 Taxable pension income

If section 569 applies, the taxable pension income for a tax year is the full amount of the pension accruing in that year irrespective of when any amount is actually paid.

572 Person liable for tax

If section 569 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension.

CHAPTER 4

FOREIGN PENSIONS: GENERAL RULES

573 Foreign pensions

- (1) This section applies to any pension paid by or on behalf of a person who is outside the United Kingdom to a person who is resident in the United Kingdom.
- (2) But this section does not apply to a pension if any provision of Chapters 5 to 14 of this Part applies to it.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

- (3) For pensions paid by or on behalf of a person who is in the United Kingdom, see Chapter 3 of this Part.

574 “Pension”: interpretation

- (1) For the purposes of this Chapter “pension” includes a pension which is paid voluntarily, or is capable of being discontinued, if conditions A and B are met.
- (2) Condition A is that the pension is paid to—
- (a) a former employee or a former office-holder,
 - (b) the widow or widower [^{F1}or surviving civil partner] of a former employee or a former office-holder, or
 - (c) any child, relative or dependant of a former employee or a former office-holder.
- (3) Condition B is that the pension is paid by or on behalf of—
- (a) the person—
 - (i) who employed the former employee, or
 - (ii) under whom the former office-holder held the office, or
 - (b) the successors of that person.
- (4) In 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.

Textual Amendments

- F1** Words in s. 574(2)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), 154

575 Taxable pension income

- (1) If section 573 applies, the taxable pension income for a tax year is [^{F2}the full amount of the pension income arising in the tax year, but subject to subsections (2) and (3).]
- [^{F3}(2) The full amount of the pension income arising in the tax year is to be calculated on the basis that the pension is 90% of its actual amount, unless as a result of subsection (3) the pension income is charged in accordance with section 832 of ITTOIA 2005 (relevant foreign income charged on the remittance basis).
- (3) That pension income is treated as relevant foreign income for the purposes of Chapters 2 and 3 of Part 8 of that Act (relevant foreign income: remittance basis and deductions and reliefs).
- (4) But if that pension income arises in the Republic of Ireland, section 839 of that Act (annual payments payable out of relevant foreign income) applies with the omission of condition B and subsection (5)(a).
- (5) See also Chapter 4 of that Part (unremittable income).]

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

Textual Amendments

- F2** Words in s. 575(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 606\(2\)](#) (with [Sch. 2](#))
- F3** S. 575(2)-(5) substituted for s. 575(2) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 606\(3\)](#) (with [Sch. 2](#))

576 Person liable for tax

If section 573 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension.

CHAPTER 5

UNITED KINGDOM SOCIAL SECURITY PENSIONS

577 United Kingdom social security pensions

- (1) This section applies to—
- the state pension,
 - graduated retirement benefit,
 - industrial death benefit,
 - widowed mother's allowance,
 - widowed parent's allowance, and
 - widow's pension.

[^{F4}(1A) But this section does not apply to any social security pension lump sum (within the meaning of section 7 of F(No.2)A 2005).]

- (2) In this section—
- “state pension” means any pension payable under—
 - (a) section 44, 48A, 48B, 48BB, 51 or 78 of SSCBA 1992, or
 - (b) section 44, [^{F5}48A], 48B, 48BB, 51 or 78 of SSCB(NI)A 1992;
 - “graduated retirement benefit” means any benefit payable under—
 - (a) section 36 or 37 of the National Insurance Act 1965 (c. 51), or
 - (b) section 35 or 36 of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.));
 - “industrial death benefit” means any benefit payable under—
 - (a) section 94 of, and Part 6 of Schedule 7 to, SSCBA 1992, or
 - (b) section 94 of, and Part 6 of Schedule 7 to, SSCB(NI)A 1992;
 - “widowed mother's allowance” means any allowance payable under—
 - (a) section 37 of SSCBA 1992, or
 - (b) section 37 of SSCB(NI)A 1992;
 - “widowed parent's allowance” means any allowance payable under—
 - (a) section 39A of SSCBA 1992, or
 - (b) section 39A of SSCB(NI)A 1992;
 - “widow's pension” means any pension payable under—

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- (a) section 38 of SSCBA 1992, or
- (b) section 38 of SSCB(NI)A 1992.

^{F6}(3)

- (4) Chapter 17 of this Part provides a partial exemption for a pension to which this section applies in respect of any part of the pension which is attributable to an increase in respect of a child (see section 645).

Textual Amendments

- F4** S. 577(1A) inserted (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 10(2)
- F5** Word in s. 577(2) substituted (22.7.2004) by Finance Act 2004 (c. 12), Sch. 17 para. 9(4)(a)
- F6** S. 577(3) repealed (22.7.2004) by Finance Act 2004 (c. 12), Sch. 17 para. 9(4)(b), Sch. 42 Pt. 2(12)

578 Taxable pension income

If section 577 applies, the taxable pension income for a tax year is the full amount of the pension, benefit or allowance accruing in that year irrespective of when any amount is actually paid.

579 Person liable for tax

If section 577 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension, benefit or allowance.

CHAPTER 6

APPROVED RETIREMENT BENEFITS SCHEMES

Pensions and annuities

580 Pensions and annuities

This section applies to—

- (a) any pension or annuity paid under a retirement benefits scheme which is either approved or being considered for approval, and
- (b) any annuity acquired using funds held for the purposes of a retirement benefits scheme which is either approved or being considered for approval.

581 Taxable pension income

If section 580 applies, the taxable pension income for a tax year is the full amount of the pension or annuity accruing in that year irrespective of when any amount is actually paid.

