



# Finance (No. 2) Act 2005

## 2005 CHAPTER 22

### PART 2

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 1

#### PERSONAL TAXATION

##### *Social security pension lump sums*

#### **7 Charge to income tax on lump sum**

- (1) A charge to income tax arises where a person becomes entitled to a social security pension lump sum.
- (2) For the purposes of the Tax Acts (including subsection (5)) a social security pension lump sum—
  - (a) is to be treated as income, but
  - (b) is not to be taken into account in determining the total income of any person.
- (3) The person liable to a charge under this section is the person (“P”) entitled to the lump sum, whether or not P is resident <sup>F1</sup>... or domiciled in the United Kingdom.
- (4) The charge is imposed on P for the applicable year of assessment (see subsection (6)).
- (5) A charge under this section [<sup>F2</sup>for a person who is [<sup>F3</sup>neither a Scottish taxpayer nor a Welsh taxpayer] in the applicable year of assessment] is a charge in respect of the amount of the lump sum at the following rate—
  - (a) if P's [<sup>F4</sup>Step 3 income] for the applicable year of assessment is nil, 0%;
  - <sup>F5</sup>(b) .....

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- (c) if P's [<sup>F4</sup>Step 3 income] for that year of assessment [<sup>F6</sup>is greater than nil] but does not exceed the basic rate limit for that year, the basic rate <sup>F7</sup>... for that year;
  - (d) if P's [<sup>F4</sup>Step 3 income] for that year of assessment exceeds the basic rate limit for that year [<sup>F8</sup>but does not exceed the higher rate limit for that year], the higher rate <sup>F9</sup>... for that year.
  - <sup>F10</sup>(e) if P's Step 3 income for that year of assessment exceeds the higher rate limit for that year, the additional rate <sup>F11</sup>... for that year.]
- <sup>F12</sup>(5A) Where P is a Scottish taxpayer in the applicable year of assessment, a charge under this section is a charge in respect of the amount of the lump sum at the following rate—
- (a) if P's Step 3 income for the applicable year of assessment is nil, 0%;
  - <sup>F13</sup>(b) .....
  - (c) if P's Step 3 income for that year of assessment [<sup>F14</sup>is greater than nil], the highest Scottish rate for that tax year that [<sup>F15</sup>would be applicable to an amount of income that is equal to P's Step 3 income(2) for that year if such amount were wholly chargeable to income tax at Scottish rates].]
- <sup>F16</sup>(5B) Where P is a Welsh taxpayer in the applicable year of assessment, a charge under this section is a charge in respect of the amount of the lump sum at the following rate—
- (a) if P's step 3 income for the applicable year of assessment is nil, 0%;
  - (b) if P's step 3 income for that year of assessment is greater than nil but does not exceed the basic rate limit for that year, the Welsh basic rate for that year;
  - (c) if P's step 3 income for that year of assessment is greater than the basic rate limit but does not exceed the higher rate limit for that year, the Welsh higher rate for that year;
  - (d) if P's step 3 income for that year of assessment is greater than the higher rate limit for that year, the Welsh additional rate for that year.]
- (6) Section 8 makes provision as to the meaning of “the applicable year of assessment” for the purposes of this section.
- (7) Section 9 contains further definitions and makes provision as to commencement.
- (8) Section 10 contains consequential amendments.
- <sup>F17</sup>(9) For the purposes of this section P's “ Step 3 income ” means P's net income less allowances deducted at Step 3 of the calculation in section 23 of ITA 2007 (calculation of income tax liability).]

#### Textual Amendments

- F1** Words in s. 7(3) omitted (with effect in accordance with Sch. 46 para. 135(2) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 135\(1\)](#)
- F2** Words in s. 7(5) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Scotland Act 2016 \(Income Tax Consequential Amendments\) Regulations 2017 \(S.I. 2017/468\)](#), [regs. 1\(1\)](#), [9\(2\)\(a\)](#)
- F3** Words in s. 7(5) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), [arts. 1\(1\)](#), [11\(2\)](#)
- F4** Words in s. 7(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), [s. 1034\(1\)](#), [Sch. 1 para. 604\(2\)](#) (with [Sch. 2](#))

