
*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2017, Part 3. (See end of Document for details)*

SCHEDULES

SCHEDULE 3

OVERSEAS PENSIONS

PART 3

LUMP SUMS FOR UK RESIDENTS FROM FOREIGN PENSION SCHEMES

Introductory

4 ITEPA 2003 is amended as follows.

Employer-financed retirement benefit schemes: ending of foreign-service relief

- 5 (1) Section 395B (exemption or reduction for foreign service) is amended as follows.
- (2) In subsection (1) (conditions for entitlement to exemption or reduction), after paragraph (c) insert—
- “(ca) the recipient is not resident in the United Kingdom in the tax year in which the lump sum is received.”.
- (3) In subsection (8) (meaning of “foreign service”), for “413(2)” substitute “395C”.
- (4) The amendments made by this paragraph have effect for the tax year 2017-18 and subsequent tax years.
- 6 After section 395B insert—

“395C Meaning of “foreign service” in section 395B

- (1) In section 395B “foreign service” means service to which subsection (2), (3), (6) or (8) applies.
- (2) This subsection applies to service in or after the tax year 2013–14—
- (a) to the extent that it consists of duties performed outside the United Kingdom in respect of which earnings would not be relevant earnings, or
- (b) if a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings).
- (3) This subsection applies to service in or after the tax year 2003–04 but before the tax year 2013–14 such that—
- (a) any earnings from the employment would not be relevant earnings, or

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- (b) a deduction equal to the whole amount of the earnings from the employment was or would have been allowable under Chapter 6 of Part 5 (deductions from seafarers' earnings).
- (4) In subsection (2) “relevant earnings” means earnings for a tax year that are earnings to which section 15 applies and to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year.
- (5) In subsection (3) “relevant earnings” means—
 - (a) for service in or after the tax year 2008–09, earnings—
 - (i) which are for a tax year in which the employee is ordinarily UK resident,
 - (ii) to which section 15 applies, and
 - (iii) to which that section would apply even if the employee made a claim under section 809B of ITA 2007 (claim for remittance basis) for that year, and
 - (b) for service before the tax year 2008–09, general earnings to which section 15 or 21 as originally enacted applies.
- (6) This subsection applies to service before the tax year 2003–04 and after the tax year 1973–74 such that—
 - (a) the emoluments from the employment were not chargeable under Case I of Schedule E, or would not have been so chargeable had there been any, or
 - (b) a deduction equal to the whole amount of the emoluments from the employment was or would have been allowable under a foreign earnings deduction provision.
- (7) In subsection (6) “foreign earnings deduction provision” means—
 - (a) paragraph 1 of Schedule 2 to FA 1974,
 - (b) paragraph 1 of Schedule 7 to FA 1977, or
 - (c) section 192A or 193(1) of ICTA.
- (8) This subsection applies to service before the tax year 1974–75 such that tax was not chargeable in respect of the emoluments of the employment—
 - (a) in the tax year 1956–57 or later, under Case I of Schedule E, or
 - (b) in earlier tax years, under Schedule E,
 or it would not have been so chargeable had there been any such emoluments.”

7 In section 554Z4 (treatment of relevant step: residence issues), after subsection (6) insert—

- “(7) Subsections (8) and (9) apply if—
- (a) the relevant step is the payment of a lump sum,
 - (b) the payment of the lump sum is the provision of a relevant benefit under an employer-financed retirement benefits scheme, and
 - (c) the person by whom the lump sum is received is resident in the United Kingdom in the tax year in which the lump sum is received.
- (8) If the lump sum is wholly in respect of rights which have accrued on or after 6 April 2017, there is no reduction under subsection (4).

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- (9) If the lump sum is wholly or partly in respect of rights which accrued before 6 April 2017, the amount of any reduction under subsection (4) is given by—

$$R \times \frac{A}{LS}$$

where—

A is so much of the lump sum as is in respect of rights which accrued before 6 April 2017,

LS is the amount of the lump sum, and

R is the amount which (ignoring this subsection) is given by subsection (4) as the amount of the reduction.

- (10) In subsection (7)—

“employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 (see section 393A), and

“relevant benefit” has the same meaning as in that Chapter (see section 393B).”

Lump sums under other foreign schemes

- 8 In section 573 (foreign pensions), after subsection (3) insert—

“(4) This section also applies to a pension paid by or on behalf of a person who is outside the United Kingdom to a person who is not resident in the United Kingdom if—

- (a) the pension is a relevant lump sum paid under a pension scheme to that person in respect of a member of the scheme, and
- (b) the member is, or immediately before the member's death was, resident in the United Kingdom.”

- 9 In section 574(1) (foreign pensions: meaning of “pension”), after paragraph (a) insert—

“(aa) a relevant lump sum (see section 574A).”.

- 10 (1) After section 574 insert—

“574A “Pension”: relevant lump sums

- (1) A lump sum paid under a pension scheme to a member of the scheme, or to a person in respect of a member of the scheme, is “a relevant lump sum” for the purposes of this Chapter if—

- (a) the scheme is none of the following—
 - (i) a registered pension scheme,
 - (ii) a relevant non-UK scheme, and
 - (iii) an employer-financed retirement benefits scheme established in the United Kingdom, and
- (b) the payment of the lump sum is not a relevant step by reason of which Chapter 2 of Part 7A applies.