582 Person liable for tax

If section 580 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension or annuity.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

Unauthorised payments

583 Unauthorised payments

- (1) This section applies to a payment if conditions A, B and C are met.
- (2) But this section does not apply to a payment to which section 623 applies.
- (3) Condition A is that the payment—
 - (a) is made out of funds which are held for the purposes of an approved retirement benefits scheme (“the paying scheme”), but
 - (b) is not expressly authorised—
 - (i) by the rules of the paying scheme, or
 - (ii) by virtue of paragraph 33 of Schedule 6 to FA 1989.
- (4) Condition B is that the payment is not made in the course of payment of a pension or annuity.
- (5) Condition C is that the payment is made to or for the benefit of—
 - (a) an employee, or
 - (b) an ex-spouse [^{F7}or former civil partner] of an employee.
- (6) A payment to which this section applies is not to be charged to tax under—
 - (a) section 598 or 599 of ICTA, or
 - (b) the Regulations mentioned in paragraph 8 of Schedule 3 to FA 1971.
- (7) In this section “payment” includes—
 - (a) a transfer of assets, and
 - (b) any other transfer of money’s worth.

Textual Amendments

F7 Words in s. 583(5)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **155**

Modifications etc. (not altering text)

C1 S. 583 applied (conditionally and with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pension Protection Fund \(Tax\) \(2005-06\) Regulations 2005 \(S.I. 2005/1907\)](#), regs. 1(1), **15**

584 Taxable pension income

If section 583 applies, the taxable pension income for a tax year is the total amount or value of the payments made in that year.

585 Person liable for tax

If section 583 applies, the person liable for any tax charged under this Part is the person mentioned in condition C in section 583(5) to whom, or for whose benefit, the payment is made.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

Interpretation etc.

586 Meaning of “retirement benefits scheme” etc.

- (1) In this Chapter—
- “retirement benefits scheme” has the meaning given in section 611 of ICTA; “approved”, in relation to such a scheme, means that the scheme is approved by [^{F8}the Commissioners for Her Majesty’s Revenue and Customs] for the purposes of—
- (a) Chapter 2 of Part 2 of FA 1970, or
- (b) Chapter 1 of Part 14 of ICTA.
- (2) Any reference in this Chapter to a pension or annuity paid under a retirement benefits scheme includes a reference to a pension or annuity paid under a contract which—
- (a) is made for purposes of the scheme, and
- (b) is made between—
- (i) the administrator of the scheme,
- (ii) the employer, or
- (iii) the employee or an ex-spouse [^{F9}or former civil partner] of the employee,
- and a third party.
- (3) In subsection (2) the reference to the employer is a reference to the person who is the employer in relation to the scheme.
- (4) In subsection (2)(b)(i) “administrator of the scheme” is to be construed in accordance with section 611AA of ICTA.
- (5) References in this Chapter to approved retirement benefits schemes are extended by section 587 (marine pilots' benefit fund).

Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F9** Words in s. 586(2)(b)(iii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [156](#)

587 Application to marine pilots' benefit fund

- (1) In this Chapter the expression “approved retirement benefits scheme” includes a marine pilots' benefit fund which is approved by [^{F8}the Commissioners for Her Majesty’s Revenue and Customs] under section 607 of ICTA for the purposes of Chapter 1 of Part 14 of ICTA.
- (2) In any case where the paying scheme for the purposes of section 583(3) is a pilots' benefit fund, the references in section 583(5) to an employee are to be read as references to a member or former member of the fund.
- (3) In this section “marine pilots' benefit fund” means—
- (a) a fund established under section 15(1)(i) of the Pilotage Act 1983 (c. 21), or
- (b) any scheme supplementing or replacing any such fund.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)

588 Meaning of “employee” ^[F10], “former civil partner” and “ex-spouse”

(1) In this Chapter—

“employee”—

- (a) includes a person who is to be, or has been, an employee, and
- (b) in relation to a company, includes any officer or director of the company and any other person taking part in the management of the affairs of the company;

“ex-spouse” means a party to a marriage which has been dissolved or annulled and, in relation to any person, means the other party to a marriage with that person which has been dissolved or annulled.

^[F11]“former civil partner” means a member of a civil partnership which has been dissolved or annulled and, in relation to any person, means the other member of a civil partnership with that person which has been dissolved or annulled;]

(2) For the purposes of the definition of “employee” in subsection (1), “director”, in relation to a company, includes—

- (a) in the case of a company the affairs of which are managed by a board of directors or similar body, a member of that board or body,
- (b) in the case of a company the affairs of which are managed by a single director or similar person, that person,
- (c) in the case of a company the affairs of which are managed by the members themselves, a member of that company,

and includes a person who is to be or has been a director.

Textual Amendments

- F10** Words in s. 588 heading inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [157\(3\)](#)
- F11** Words in s. 588(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [157\(2\)](#)

589 Regulations

^[F8] The Commissioners for Her Majesty’s Revenue and Customs] may make regulations generally for the purpose of carrying the preceding provisions of this Chapter into effect.

Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

CHAPTER 7

FORMER APPROVED SUPERANNUATION FUNDS

Annuities

590 Annuities

This section applies to—

- (a) any annuity paid under a former approved superannuation fund, and
- (b) any annuity acquired using funds held for the purposes of a former approved superannuation fund.

591 Taxable pension income

If section 590 applies, the taxable pension income for a tax year is the full amount of the annuity paid in that year.

592 Person liable for tax

If section 590 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the annuity.

