



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XIV

PENSION SCHEMES, SOCIAL SECURITY BENEFITS, LIFE ANNUITIES ETC.

CHAPTER II

OTHER PENSION FUNDS AND SOCIAL
SECURITY BENEFITS AND CONTRIBUTIONS

613 Parliamentary pension funds

- (1) The salary of a Member of the House of Commons shall, for all the purposes of the Income Tax Acts, be treated as reduced by the amounts deducted in pursuance of section 1 of the House of Commons Members' Fund Act 1939; but a Member shall not by reason of any such deduction be entitled to relief under any other provision of the Income Tax Acts.
- (2) In subsection (1) above the reference to salary shall be construed as mentioned in subsection (3) of section 1 of the House of Commons Members' Fund Act 1939, the reference to amounts deducted includes a reference to amounts required to be set aside under that subsection, and "deduction" shall be construed accordingly.
- (3) Periodical payments granted out of the House of Commons Members' Fund (including periodical payments granted out of sums appropriated from that Fund or out of the income from those sums) shall be charged to income tax under Schedule E.
- (4) The respective trustees of—
 - (a) the House of Commons Members' Fund established under section 1 of that Act of 1939;
 - (b) the Parliamentary Contributory Pension Fund;
 - (c) the Members' Contributory Pension (Northern Ireland) Fund constituted under section 3(2) of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965; and

(d) the Assembly Contributory Pension Fund constituted under the Assembly Pensions (Northern Ireland) Order 1976;
shall be entitled to exemption from income tax in respect of all income derived from those Funds or any investment of those Funds.

A claim under this subsection shall be made to the Board.

614 Exemptions and reliefs in respect of income from investments etc. of certain pension schemes

- (1) All income receivable from any source whatsoever for the purposes of any supplementary scheme under section 158 of the Social Security Act 1975 or section 149 of the Social Security (Northern Ireland) Act 1975, or under the enactments replaced by those sections, by the body charged with the administration of the scheme shall be exempt from income tax.
- (2) Any interest or dividends received by the person in whom is vested any of the Family Pension Funds mentioned in section 273 of the Government of India Act 1935, and having effect as a scheme made under section 2 of the Overseas Pensions Act 1973, on sums forming part of that fund shall be exempt from income tax.
- (3) Income derived from investments or deposits of any fund referred to in paragraph (b), (c), (d) or (f) of subsection (2) of section 615 shall not be charged to income tax, and any income tax deducted from any such income shall be repaid by the Board to the persons entitled to receive the income.
- (4) In respect of income derived from investments or deposits of the Overseas Service Pensions Fund established pursuant to section 7(1) of the Overseas Aid Act 1966, the Board shall give by way of repayment such relief from income tax as is necessary to secure that the income is exempt to the like extent (if any) as if it were income of a person not domiciled, ordinarily resident or resident in the United Kingdom.
- (5) In respect of dividends and other income derived from investments, deposits or other property of a superannuation fund to which section 615(3) applies the Board shall give by way of repayment such relief from income tax as is necessary to secure that the income is exempt to the like extent (if any) as if it were income of a person not domiciled, ordinarily resident or resident in the United Kingdom.
- (6) A claim under this section shall be made to the Board.

615 Exemption from tax in respect of certain pensions

- (1) A pension to which this subsection applies shall not be liable to charge to income tax if it is the income of a person who satisfies the Board that he is not resident in the United Kingdom.

A claim under this subsection shall be made to the Board.

