
STATUTORY INSTRUMENTS

2014 No. 211

The Enactment of Extra-Statutory Concessions Order 2014

Lump sums paid under foreign pension schemes

5.—(1) Part 6 of ITEPA 2003 (employment income: income which is not earnings or share-related) is amended as follows.

(2) In Chapter 2 (employer-financed retirement benefits), after section 395A(1) insert—

“395B Exemption or reduction for foreign service

(1) This section applies if—

- (a) a benefit to which this Chapter applies is provided to or in respect of an employee or former employee in the form of a lump sum,
- (b) the employer-financed retirement benefits scheme under which the lump sum is provided is established in a country or territory outside the United Kingdom,
- (c) the lump sum is received by the employee or former employee or a related person,
- (d) all or part of the lump sum (“the relevant part”) would, but for this section, count as employment income by virtue of section 394(1)(2) or be chargeable to income tax under section 394(2) (account having been taken of section 394(4B) and section 395), and
- (e) the service in respect of which rights to receive the relevant part of the lump sum accrued (referred to as “reckonable service”) is or includes foreign service.

(2) Section 394(1) or, as the case may be, section 394(2) does not apply to the relevant part of the lump sum if the condition in subsection (3) is met.

(3) The condition is that—

- (a) three-quarters or more of the period of reckonable service is made up of foreign service,
- (b) if the period of reckonable service exceeds 10 years, the whole of the last 10 years of that period is made up of foreign service, or
- (c) if the period of reckonable service exceeds 20 years, one-half or more of that period, including any 10 of the last 20 years, is made up of foreign service.

(4) If the condition in subsection (3) is not met, the amount that counts as employment income by virtue of section 394(1) or, as the case may be, is chargeable to income tax under section 394(2) is to be reduced by the appropriate proportion.

(5) The appropriate proportion is a proportion of the relevant part of the lump sum equal to the proportion that the period of foreign service included in the reckonable service bears to the period of reckonable service.

(1) Section 395A was inserted by [S.I. 2009/730](#).

(2) Section 394 was amended by section 249 of the Finance Act 2004 ([c. 12](#)), paragraph 595 of Schedule 1 to ITTOIA 2005, paragraph 14 of Schedule 2 to the Finance Act 2011 ([c. 11](#)), section 1(4) of the Finance Act 2012 ([c. 14](#)), and paragraph 65 of Schedule 45 to the Finance Act 2013 ([c. 29](#)).

- (6) In determining the service in respect of which rights to receive the relevant part of the lump sum accrued—
- (a) service in a previous employment or with a previous employer is to be taken into account if rights to receive the relevant part of the lump sum also accrued in respect of that service, and
 - (b) it does not matter if the rights originally accrued under a different employer-financed retirement benefits scheme (whether one established in the United Kingdom or in a country or territory outside the United Kingdom).
- (7) “Related person”, in relation to an employee or former employee (E), means any of the following—
- (a) E’s spouse or civil partner or E’s widow or widower or surviving civil partner,
 - (b) a person who is financially dependent on E, whose financial relationship with E is one of mutual dependence or who is dependent on E because of physical or mental impairment (or, if the lump sum is paid after E’s death, anyone who was such a person at the time of E’s death), and
 - (c) E’s personal representatives.
- (8) In this section “foreign service” has the meaning given by section 413(2).”.
- (3) In Chapter 3 (payments and benefits on termination of employment etc)—
- (a) in section 401(2)(3) (application of this Chapter), for “413A” substitute “414A”, and
 - (b) after section 414 insert—

“414A Exception for payments and benefits under section 615(3) schemes

- (1) This Chapter does not apply to a payment or other benefit provided in the form of a lump sum under a section 615(3) scheme.
- (2) In this section, “section 615(3) scheme” means a superannuation fund to which section 615(3) of ICTA(4) applies.”.

(3) Section 401 was amended by S.I. 2005/3229 and 2011/1037.

(4) Part 1 of Schedule 1 to ITEPA 2003 provides that “ICTA” means the Income and Corporation Taxes Act 1988 (c. 1). Section 615 of ICTA was amended by paragraph 11 of Schedule 10 to the Finance Act 1999 (c. 16), paragraph 9 of Schedule 3 to the International Development Act 2002 (c. 1), paragraph 85 of Schedule 6 and Part 1 of Schedule 8 to ITEPA 2003 and paragraph 140 of Schedule 1 to the Income Tax Act 2007 (c. 3).