Unauthorised payments

593 Unauthorised payments: application of section 583

- (1) Section 583 applies to a payment if—
 - (a) the payment is made out of funds which are held for the purposes of a former approved superannuation fund (“the paying fund”), but
 - (b) it is not expressly authorised—
 - (i) by the rules of the paying fund, or
 - (ii) by virtue of paragraph 33 of Schedule 6 to FA 1989, and
 - (c) conditions B and C in section 583(4) and (5) are met.
- (2) But section 583 does not apply to a payment to which section 623 applies.
- (3) In this section “payment” includes—
 - (a) a transfer of assets, and
 - (b) any other transfer of money’s worth.
- (4) If section 583 applies to a payment by virtue of this section, sections 584, 585 and 588 apply accordingly.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

Interpretation

594 Meaning of “former approved superannuation fund”

- (1) In this Chapter “former approved superannuation fund” means any fund which immediately before 6th April 1980 was an approved superannuation fund for the purposes of section 208 of ICTA 1970.
- (2) But a fund is not a former approved superannuation fund if any of the following things has happened since 5th April 1980—
 - (a) the fund has been approved by [^{F8}the Commissioners for Her Majesty’s Revenue and Customs] for the purposes of Chapter 2 of Part 2 of FA 1970,
 - (b) the fund has been approved by the [^{F12}Commissioners] for the purposes of Chapter 1 of Part 14 of ICTA, or
 - (c) any sum has been paid to the fund by way of contribution.

Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F12** Words in s. 594 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(3\)\(g\)](#); S.I. 2005/1126, art. 2(2)(h)

CHAPTER 8

APPROVED PERSONAL PENSION SCHEMES

Annuities

595 Annuities

This section applies to any annuity acquired using funds held for the purposes of an approved personal pension scheme.

596 Taxable pension income

If section 595 applies, the taxable pension income for a tax year is the full amount of the annuity received in that year.

597 Person liable for tax

If section 595 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the annuity.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

Income withdrawals

598 Income withdrawals

This section applies to any income withdrawal under approved personal pension arrangements.

599 Taxable pension income

If section 598 applies, the taxable pension income for a tax year is the total amount of the income withdrawals made in that year.

600 Person liable for tax

If section 598 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the income.

Unauthorised personal pension payments

601 Unauthorised personal pension payments

- (1) This section applies to any unauthorised personal pension payment.
- (2) In this section “personal pension payment” means a payment which—
 - (a) is made out of funds which are or have been held for the purposes of a personal pension scheme (“the paying scheme”), and
 - (b) is made to or for the benefit of an individual who has made personal pension arrangements in accordance with the paying scheme (“the individual’s arrangements”).
- (3) For the purposes of this section a personal pension payment is unauthorised if any of conditions A, B and C are met.
- (4) Condition A is that—
 - (a) the paying scheme and the individual’s arrangements are both approved at the time the payment is made, but
 - (b) the payment is not expressly authorised by the rules of the paying scheme.
- (5) Condition B is that—
 - (a) the paying scheme is not approved at the time the payment is made, and
 - (b) at the time the scheme was last approved, the payment would not have been expressly authorised under the scheme’s rules.
- (6) Condition C is that—
 - (a) the individual’s arrangements are not approved at the time the payment is made, and
 - (b) at the time the arrangements were last approved, the payment would not have been expressly authorised under the arrangements.
- (7) In this section “payment” includes—
 - (a) a transfer of assets, and
 - (b) any other transfer of money’s worth.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

602 Taxable pension income

If section 601 applies, the taxable pension income for a tax year is the total amount or value of the payments made in that year.

603 Person liable for tax

If section 601 applies, the person liable for any tax charged under this Part is the individual who made the arrangements mentioned in section 601(2)(b) to whom or for whose benefit the payment is made, whether or not the individual is the recipient of the payment.

Interpretation

604 Meaning of “personal pension scheme” and related expressions

In this Chapter the following expressions have the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of ICTA)—

- (a) “approved”;
- (b) “income withdrawal”;
- (c) “personal pension arrangements”;
- (d) “personal pension scheme”.

CHAPTER 9

RETIREMENT ANNUITY CONTRACTS

605 Annuities

This section applies to any annuity paid under a retirement annuity contract.

606 Meaning of “retirement annuity contract”

In this Chapter “retirement annuity contract” means—

- (a) an annuity contract or a trust scheme approved by [^{F8}the Commissioners for Her Majesty’s Revenue and Customs] under section 620 of ICTA (qualifying premiums) or under section 621 of ICTA (other approved contracts), or
- (b) a substituted contract within the meaning of section 622(3) of ICTA (substituted retirement annuity contracts).

Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)

607 Taxable pension income

If section 605 applies, the taxable pension income for a tax year is the full amount of the annuity arising in that year.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

608 Person liable for tax

If section 605 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the annuity.

CHAPTER 10

OTHER EMPLOYMENT-RELATED ANNUITIES

609 Annuities for the benefit of dependants

- (1) This section applies to any annuity which was granted for consideration consisting in whole or in part of sums which satisfied the conditions for relief under section 273 of ICTA (obligatory contributions to secure an annuity for the benefit of dependants).
- (2) But this section applies to an annuity which arises from a source outside the United Kingdom only if it is paid to a person resident in the United Kingdom.