- (2) Subsection (1) above applies to any of the following pensions—
 - (a) a pension paid under the authority of the Pensions (India, Pakistan and Burma) Act 1955 (which has effect, by virtue of subsection (3) of section 2 of the Overseas Pensions Act 1973, as a scheme made under that section);
 - (b) a pension paid out of any fund established in the United Kingdom by the government of any country which is, or forms part of, a country to which this

paragraph applies, an associated state, a colony, a protectorate, a protected state or a United Kingdom trust territory, or by a government constituted for two or more such countries, if the fund was established for the sole purpose of providing pensions, whether contributory or not, payable in respect of service under that government;

- (c) a pension paid out of the fund formed under the Overseas Superannuation Scheme (formerly known as the Colonial Superannuation Scheme);
- (d) a pension paid under section 1 of the Overseas Pensions Act 1973, whether or not paid out of a fund established under a scheme made under that section;
- (e) so much of any pension paid to or in respect of any person—
 - (i) under an order made under section 2 of the Overseas Service Act 1958 and having effect as if it were a scheme under section 2 of the Overseas Pensions Act 1973 or under a pension scheme originally provided and maintained under such an order and having such effect, or
 - (ii) under section 4(2) of the Overseas Service Act 1958, which has effect as if it were a scheme under section 2 of the Overseas Pensions Act 1973,
 as may be certified by the Secretary of State to be attributable to the employment of that person in the public services of an overseas territory;
- (f) a pension paid out of the fund established under the name “the Central African Pension Fund” by section 24 of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963;
- (g) a pension paid out of the Overseas Service Pensions Fund established under section 7(1) of the Overseas Aid Act 1966.

- (3) Where an annuity is paid from a superannuation fund to which this subsection applies to a person who is not resident in the United Kingdom, income tax shall not be deducted from any payment of the annuity or accounted for under section 349(1) by the trustees or other persons having the control of the fund.
- (4) Subsection (1) above shall not apply to so much of any pension falling within paragraph (a) or (d) of subsection (2) above as is paid by virtue of the application to the pension of the Pensions (Increase) Acts.
- (5) Paragraph (b) of subsection (2) above applies to any country mentioned in Schedule 3 to the British Nationality Act 1981 except Australia, Canada, New Zealand, India, Sri Lanka and Cyprus.
- (6) Subsection (3) above applies to any superannuation fund which—
 - (a) is bona fide established under irrevocable trusts in connection with some trade or undertaking carried on wholly or partly outside the United Kingdom;
 - (b) has for its sole purpose the provision of superannuation benefits in respect of persons' employment in the trade or undertaking wholly outside the United Kingdom; and
 - (c) is recognised by the employer and employed persons in the trade or undertaking;
 and for the purposes of this subsection duties performed in the United Kingdom the performance of which is merely incidental to the performance of other duties outside the United Kingdom shall be treated as performed outside the United Kingdom.

- (7) In this section—

“pension” includes a gratuity or any sum payable on or in respect of death or, in the case of a pension falling within subsection (2)(g) above, ill-health, and a return of contributions with or without interest thereon or any other addition thereto;

“overseas territory” means any territory or country outside the United Kingdom;

“the Pensions (Increase) Acts” means the Pensions (Increase) Act 1971 and any Act passed after that Act for purposes corresponding to the purposes of that Act;

“United Kingdom trust territory” means a territory administered by the government of the United Kingdom under the trusteeship system of the United Nations.

(8) In this section—

- (a) references to a government constituted for two or more countries include references to any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more countries;
- (b) any reference to employment in the public services of an overseas territory shall be construed as if it occurred in the Overseas Development and Cooperation Act 1980 and section 10(2) of that Act shall apply accordingly; and
- (c) any reference to an enactment or order having effect as if it were a scheme constituted under section 2 of the Overseas Pensions Act 1973 includes a reference to a scheme made under that section and certified by the Secretary of State for the purpose of the 1970 Act or this Act to correspond to that enactment or order.