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- F5** S. 7(5)(b) omitted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 1 para. 64(a)**
- F6** Words in s. 7(5)(c) substituted (with effect in accordance with Sch. 1 para. 65 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 1 para. 64(b)**
- F7** Words in s. 7(5)(c) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **9(2)(b)**
- F8** Words in s. 7(5)(d) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 2 para. 24(a)**
- F9** Words in s. 7(5)(d) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **9(2)(c)**
- F10** S. 7(5)(e) inserted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 2 para. 24(b)**
- F11** Words in s. 7(5)(e) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **9(2)(d)**
- F12** S. 7(5A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Scotland Act 2016 (Income Tax Consequential Amendments) Regulations 2017 (S.I. 2017/468), regs. 1(1), **9(3)**
- F13** S. 7(5A)(b) omitted (6.4.2018) by virtue of The Scottish Rates of Income Tax (Consequential Amendments) Order 2018 (S.I. 2018/459), arts. 1(2), **5(2)(a)**
- F14** Words in s. 7(5A)(c) substituted (6.4.2018) by The Scottish Rates of Income Tax (Consequential Amendments) Order 2018 (S.I. 2018/459), arts. 1(2), **5(2)(b)(i)**
- F15** Words in s. 7(5A)(c) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Scottish Rates of Income Tax (Consequential Amendments) Order 2021 (S.I. 2021/190), arts. 1(1), **2**
- F16** S. 7(5B) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Devolved Income Tax Rates (Consequential Amendments) Order 2019 (S.I. 2019/201), arts. 1(1), **11(3)**
- F17** S. 7(9) inserted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 604(3)** (with Sch. 2)

## 8 Meaning of “applicable year of assessment” in section 7

- (1) For the purposes of section 7 “the applicable year of assessment” has the meaning given by this section.
- (2) Subject to subsections (5) to (7), the applicable year of assessment is—
  - (a) the year of assessment in which the first benefit payment day falls, or
  - (b) if P dies before the beginning of that year of assessment, the year of assessment in which P dies.
- (3) For the purposes of subsection (2) “the first benefit payment day” is, subject to <sup>[F18]</sup>subsections (4) <sup>[F19]</sup>, (4A) and (4B)]], the day as from which P's—
  - (a) Category A or Category B retirement pension,
  - (b) shared additional pension, or
  - (c) graduated retirement benefit,becomes payable following the period of deferment by virtue of which P's entitlement to the lump sum arises.
- (4) But where—
  - (a) the lump sum is a state pension lump sum to which P is entitled under paragraph 7A of Schedule 5 to SSCBA 1992 or paragraph 7A of Schedule 5

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to SSCB(NI)A 1992 or a graduated retirement benefit lump sum to which P is entitled under a provision corresponding to either of those paragraphs, and

- (b) at the time of S's death, P was entitled to a Category A or Category B retirement pension or (as the case may be) graduated retirement benefit,

the first benefit payment day is the day on which S died; and for this purpose "S" is the person by virtue of whose period of deferment P's entitlement to the lump sum arises.

[<sup>F20</sup>(4A) In a case where the social security pension lump sum is a lump sum under section 8 of the Pensions Act 2014 or under any corresponding provision under the law of Northern Ireland, "the first benefit payment day" for the purposes of subsection (2) is the day as from which the lump sum becomes payable.]

[<sup>F21</sup>(4B) In a case where the social security pension lump sum is a lump sum under regulations under section 10 of the Pensions Act 2014 which make provision corresponding or similar to section 8 of that Act or under any corresponding provision under the law of Northern Ireland, "the first benefit payment day" for the purposes of subsection (2) is the day as from which the lump sum becomes payable.]

(5) Subsections (6) and (7) apply where social security regulations make provision enabling the making of an election for a social security pension lump sum to be paid in the year of assessment ("the later year of assessment") next following that given by subsection (2).

(6) If such an election is made by P and is not revoked, the applicable year of assessment is—

- (a) the later year of assessment, or  
 (b) if P dies before the beginning of that year of assessment, the year of assessment in which P dies.

(7) If—

- (a) P dies after the beginning of the later year of assessment,  
 (b) by the time of P's death, P has not notified the Secretary of State as to whether or not P wishes to make such an election,  
 (c) social security regulations make provision enabling the making of such an election in such a case by the personal representatives of P, and  
 (d) P's personal representatives make such an election in accordance with the regulations,

the applicable year of assessment is the later year of assessment.

(8) For the purposes of determining the applicable year of assessment, it does not matter when the lump sum is actually paid.

(9) In this section—

"Category A or Category B retirement pension" means Category A or Category B retirement pension under Part 2 of SSCBA 1992 or Part 2 of SSCB(NI)A 1992;

"graduated retirement benefit" means graduated retirement benefit under section 36 or 37 of NIA 1965 or section 35 or 36 of NIA(NI) 1966;

"shared additional pension" means shared additional pension under Part 2 of SSCBA 1992 or Part 2 of SSCB(NI)A 1992;

"social security regulations" means any regulations under—

- (a) the Social Security Administration Act 1992 (c. 5), or

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(b) the Social Security Administration (Northern Ireland) Act 1992 (c. 8).