610 Annuities under sponsored superannuation schemes

- (1) This section applies to—
 - (a) any annuity paid under a sponsored superannuation scheme, and
 - (b) any annuity acquired using funds held for the purposes of a sponsored superannuation scheme.
- (2) But this section applies to an annuity which arises from a source outside the United Kingdom only if it is paid to a person resident in the United Kingdom.
- (3) This section does not apply to an annuity to which any provision of Chapter 6, 7, 8 or 9 of this Part applies.
- (4) In this section “sponsored superannuation scheme” has the meaning given by section 624(1) of ICTA.

611 Annuities in recognition of another’s services

- (1) This section applies to any annuity purchased by any person in recognition of another person’s services in any office or employment.
- (2) But this section applies to an annuity which arises from a source outside the United Kingdom only if it is paid to a person resident in the United Kingdom.
- (3) This section does not apply to an annuity to which any provision of Chapter 6, 7, 8 or 9 of this Part applies.
- (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.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

612 Taxable pension income: UK annuities

- (1) The taxable pension income for an annuity to which section 609, 610 or 611 applies is determined in accordance with this section if the annuity arises from a source in the United Kingdom.
- (2) The taxable pension income for a tax year is the full amount of the annuity arising in that year.

613 Taxable pension income: foreign annuities

- (1) The taxable pension income for an annuity to which section 609, 610 or 611 applies is determined in accordance with this section if the annuity arises from a source outside the United Kingdom.
- (2) The taxable pension income for a tax year is [^{F13}the full amount of the annuity arising in the tax year, but subject to subsections (3) and (4).]
- [^{F14}(3) The full amount of the annuity arising in the tax year is to be calculated on the basis that the annuity is 90% of its actual amount, unless as a result of subsection (4) the annuity is charged in accordance with section 832 of ITTOIA 2005 (relevant foreign income charged on the remittance basis).
- (4) The annuity is treated as relevant foreign income for the purposes of Chapters 2 and 3 of Part 8 of that Act (relevant foreign income: remittance basis and deductions and reliefs).
- (5) But if the annuity arises in the Republic of Ireland, section 839 of that Act (annual payments payable out of relevant foreign income) applies with the omission of condition B and subsection (5)(a).
- (6) See also Chapter 4 of that Part (unremittable income).]

Textual Amendments

- F13** Words in s. 613(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 607\(2\)](#) (with Sch. 2)
- F14** S. 613(3)-(6) substituted for s. 613(3)(4) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 607\(3\)](#) (with Sch. 2)

614 Person liable for tax

If section 609, 610 or 611 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the annuity.

CHAPTER 11

CERTAIN OVERSEAS GOVERNMENT PENSIONS PAID IN THE UK

615 Certain overseas government pensions paid in the United Kingdom

- (1) This section applies to a pension if conditions A, B and C are met.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

- (2) Condition A is that the pension—
- (a) is payable—
 - (i) to a person who has been employed in overseas government service, or
 - (ii) to the widow, widower, [^{F15}surviving civil partner,] child, relative or dependant of a person who has been employed in overseas government service, and
 - (b) is payable in respect of that service.
- (3) Condition B is that the pension—
- (a) is payable in the United Kingdom, and
 - (b) is payable to a person who is resident in the United Kingdom.
- (4) Condition C is that the pension is payable by or on behalf of the government of—
- (a) a country which forms part of Her Majesty’s dominions,
 - (b) any other country which is for the time being mentioned in Schedule 3 to the British Nationality Act 1981 (c. 61), or
 - (c) any territory under Her Majesty’s protection.
- (5) But condition C is not met if the pension is payable out of the public revenue of the United Kingdom or Northern Ireland.
- (6) In condition A the references to a person being employed in overseas government service are to the person being employed outside the United Kingdom—
- (a) in the service of the Crown, or
 - (b) in service under the government of a country or territory which falls within subsection (4).
- (7) In this Chapter “pension” includes a pension which is paid voluntarily or is capable of being discontinued.

Textual Amendments

F15 Words in s. 615(2)(a)(ii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **158**

616 Taxable pension income

If section 615 applies, the taxable pension income for a tax year is the full amount of the pension accruing in that year irrespective of when any amount is actually paid.

617 Deduction allowed from taxable pension income

A deduction of 10% is allowed from an amount of taxable pension income determined under section 616 (see section 567).

618 Person liable for tax

If section 615 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

CHAPTER 12

HOUSE OF COMMONS MEMBERS' FUND

619 The House of Commons Members' Fund

This section applies to any periodical payment granted out of—

- (a) the House of Commons Members' Fund,
- (b) sums appropriated from that Fund, or
- (c) income from sums appropriated from that Fund.

620 Meaning of “House of Commons Members' Fund”

In this Chapter “House of Commons Members' Fund” means the fund with that name established by section 1 of the House of Commons Members' Fund Act 1939 (c. 49).

621 Taxable pension income

If section 619 applies, the taxable pension income for a tax year is the total amount of the payments made in that year.

622 Person liable for tax

If section 619 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the payments.

CHAPTER 13

RETURN OF SURPLUS EMPLOYEE ADDITIONAL VOLUNTARY CONTRIBUTIONS

623 Return of surplus employee additional voluntary contributions

- (1) This section applies to a payment if conditions A, B and C are met.
- (2) Condition A is that the payment is made out of funds which are or have been held for the purposes of—
 - (a) a scheme which is or has been an exempt approved scheme, or
 - (b) a relevant statutory scheme established under a public general Act.
- (3) Condition B is that the payment is made under a duty to return surplus funds.
- (4) Condition C is that the payment is made to or for the benefit of an employee.
- (5) A payment to which this section applies is not to be charged to tax under—
 - (a) section 598 or 599 of ICTA, or
 - (b) the Regulations mentioned in paragraph 8 of Schedule 3 to FA 1971.
- (6) In this section “payment” includes—
 - (a) a transfer of assets, and
 - (b) any other transfer of money’s worth.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

624 Taxable pension income

If section 623 applies, the taxable pension income for a tax year is the amount equal to the total amount or value of the payments made in that year, grossed up by reference to the basic rate for that year.