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- (2) A lump sum paid under a relevant non-UK scheme to a member of the scheme, or to a person in respect of a member of the scheme, is “a relevant lump sum” for the purposes of this Chapter if the effect of paragraphs 1 to 7 of Schedule 34 to FA 2004 is that the member payment provisions (see paragraph 1(4) of that Schedule) do not apply in relation to the payment of the lump sum.
- (3) If section 573 applies to a relevant lump sum then, for the purposes of section 575, the full amount of the pension income arising by reason of the payment of the lump sum is the amount of the lump sum, reduced as follows—
- Step 1* Deduct so much of the lump sum as is payable by reason of commutation of rights to receive pension income on which no liability to tax arises as a result of any provision of Chapter 17 of this Part.
- Step 2* Where the lump sum is paid under a pension scheme that was an employer-financed retirement benefits scheme immediately before 6 April 2017, deduct so much of the lump sum left after Step 1 as is deductible in accordance with subsection (6). Where the lump sum is paid otherwise than under such a scheme, deduct so much of the lump sum left after Step 1 as is paid in respect of the value immediately before 6 April 2017 of rights, accrued by then, specifically to receive benefits by way of lump sum payments.
- Step 3* If the lump sum is paid under an overseas pension scheme, deduct so much of the lump sum left after Step 2 as would, if the scheme were a registered pension scheme, not be liable to income tax under this Part. For the purposes of this Step—
- (a) treat amounts not included in taxable pension income because of section 636B(3) as being not liable to tax;
 - (b) assume that all or part of the member's lifetime allowance is available.
- (4) The amount given by subsection (3) is treated for the purposes of section 575 as arising when the lump sum is paid.
- (5) The Commissioners may by regulations make provision (including provision amending this section) as to the assumptions to be made for the purposes of Step 3.
- (6) These rules apply for the purposes of the first sentence of Step 2—
- (a) “the post-Step 1 amount” means so much of the lump sum as is left after Step 1;
 - (b) “the relevant amount” means so much of the post-Step 1 amount as is paid in respect of rights specifically to receive benefits by way of lump sum payments;
 - (c) “reckonable service” means service in respect of which the rights to receive the relevant amount accrued (whether or not service in the same employment or with the same employer, and even if the rights originally accrued under a different employer-financed retirement benefits scheme established in or outside the United Kingdom);
 - (d) “pre-6 April 2017 reckonable service” means reckonable service that is service before 6 April 2017;

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- (e) “pre-6 April 2017 reckonable foreign service” means pre-6 April 2017 reckonable service that is foreign service;
- (f) the deductible amount is the value immediately before 6 April 2017 of the rights then accrued to payment of so much of the relevant amount as is paid in respect of pre-6 April 2017 reckonable service if—
 - (i) at least 75% of pre-6 April 2017 reckonable service is made up of foreign service, or
 - (ii) the period of pre-6 April 2017 reckonable service exceeds 10 years and the whole of the last 10 years of that period is made up of foreign service, or
 - (iii) the period of pre-6 April 2017 reckonable service exceeds 20 years and at least 50% of that period, including any 10 of the last 20 years, is made up of foreign service;
- (g) otherwise, the deductible amount is the appropriate fraction of the value immediately before 6 April 2017 of the rights then accrued to payment of so much of the relevant amount as is paid in respect of pre-6 April 2017 reckonable service;
- (h) “the appropriate fraction” is given by—

$$\frac{F}{R}$$

where—

F is the period of pre-6 April 2017 reckonable foreign service, and

R is the period of pre-6 April 2017 reckonable service.

(7) In this section—

“employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 (see section 393A),

“foreign service” has the meaning given by section 395C,

“member”, in relation to a pension scheme, has the meaning given by section 151 of FA 2004,

“overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act),

“payment” includes a transfer of assets and any other transfer of money's worth,

“pension scheme” has the meaning given by section 150(1) of FA 2004, and

“relevant non-UK scheme” is to be read in accordance with paragraph 1(5) of Schedule 34 to FA 2004.”

(2) The amendment made by this paragraph has effect in relation to lump sums paid on or after 6 April 2017.

11 (1) In section 576A (temporary non-residents), as it applies where the year of departure is the tax year 2013-14 or a later tax year, after subsection (4) insert—

“(4ZA) Payment of a relevant lump sum is also a “relevant withdrawal”.

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- (2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.
- 12 (1) In section 576A, as it applies where the year of departure is the tax year 2012-13 or an earlier tax year, after subsection (4A) insert—
- “(4AA) Payment of a relevant lump sum is also a “relevant withdrawal”.”
- (2) The amendment made by this paragraph applies in relation to relevant withdrawals on or after 6 April 2017.

Relief from tax under Part 9 of ITEPA 2003 not to give rise to tax under other provisions

- 13 (1) In section 393B(2)(a) (tax on benefits under employer-financed retirement benefit schemes: “relevant benefits” do not include benefits charged to tax under Part 9), after “646E” insert “ or any deductions under section 574A(3) ”.
- (2) The amendment made by this paragraph has effect in relation to benefits by way of lump sums paid on or after 6 April 2017.

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