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## SCHEDULES

### SCHEDULE 5

#### OCCUPATIONAL PENSION SCHEMES

#### PART II

##### *Charge of pensions under Schedule E*

- 1 (1) Subject to sub-paragraph (2) below, all pensions paid under any scheme which is approved or is being considered for approval under the principal Chapter shall be charged to tax under Schedule E, and section 204 of the Taxes Act (pay-as-you-earn) shall apply accordingly.
- (2) As respects any scheme which is approved or is being considered for approval under the principal Chapter, the Board may direct that, until such date as the Board may specify, pensions under the scheme shall be charged to tax as annual payments under Case III of Schedule D, and tax shall be deductible under Part II of the Taxes Act accordingly.

##### *Charge to tax on repayment of employee's contributions*

- 2 (1) Where by way of repayment of, or of interest on, contributions made by an employee, any amount is paid—
- (a) in accordance with the rules of an exempt approved scheme, or
  - (b) in accordance with a statutory scheme to which section 22 of this Act applies,
- the administrator of the scheme shall be charged to income tax under Case VI of Schedule D on that amount, and—
- (i) the rate of the tax shall be one half of the standard rate of income tax for the year in which the amount is paid,
  - (ii) the tax shall be charged on the amount paid or, if the rules permit the administrator to deduct the tax before payment, on the amount before deduction of tax,
  - (iii) the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.
- (2) This paragraph shall not apply where the employee's employment was carried on outside the United Kingdom.
- (3) Sub-paragraph (1)(b) above shall not apply to any payment made before the date appointed under section 22 of this Act.

##### *Charge to tax: commutation of entire pension in special circumstances*

- 3 (1) Where—
- (a) an approved scheme, or

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- (b) a statutory scheme to which section 22 of this Act applies, contains a rule allowing, in special circumstances, a payment in commutation of an employee's entire pension, and any pension is commuted, whether wholly or not, under the rule, tax shall be charged on the amount by which the sum receivable exceeds—
- (i) the largest sum which would have been receivable in commutation of any part of the pension if the rule had conformed with paragraph 3 of Part I of this Schedule, or
  - (ii) the largest sum which would have been receivable in commutation of any part of the pension under any other rule of the scheme authorising the commutation of part (but not the whole) of the pension, or which would have been so receivable but for the said circumstances,
- whichever gives the lesser amount chargeable to tax.
- (2) Where any amount is chargeable to tax under this paragraph, the administrator of the scheme shall be charged to income tax under Case VI of Schedule D on that amount, and—
- (a) the rate of the tax shall be one half of the standard rate of income tax for the year in which the amount is paid,
  - (b) the tax shall be charged on the amount paid or, if the rules permit the administrator to deduct the tax before payment, on the amount before deduction of tax,
  - (c) the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.
- (3) This paragraph shall not apply where the employee's employment was carried on outside the United Kingdom.
- (4) In applying paragraphs (i) and (ii) of sub-paragraph (1) above the same considerations shall be taken into account, including the provisions of any other relevant scheme, as would have been taken into account by the Board in applying section 19 of this Act.
- (5) Sub-paragraph (1)(b) above shall not apply to any payment made before the date appointed under section 22 of this Act.

*Charge to tax: repayments to employer*

- 4 (1) Where any payment is made or becomes due to an employer out of funds which are or have been held for the purposes of an exempt approved scheme then:—
- (a) if the scheme relates to a trade, profession or vocation carried on by the employer, the payment shall be treated for the purposes of the Tax Acts as a receipt of that trade, profession or vocation receivable when the payment falls due or on the last day on which the trade, profession or vocation is carried on by the employer, whichever is the earlier,
  - (b) if the scheme does not relate to such a trade, profession or vocation, the employer shall be charged to tax on the amount of the payment under Case VI of Schedule D.
- (2) This paragraph shall not apply to a payment which fell due before the scheme became an exempt approved scheme.