625 Person liable for tax

If section 623 applies, the person liable for any tax charged under this Part is the employee mentioned in condition C in section 623(4) to whom or for whose benefit the payment is made.

626 Income tax treated as paid

- (1) An employee who is liable for the tax charged on a payment to which section 623 applies is treated as having paid income tax at the basic rate on the amount chargeable.
- (2) The income tax treated as paid under subsection (1) is not repayable.

627 Meaning of “grossing up”

- (1) In section 624 “grossing up” by reference to the basic rate means calculating the amount (“the gross amount”) which after deduction of income tax at the basic rate would equal the amount to be grossed up (“the net amount”).
- (2) The gross amount is the sum of the net amount and the tax deducted.

628 Interpretation

- (1) In this Chapter—
“employee”—
 - (a) includes a person who is to be, or has been, an employee, and
 - (b) in relation to a company, includes any officer or director of the company and any other person taking part in the management of the affairs of the company;
“exempt approved scheme” has the meaning given in section 592(1) of ICTA;
“relevant statutory scheme” has the meaning given in section 611A(1) of ICTA.
- (2) For the purposes of the definition of “employee” in subsection (1), “director”, in relation to a company, includes—
 - (a) in the case of a company the affairs of which are managed by a board of directors or similar body, a member of that board or body,
 - (b) in the case of a company the affairs of which are managed by a single director or similar person, that person,
 - (c) in the case of a company the affairs of which are managed by the members themselves, a member of that company,and includes a person who is to be or has been a director.
- (3) If section 623 applies to a payment made out of funds which are or have been held for the purposes of a relevant statutory scheme established under a public general Act, any reference in this Chapter to an employee includes references to a person who holds

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

an office, to a person who is to hold an office and to a person who has ceased to hold an office.

This is without prejudice to subsection (1).

- (4) For the purposes of subsection (3) “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders.

CHAPTER 14

PRE-1973 PENSIONS PAID UNDER THE OVERSEAS PENSIONS ACT 1973

629 Pre-1973 pensions paid under the Overseas Pensions Act 1973

- (1) This section applies to a pension if—
- (a) it is paid under section 1 of OPA 1973 (whether or not paid out of a fund established under a scheme made under that section),
 - (b) it is a pre-1973 pension, and
 - (c) it is paid to—
 - (i) the original pensioner, or
 - (ii) the widow or widower of the original pensioner.
- (2) But this section does not apply to a part of a pension which is paid because the Pensions (Increase) Act 1971 (c. 56) applies to it (and accordingly section 569 applies to that part of the pension).
- (3) Chapter 18 of this Part provides an exemption where a pension to which this section applies is paid to a person who is not resident in the United Kingdom (see sections 647 and 651).

630 Interpretation

- (1) For the purposes of this Chapter 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.
- (2) For the purposes of this Chapter a pension is a “pre-1973 pension” if, immediately before 6th April 1973—
- (a) the pension was payable to—
 - (i) the original pensioner, or
 - (ii) the widow or widower of the original pensioner, and
 - (b) that person was resident in the United Kingdom.

631 Taxable pension income

- (1) If section 629 applies, the taxable pension income for a tax year is [^{F16}the full amount of the pension income arising in the tax year] .

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

[^{F17}(2) The full amount of the pension income arising in the tax year is to be calculated on the basis that the pension is 90% of its actual amount.

(3) The pension income is treated as relevant foreign income for the purposes of section 838 of that Act (expenses attributable to collection or payment of relevant foreign income).]

Textual Amendments

F16 Words in s. 631(1) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 608\(2\)](#) (with [Sch. 2](#))

F17 S. 631(2)(3) substituted for s. 631(2) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 608\(3\)](#) (with [Sch. 2](#))

632 Person liable for tax

If section 629 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the pension.

CHAPTER 15

VOLUNTARY ANNUAL PAYMENTS

633 Voluntary annual payments

- (1) This section applies to an annual payment which—
 - (a) is paid voluntarily, or
 - (b) is capable of being discontinued,if conditions A and B are met.
- (2) Condition A is that the payment is paid to—
 - (a) a former employee or a former office-holder,
 - (b) the widow or widower [^{F18}or surviving civil partner] of a former employee or former office-holder, or
 - (c) any child, relative or dependant of a former employee or a former office-holder.
- (3) Condition B is that the payment is paid by or on behalf of—
 - (a) the person—
 - (i) who employed the former employee, or
 - (ii) under whom the former office-holder held the office, or
 - (b) the successors of that person.
- (4) But this section applies to a payment which is paid by or on a behalf of a person who is outside the United Kingdom only if it is paid to a person resident in the United Kingdom.
- (5) In 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.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

Textual Amendments

- F18** Words in s. 633(2)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **159**

634 Taxable pension income: UK voluntary annual payments

- (1) The taxable pension income for payments to which section 633 applies is determined in accordance with this section if the payments are made by or on behalf of a person who is in the United Kingdom.
- (2) The taxable pension income for a tax year is the full amount of the payments accruing in that year irrespective of when any amount is actually paid.