616 Other overseas pensions

- (1) If and so long as provision is made by double taxation relief arrangements for a pension of a description specified in subsection (2) below to be exempt from tax in the United Kingdom and, by reason of Her Majesty’s Government in the United Kingdom having assumed responsibility for the pension, payments in respect of it are made under section 1 of the Overseas Pensions Act 1973, then, to the extent that those payments are made to, or to the widow or widower of, an existing pensioner, the provision made under the arrangements shall apply in relation to the pension, exclusive of any statutory increases in it, as if it continued to be paid by the government which had responsibility for it before that responsibility was assumed by Her Majesty’s Government in the United Kingdom.
- (2) The pensions referred to in subsection (1) above are pensions paid by—
 - (a) the Government of Malawi for services rendered to that Government or to the Government of the Federation of Rhodesia and Nyasaland in the discharge of governmental functions;
 - (b) the Government of Trinidad and Tobago in respect of services rendered to that Government in the discharge of governmental functions;
 - (c) the Government of the Republic of Zambia for services rendered to that Government or to the Government of Northern Rhodesia or to the Government of the Federation of Rhodesia and Nyasaland in the discharge of governmental functions.

- (3) If—
- (a) immediately before 6th April 1973 a person resident in the United Kingdom was entitled to receive a pension as or as the widow or widower of an existing pensioner, and
 - (b) by reason of Her Majesty’s Government in the United Kingdom having assumed responsibility for the pension, payments in respect of it are made under section 1 of the Overseas Pensions Act 1973,

then, if and so long as the pension is received by that person or, where that person is an existing pensioner, by his or her widow or widower, the provisions of this Act shall apply in relation to it, exclusive of any statutory increases in it, as if it continued to be paid by the government or other body or fund which had responsibility for it before that responsibility was assumed by Her Majesty’s Government in the United Kingdom.

- (4) In this section—

“double taxation relief arrangements” means arrangements specified in an Order in Council making any such provisions as are referred to in section 788;

“existing pensioner”, in relation to a pension, means a person by virtue of whose service the pension is payable and who retired from that service before 6th April 1973; and

“statutory increases”, in relation to a pension, means so much (if any) of the pension as is paid by virtue of the application to it of any provision of the Pensions (Increase) Act 1971;

and in this subsection “pension” has the same meaning as in section 1 of the Overseas Pensions Act 1973.

617 Social security benefits and contributions

- (1) Payments of benefit under Chapters I to III of Part II of the Social Security Act 1975, Part II of the Social Security Pensions Act 1975, Chapters I to III of Part II of the Social Security (Northern Ireland) Act 1975 or Part III of the Social Security Pensions (Northern Ireland) Order 1975, except—
- (a) sickness benefit, invalidity benefit, attendance allowance, mobility allowance, severe disablement allowance, maternity allowance, widow’s payments, child’s special allowance and guardian’s allowance; and
 - (b) so much of any benefit as is attributable to an increase in respect of a child, shall be charged to income tax under Schedule E.
- (2) The following payments shall not be treated as income for any purpose of the Income Tax Acts—
- (a) payments of income support, family credit or housing benefit under the Social Security Act 1986 or the Social Security (Northern Ireland) Order 1986 other than payments of income support which are taxable by virtue of section 151;
 - (b) payments of child benefit; and
 - (c) payments excepted by subsection (1) above from the charge to tax imposed by that subsection.
- (3) Subject to subsection (4) and (5) below, no relief or deduction shall be given or allowed in respect of any contribution paid by any person under—
- (a) Part I of the Social Security Act 1975, or

- (b) Part I of the Social Security (Northern Ireland) Act 1975.
- (4) Subsection (3) above shall not apply to any secondary Class I contributions within the meaning of the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975 which is allowable as a deduction in computing profits or gains, in computing expenses of management under section 75 or under that section as applied by section 76 or in computing expenses of management or supervision under section 121.
- (5) An individual making a claim in that behalf shall be entitled, in computing his total income for any year of assessment, to deduct one-half of any amount (as finally settled) which is determined under subsection (2) of section 9 of the Social Security Act 1975 or of the Social Security (Northern Ireland) Act 1975 and which he is liable to pay in respect of that year by way of Class 4 contributions under either of those sections.
- (6) Until such day as may be appointed by the Secretary of State by order made by statutory instrument, subsection (1)(a) above shall have effect with the omission of the words “widow’s payments”.