
EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 160 of the Finance Act 2008 (c. 9). It enacts extra-statutory concessions A4 and A10, by making amendments to Parts 4, 5 and 6 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (“ITEPA”).

This Order comes into force on 5th February 2014. The changes made by articles 2 and 3 have effect in relation to expenses incurred on or after 6 April 2014. The changes made by article 5(2) and (3) have effect in relation to lump sums that a person receives on or after 5th February 2014 (the day the Order comes into force).

Article 2 adds three new sections to ITEPA to enact paragraphs (a) to (c) of ESC A4. New section 241A exempts from income tax the payment or reimbursement of certain travel expenses of unpaid directors of not-for-profit companies. New section 241B exempts from income tax the payment or reimbursement of certain travel expenses of directors who, by virtue of the provisions in the Income Tax (Trading and Other Income) Act 2005 (c. 5) are allowed to include a deduction for those expenses against the profits of their trade, vocation, or profession, but do not do so. New section 340A allows a deduction from earnings for certain travel expenses of directors for journeys between their workplace as a director and that of a ‘linked’ employment with another company. An employment is regarded as ‘linked’ to their employment as a director if their appointment as a director was because of the other company’s shareholding or other financial interest in the company of which they are a director. Article 3 makes a consequential amendment to ITEPA.

Article 5 enacts ESC A10, which provides relief from income tax for an employee where lump sum relevant benefits are paid under employer-financed retirement benefit schemes (“EFRBS”) to the extent that the lump sum rights accrued in respect of foreign service as specified in section 413(1) of ITEPA.

ESC A10 also provides relief from income tax for an employee in respect of lump sum relevant benefits receivable under superannuation funds which meet the conditions set out in section 615(6) of the Income and Corporation Taxes Act 1988 (c. 1) (“ICTA”).

ESC A10 was partially withdrawn in respect of lump sum relevant benefits paid on or after 6 April 2011. Those benefits became chargeable to income tax under Part 7A of ITEPA (employment income provided through third parties), subject to a relief in section 554Z4 of ITEPA in respect of relevant steps relating to duties performed by an employee outside the United Kingdom.

Section 554W of ITEPA which was inserted by the Finance Act 2011 (c. 11) and the new section 395B of ITEPA which is inserted by this Order, maintain the ESC A10 relief for relevant steps taken by relevant third parties on or after 6 April 2011, to the extent that the steps comprise payments of lump sum relevant benefits in respect of pre-6 April 2011 lump sum rights.

Article 5(2) inserts a new section 395B into ITEPA which specifies circumstances in which there is a total exemption, or partial relief from the tax charge under section 394 of ITEPA for lump sum relevant benefits provided under an EFRBS in respect of foreign service. Section 395B applies to lump sums to which the employment income tax charges imposed by virtue of Chapter 2 of Part 7A of ITEPA do not apply either due to the operation of section 554W of ITEPA or because the payment does not constitute the taking of a relevant step by a relevant third person within section 554C of ITEPA.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Article 5(3) inserts a new section 414A into ITEPA which provides an exception from the tax charge under Chapter 3 of Part 6 of ITEPA (payments and benefits on termination of employment etc) for lump sums paid under superannuation funds to which section 615 of ICTA applies.

In line with government commitments, a Tax Information and Impact Note has not been prepared in respect of this Order. There has been no change in policy, and there is no change to the tax, administrative or other impacts.