635 Taxable pension income: foreign voluntary annual payments

- (1) The taxable pension income for payments to which section 633 applies is determined in accordance with this section if the payments are made by or on behalf of a person who is outside the United Kingdom.
- (2) The taxable pension income for a tax year is [^{F19}the full amount of the pension income arising in the tax year, but subject to subsections (3) and (4)] .
- [^{F20}(3) The full amount of the pension income arising in the tax year is to be calculated on the basis that the pension is 90% of its actual amount, unless as a result of subsection (4) the pension income is charged in accordance with section 832 of ITTOIA 2005 (relevant foreign income charged on the remittance basis).
- (4) That pension income is treated as relevant foreign income for the purposes of Chapters 2 and 3 of Part 8 of that Act (relevant foreign income: remittance basis and deductions and reliefs).
- (5) But if that pension income arises in the Republic of Ireland, section 839 of that Act (annual payments payable out of relevant foreign income) applies with the omission of condition B and subsection (5)(a).
- (6) See also Chapter 4 of that Part (unremittable income).]

Textual Amendments

- F19** Words in s. 635(2) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 609\(2\)](#) (with [Sch. 2](#))
- F20** S. 635(3)-(6) substituted for s. 635(3) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 609\(3\)](#) (with [Sch. 2](#))

636 Person liable for tax

If section 633 applies, the person liable for any tax charged under this Part is the person receiving or entitled to the payment.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

CHAPTER 16

EXEMPTION FOR CERTAIN LUMP SUMS

637 Exemption for lump sums provided under certain pension schemes etc.

- (1) No liability to income tax arises on a lump sum provided under—
 - (a) approved personal pension arrangements,
 - (b) a tax-exempt pension scheme, or
 - (c) a retirement annuity contract.
- (2) But subsection (1)(b) applies to a lump sum paid in compensation for loss of office or employment, or for loss or diminution of earnings, only if—
 - (a) the payment is properly regarded as earned by past services, or
 - (b) the loss of office or employment, or the loss or diminution of earnings, is due to ill-health.
- (3) Subsection (1)(b) does not apply to a lump sum to which section 583 (approved retirement benefits schemes: unauthorised payments) or section 623 (return of surplus AVCs) applies.

This includes cases where section 583 applies by virtue of section 593.

- (4) Subsection (1)(c) applies to a lump sum only if it is provided in consequence of a right which meets the conditions in paragraphs (a) and (b) of section 620(3) of ICTA.
- (5) In this section—
 - “approved personal pension arrangements” has the same meaning as in Chapter 4 of Part 14 of ICTA (see section 630(1) of ICTA);
 - “earnings” means earnings or amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b));
 - “office” includes in particular any position which has an existence independent of the person who holds it and may be filled by successive holders;
 - “retirement annuity contract” has the same meaning as in Chapter 9 of this Part (see section 606).

- (6) In this section “tax-exempt pension scheme” means—
 - (a) a retirement benefits scheme which is—
 - (i) an approved scheme,
 - (ii) a relevant statutory scheme, or
 - (iii) a scheme set up by a government outside the United Kingdom for the benefit, or primarily for the benefit, of its employees, or
 - (b) any such scheme or fund as was described in section 221(1) and (2) of ICTA 1970 (schemes to which payments could be made without charge to tax under section 220 of that Act).
- (7) For the purposes of subsection (6)—
 - “relevant statutory scheme” has the meaning given in section 611A(1) of ICTA;
 - “retirement benefits scheme” has the meaning given in section 611 of ICTA;

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

“approved”, in relation to a retirement benefits scheme, means that the scheme is approved by [^{F8}the Commissioners for Her Majesty’s Revenue and Customs] for the purposes of—

- (a) Chapter 2 of Part 2 of FA 1970, or
- (b) Chapter 1 of Part 14 of ICTA.

Textual Amendments

F8 Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)

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

[^{F21}(1)] No liability to income tax arises on these pensions and allowances—

- (a) a pension or allowance payable by or on behalf of [^{F22}the Ministry of Defence] under so much of [^{F23}instrument specified in subsection (2),] 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

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

- (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).

[^{F24}(2) The instruments referred to in subsection (1)(a) are—

Defence (Local Defence Volunteers) Regulations 1940 (S.R. & O. 1940/748),
 War Pensions (Coastguards) Scheme 1944 (S.R. & O. 1944/500),
 War Pensions (Naval Auxiliary Personnel) Scheme 1964 (S.I. 1964/1985),
 Pensions (Polish Forces) Scheme 1964 (S.I. 1964/2007),
 War Pensions (Mercantile Marine) Scheme 1964 (S.I. 1964/2058),
 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard (1964 Cmnd. 2563),
 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Home Guard after 27th April 1952 (1964 Cmnd. 2564),
 Order by Her Majesty concerning pensions and other grants in respect of disablement or death due to service in the Ulster Defence Regiment (1971 Cmnd. 4567),
 Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686),
 Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883).

(3) The Treasury may by order amend subsection (2).]

Textual Amendments

- F21** S. 639 renumbered as s. 639(1) (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(8\)](#)
- F22** Words in s. 639(a) substituted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(a\)\(8\)](#)
- F23** Words in s. 639(a) substituted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(b\)\(8\)](#)
- F24** S. 639(2)(3) inserted (retrospectively) by [Finance Act 2005 \(c. 7\), s. 19\(3\)\(8\)](#)

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.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

[^{F25}640A Lump sums provided under armed forces early departure scheme

No liability to income tax arises on a lump sum provided under a scheme established by the Armed Forces Early Departure Payments Scheme Order 2005 (S.I. 2005/437).]