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*Charge to tax: unauthorised payments and payments after cessation of tax exemptions*

- 5 (1) Where a payment is made to or for the benefit of an employee, otherwise than in payment of a pension, and—
- (a) it is made under an approved scheme, but is not expressly authorised by the rules of the scheme, or
  - (b) it is made wholly or partly out of funds in respect of which relief has been given under section 21 of this Act or under section 208 of the Taxes Act, but is made when the scheme has ceased to be an approved scheme, and is in excess of the amounts authorised by the rules of the scheme before it ceased to be an approved scheme,
- the employee (whether or not he is the recipient of the payment) shall be chargeable to tax on that amount (or on that amount so far as made out of funds in respect of which relief has been given) under Schedule E for the year of assessment in which the payment is made.
- (2) So far as any payment is made out of funds in respect of which relief has been given under section 21 of this Act or under section 208 of the Taxes Act, paragraphs 2 and 3 of this Part of this Schedule shall apply as if references to an exempt approved scheme included references to a scheme which has at any time been an exempt approved scheme.

*Application for approval of a scheme*

- 6 An application for the approval for the purposes of the principal Chapter of any retirement benefits scheme shall be made in writing by the administrator of the scheme to the Board before the end of the first year of assessment for which approval is required, and shall be supported by—
- (a) two copies of the instrument or other document constituting the scheme ; and
  - (b) two copies of the rules of the scheme and, except where the application is being sought on the setting up of the scheme, two copies of the accounts of the scheme for the last year for which such accounts have been made up; and
  - (c) such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the setting up of the scheme) as the Board may consider relevant.

*Information about payments under approved schemes*

- 7 In the case of every approved scheme, the administrator of the scheme, and every employer who pays contributions under the scheme, shall, within thirty days from the date of a notice from the inspector requiring them so to do—
- (a) furnish to the inspector a return containing such particulars of contributions paid under the scheme as the notice may require ;
  - (b) prepare and deliver to the inspector a return containing particulars of all payments under the scheme, being—
    - (i) payments by way of return of contributions (including interest on contributions, if any),
    - (ii) payments by way of commutation of, or in lieu of, pensions, or other lump sum payments,
    - (iii) other payments made to an employer;

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- (c) furnish to the inspector a copy of the accounts of the scheme to the last date previous to the notice to which such accounts have been made up together with such other information and particulars (including copies of any actuarial report or advice given to the administrator or employer in connection with the conduct of the scheme in the period to which the accounts relate) as the inspector considers relevant.

*Information about schemes, other than approved or statutory schemes*

- 8 (1) This paragraph has effect as respects a retirement benefits scheme which is neither an approved scheme nor a statutory scheme.
- (2) It shall be the duty of every employer—
  - (a) if there subsists in relation to any of his employees any such scheme, to deliver particulars of that scheme to the Board within three months beginning with the date on which the scheme first comes into operation in relation to any of his employees, or the date of the coming into force of this paragraph, whichever is the later, and
  - (b) when required to do so by notice given by the Board, to furnish within the time limited by the notice such particulars as the Board may require with regard to—
    - (i) any retirement benefits scheme relating to the employer ; or
    - (ii) the employees of his to whom any such scheme relates.
- (3) It shall be the duty of the administrator of any such scheme, when required to do so by notice given by the Board, to furnish within the time limited by the notice such particulars as the Board may require with regard to the scheme.
- (4) This paragraph shall come into force on the same date as section 23 of this Act.

*Responsibility of administrator of a scheme*

- 9 (1) If the administrator of a retirement benefits scheme defaults or cannot be traced or dies, the employer shall be responsible in his place for the discharge of all duties imposed on the administrator under the principal Chapter, with this Part of this Schedule, and shall be liable for any tax due from him in his capacity as administrator.
- (2) No liability incurred under the principal Chapter or this Part of this Schedule by the administrator of a scheme, or by an employer, shall be affected by the termination of the scheme or by it ceasing to be an approved scheme, or to be an exempt approved scheme.
- (3) References in this paragraph to the employer include, where the employer is resident outside the United Kingdom, references to any branch or agent of the employer in the United Kingdom, and in this sub-paragraph " branch or agent" has the meaning given by section 118(1) of the Management Act.

*Regulations*

- 10 The Board may by statutory instrument, subject to annulment in pursuance of a resolution of the Commons House of Parliament, make regulations generally for the purpose of carrying the principal Chapter and this Schedule into effect.