



Finance Act 2011

2011 CHAPTER 11

PART 4

PENSIONS

72 Foreign pensions of UK residents

- (1) In Part 2 of TIOPA 2010 (double taxation relief), in Chapter 3 (miscellaneous provisions), after section 130 insert—

“130A Interpreting provision about UK taxation of pensions etc

- (1) Subsection (3) applies if double taxation arrangements make the provision, however expressed, mentioned in subsection (2).
- (2) The provision is that pensions and other similar remuneration which—
- (a) arise outside the United Kingdom, and
 - (b) are paid to persons who are resident in the United Kingdom,
- are not to be subject to United Kingdom tax.
- (3) That provision does not prevent a pension or other similar remuneration of a person resident in the United Kingdom being chargeable to income tax if—
- (a) the pension or other similar remuneration is paid out of sums or assets that were the subject of a relevant transfer or related sums or assets, and
 - (b) the relevant transfer or any transaction forming part of that transfer was, or formed part of, a tax avoidance scheme.
- (4) But nothing in subsection (3) prevents credit being allowed under Chapter 2 of this Part (double taxation relief by way of credit) against any tax so charged.
- (5) In determining whether a pension or other similar remuneration is paid out of sums or assets within subsection (3)(a), it is to be assumed that it is paid out of such sums or assets in priority to any other sums or assets.

Changes to legislation: Finance Act 2011, Section 72 is up to date with all changes known to be in force on or before 31 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) A “relevant transfer”, in respect of any sums or assets, is a transaction or series of transactions as a result of which—
- (a) the sums or assets are transferred out of a pension scheme, and
 - (b) the sums or assets or related sums or assets (or both) are transferred into the pension scheme under which the pension or other similar remuneration is paid.
- (7) A scheme is a “tax avoidance scheme” if the main purpose, or one of the main purposes, of any party to the scheme in entering into the scheme is to secure an income tax advantage for any person under this Part by virtue of provision mentioned in subsection (2) made by double taxation arrangements.
- (8) For the purposes of subsection (7)—
- (a) “scheme” includes any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving a single transaction or two or more transactions,
 - (b) it does not matter whether or not the double taxation arrangements were in existence at the time the tax avoidance scheme was entered into or given effect to, and
 - (c) “income tax advantage” is to be construed in accordance with section 572A(3) to (5) of ITA 2007.
- (9) In this section—
- “pension” and “other similar remuneration” have the same meaning as in the Model Tax Convention on Income and on Capital published (from time to time) by the Organisation for Economic Co-operation and Development;
 - “pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150 of that Act);
 - “related sums or assets”, in relation to other sums or assets (“the original sums or assets”), means sums or assets which arise, or (directly or indirectly) derive, from the original sums or assets or from sums or assets which so arise or derive.”
- (2) The amendment made by this section has effect in relation to the tax year 2011-12 and subsequent tax years (and it does not matter whether the tax avoidance scheme was entered into or effected before, or on or after, 6 April 2011).

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 23 para. 45(1)(ia) inserted by [2017 c. 10 Sch. 11 para. 6\(3\)](#)
- Sch. 23 para. 2(1A) inserted by [S.I. 2019/397 reg. 2\(2\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)
- Sch. 23 para. 15A inserted by [S.I. 2019/397 reg. 2\(3\)](#) (This amendment not applied to legislation.gov.uk. Amending Regulations revoked on IP completion day by S.I. 2020/1544, regs. 1, 8; S.I. 2020/1641, reg. 2, Sch.)