Textual Amendments

F25 S. 640A inserted (with effect in accordance with s. 19(9) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 19\(5\)](#)

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).
 - [^{F26}(h) a benefit under a scheme established by an order under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 payable to a person by reason of his illness or injury—
 - (i) by way of a lump sum, or
 - (ii) following the termination of the person's service in the armed forces or reserve forces.]
- (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.

Textual Amendments

F26 S. 641(1)(h) inserted (with effect in accordance with s. 19(9) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 19\(6\)](#)

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

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 [^{F27}or surviving civil partner] 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,

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.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

- (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.

Textual Amendments

F27 Words in s. 643(2)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **160**

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.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

[^{F28}644A Health and employment insurance payments

- (1) No liability to income tax arises in respect of a pension or annuity payment if or to the extent that—
 - (a) were the payment an annual payment falling within Chapter 7 of Part 5 of ITTOIA 2005, it would be exempt from income tax under section 735 of that Act (health and employment insurance payments), and
 - (b) it meets conditions A and B.
- (2) Condition A is that the payments are made—
 - (a) to a person (“the pensioner”) who made payments or contributions in respect of premiums under an insurance policy which another person took out wholly or partly for the pensioner's benefit, or
 - (b) to the pensioner's [^{F29}spouse or civil partner] .
- (3) Condition B is that the payments are attributable on a just and reasonable basis to the payments or contributions in respect of premiums.]

Textual Amendments

- F28** S. 644A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 610](#) (with [Sch. 2](#))
- F29** Words in s. 644A(2)(b) substituted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **161**

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 [^{F30}or surviving civil partner] 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.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

- (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.

Textual Amendments

F30 Words in s. 646(1)(a)(ii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **162**

[^{F31}646A Foreign pensions of consular employees

- (1) No liability to income tax arises in respect of foreign pension income of a consular officer or employee in the United Kingdom for a foreign state if—
- (a) Her Majesty by Order in Council directs that this section applies to the foreign state for the purpose of giving effect to a reciprocal arrangement with that state, and
 - (b) the officer or employee meets conditions A to C.
- (2) Condition A is that the officer or employee is not—
- (a) a British citizen,
 - (b) a British overseas territories citizen,
 - (c) a British National (Overseas), or
 - (d) a British Overseas citizen.
- (3) Condition B is that the officer or employee is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as a consular officer or employee of the state in question.
- (4) Condition C is that the officer or employee—
- (a) is a permanent employee of that state, or
 - (b) was not ordinarily resident in the United Kingdom immediately before becoming a consular officer or employee in the United Kingdom of that state.
- (5) In this section—
- “consular officer or employee” includes any person employed for the purposes of the official business of a consular officer at—
- (a) any consulate,
 - (b) any consular establishment, or
 - (c) any other premises used for those purposes,
- “foreign pension income” means—
- (a) income to which section 573 or 629 applies, and
 - (b) income arising from a source outside the United Kingdom to which section 609, 610, 611 or 633 applies; and
- “reciprocal agreement” has the same meaning as in section 302.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

- (6) Section 302(5) to (7) apply to an Order under subsection (1) and the operation of this section as they apply to an Order under section 302(1) and the operation of section 302.]

Textual Amendments

- F31** S. 646A inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 611](#) (with [Sch. 2](#))

CHAPTER 18

EXEMPTIONS: NON-UK RESIDENT TAXPAYERS

647 Introduction and meaning of “foreign residence condition” etc.

- (1) The provisions of this Part provide that no liability to income tax arises on certain kinds of pensions if the foreign residence condition is met.
- (2) The foreign residence condition is met in relation to a pension if the pension is payable to a person who is not resident in the United Kingdom.
- (3) For the purposes of the foreign residence condition, a person is taken to be not resident in the United Kingdom only if—
 - (a) a person makes a claim to [^{F8}the Commissioners for Her Majesty’s Revenue and Customs] that the person is not resident, and
 - (b) the [^{F32}Commissioners][^{F33}are] satisfied that the person is not resident.
- (4) In this Chapter “pension” includes—
 - (a) a gratuity or any sum payable on or in respect of death,
 - (b) a return of contributions, and
 - (c) any interest or other addition included in a return of contributions.

Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 102\(2\)](#); S.I. 2005/1126, art. 2(2)(h)
- F32** Word in s. 647 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 102\(3\)\(h\)](#); S.I. 2005/1126, art. 2(2)(h)
- F33** Word in s. 647(3)(b) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 116](#); S.I. 2005/1126, art. 2(2)(h)

648 The Central African Pension Fund

- (1) No liability to income tax arises on a pension which is paid from the Central African Pension Fund if the foreign residence condition is met.
- (2) In this section “the Central African Pension Fund” means the fund established under that name by section 24 of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963 (S.I. 1963/2085).

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

649 Commonwealth government pensions

- (1) No liability to income tax arises on a pension paid out of a fund which is established—
- (a) in the United Kingdom,
 - (b) by a Commonwealth government,
 - (c) for the sole purpose of providing pensions payable in respect of service under that government,
- if the foreign residence condition is met.
- (2) In this section “Commonwealth government” means—
- (a) the government of a territory or country mentioned in subsection (3),
 - (b) the government of any part of a territory or country mentioned in subsection (3), or
 - (c) a government constituted for two or more of the territories or countries mentioned in subsection (3).
- (3) The territories and countries referred to in subsection (2) are—
- (a) a country mentioned in Schedule 3 to the British Nationality Act 1981 (c. 61) apart from Australia, Canada, New Zealand, India, Sri Lanka and Cyprus,
 - (b) an associated state,
 - (c) a British overseas territory,
 - (d) a protectorate,
 - (e) a protected state, and
 - (f) a United Kingdom trust territory.
- (4) In subsection (2)(c) the reference to a government constituted for two or more of the territories or countries mentioned in subsection (3) includes a reference to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more of those territories or countries.
- (5) In subsection (3)(f) “United Kingdom trust territory” means a territory administered by the government of the United Kingdom under the trusteeship system of the United Nations.

650 Oversea Superannuation Scheme

- (1) No liability to income tax arises on a pension which is paid under the Oversea Superannuation Scheme (formerly known as the Colonial Superannuation Scheme) if the foreign residence condition is met.
- (2) For the purposes of subsection (1) a pension is paid under the Oversea Superannuation Scheme if—
- (a) the pension is paid under the Scheme as it has effect (by reason of section 2(4A) of OPA 1973) as a scheme under section 2 of OPA 1973, or
 - (b) the pension is paid under a scheme which—
 - (i) the Secretary of State has made under section 2(1) of OPA 1973, and
 - (ii) corresponds to the Oversea Superannuation Scheme.

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

651 Overseas Pensions Act 1973

- (1) No liability to income tax arises on a pension which is paid under section 1 of OPA 1973 if the foreign residence condition is met.
- (2) Subsection (1) applies whether or not the pension is paid out of a fund established under a scheme made under section 1 of OPA 1973.
- (3) But subsection (1) does not apply to any part of a pension paid because the Pensions (Increase) Acts apply to it.
- (4) In this section “the Pensions (Increase) Acts” means—
 - (a) the Pensions (Increase) Act 1971 (c. 56), and
 - (b) any Act passed after that Act for purposes which correspond to the purposes of that Act.

652 Overseas Service Act 1958

- (1) No liability to income tax arises on a pension—
 - (a) which is paid under the authority of the Overseas Service Act 1958 (c. 14), and
 - (b) which the Secretary of State certifies to be attributable to the employment of a person in the public services of an overseas territory,if the foreign residence condition is met.
- (2) If the Secretary of State certifies that only part of a pension paid under the authority of the 1958 Act is attributable to the employment of a person in the public services of an overseas territory, subsection (1) applies only to that part of the pension.
- (3) For the purposes of subsections (1) and (2) a pension is paid under the authority of the 1958 Act if condition A or B is met.
- (4) Condition A is that the pension is paid under either of the following—
 - (a) an order made under section 2 of the 1958 Act, or
 - (b) section 4(2) of the 1958 Act,as it has effect (by reason of section 2(3) of OPA 1973) as a scheme under section 2 of OPA 1973.
- (5) Condition B is that the pension is paid under a scheme which the Secretary of State—
 - (a) has made under section 2(1) of OPA 1973, and
 - (b) has certified to correspond to—
 - (i) an order made under section 2 of the 1958 Act, or
 - (ii) section 4(2) of the 1958 Act.
- (6) For the purposes of this section, a person is taken to be employed in the public service of an overseas territory at any time when—
 - (a) the person is employed in any capacity under the government of that territory, or under any municipal or other local authority in it,
 - (b) the person is employed in circumstances not falling within paragraph (a), by a body corporate established for any public purpose in that territory by an enactment of a legislature empowered to make laws for that territory, or
 - (c) the person is the holder of a public office in that territory in circumstances not falling within paragraph (a) or (b).

Status: Point in time view as at 05/12/2005.

Changes to legislation: There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9. (See end of Document for details)

(7) In subsection (6) references to the government of an overseas territory include references to—

- (a) a government constituted for two or more overseas territories, and
- (b) any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such territories.

(8) In this section—

“the 1958 Act” means the Overseas Service Act 1958 (c. 14);

“certified” means certified for the purposes of ICTA 1970, ICTA or this Act.

653 Overseas Service Pensions Fund

(1) No liability to income tax arises on a pension which is paid out of the Overseas Service Pensions Fund if the foreign residence condition is met.

(2) In this section “the Overseas Service Pensions Fund” means the fund with that name established under section 7(1) of the Overseas Aid Act 1966 (c. 21).

(3) In this section “pension” includes not only the things mentioned in section 647(4) but also any sum payable in respect of ill-health.

654 The Pensions (India, Pakistan and Burma) Act 1955

(1) No liability to income tax arises on a pension paid under the authority of the Pensions (India, Pakistan and Burma) Act 1955 (c. 22) if the foreign residence condition is met.

(2) A pension is paid under the authority of the 1955 Act if—

- (a) the pension is paid under the 1955 Act as it has effect (by reason of section 2(3) of OPA 1973) as a scheme under section 2 of OPA 1973, or
- (b) the pension is paid under a scheme which the Secretary of State—
 - (i) has made under section 2(1) of OPA 1973, and
 - (ii) has certified to correspond to the provision made under the 1955 Act.

(3) This section does not apply to any part of a pension paid because the Pensions (Increase) Acts apply to it.

(4) In this section—

“the 1955 Act” means the Pensions (India, Pakistan and Burma) Act 1955 (c. 22);

“certified” means certified for the purposes of ICTA 1970, ICTA or this Act;

“the Pensions (Increase) Acts” means—

- (a) the Pensions (Increase) Act 1971 (c. 56), and
- (b) any Act passed after that Act for purposes which correspond to the purposes of that Act.

Status:

Point in time view as at 05/12/2005.

Changes to legislation:

There are currently no known outstanding effects for the Income Tax (Earnings and Pensions) Act 2003, Part 9.