(10) This section is to be construed as one with section 7.

#### Textual Amendments

- F18** Words in s. 8(3) substituted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 50(2)**
- F19** Words in s. 8(3) substituted (6.4.2016) by The Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016 (S.I. 2016/224), **art. 6(2)(a)**
- F20** S. 8(4A) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 50(3)**
- F21** S. 8(4B) inserted (6.4.2016) by The Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016 (S.I. 2016/224), **art. 6(2)(b)**

## 9 Interpretation and commencement

- (1) In sections 7 and 8 “social security pension lump sum” means—
- a state pension lump sum,
  - a shared additional pension lump sum, or
  - a graduated retirement benefit lump sum.
- (2) In section 8 and this section—
- “graduated retirement benefit lump sum” means a lump sum payable under—
- section 36 or 37 of NIA 1965, or
  - section 35 or 36 of NIA(NI) 1966;
- “shared additional pension lump sum” means a lump sum payable under—
- section 55C of, and Schedule 5A to, SSCBA 1992, or
  - section 55C of, and Schedule 5A to, SSCB(NI)A 1992;
- “state pension lump sum” means a lump sum payable under—
- <sup>F22</sup>section 8 of the Pensions Act 2014 or under any corresponding provision under the law of Northern Ireland,]
  - <sup>F23</sup>regulations under section 10 of the Pensions Act 2014 which make provision corresponding or similar to section 8 of that Act or under any corresponding provision under the law of Northern Ireland, 1992, or]
- section 55 of, and Schedule 5 to, SSCBA 1992, or
  - section 55 of, and Schedule 5 to, SSCB(NI)A 1992.
- (3) In section 8 and this section—
- “NIA 1965” means the National Insurance Act 1965 (c. 51);
- “NIA(NI) 1966” means the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.));
- “SSCBA 1992” means the Social Security Contributions and Benefits Act 1992 (c. 4);
- “SSCB(NI)A 1992” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).
- (4) Sections 7 and 8 and this section have effect in relation to the year 2006-07 and subsequent years of assessment.

*Changes to legislation:* There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Chapter 1. (See end of Document for details)

**Textual Amendments**

- F22** Words in s. 9(2) inserted (6.4.2016) by Pensions Act 2014 (c. 19), s. 56(4), **Sch. 12 para. 51**
- F23** Words in s. 9(2) inserted (6.4.2016) by The Pensions Act 2014 (Consequential and Supplementary Amendments) Order 2016 (S.I. 2016/224), **art. 6(3)**

**10 Consequential amendments**

- (1) ITEPA 2003 is amended as follows.
- (2) In section 577 (UK social security pensions) after subsection (1) insert—  
 “(1A) But this section does not apply to any social security pension lump sum (within the meaning of section 7 of F(No.2)A 2005).”.
- (3) In section 683 (PAYE income) in subsection (3) (meaning, subject to subsection (4), of “PAYE pension income”) in the opening words, for “subsection (4)” substitute “subsections (3A) and (4) ”.
- (4) In that section, after subsection (3) insert—  
 “(3A) “PAYE pension income” for a tax year also includes any social security pension lump sum (within the meaning of section 7 of F(No.2)A 2005) in respect of which a charge to income tax arises under that section for that tax year.”.
- (5) In section 686 (meaning of “payment”) in subsection (1) (rules as to when payment of, or on account of, PAYE income is to be treated as made for the purposes of PAYE regulations) at the end of the subsection insert— “ But this is subject to subsection (5) (PAYE pension income: social security pension lump sums). ”.
- (6) In that section, after subsection (4) insert—  
 “(5) For the purposes of PAYE regulations, a payment of, or on account of, an amount which is PAYE pension income of a person by virtue of section 683(3A) (social security pension lump sums) is to be treated as made at the time when the payment is made.”.

<sup>F24</sup>(7) .....

**Textual Amendments**

- F24** S. 10(7) omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), s. 126(6)(b)

*Gift aid*

<sup>F25</sup>**11 Donations to charity by individuals**

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**Changes to legislation:** There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Chapter 1. (See end of Document for details)

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**Textual Amendments**

**F25** S. 11 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Employee securities*

**12 Employee securities: anti-avoidance**

Schedule 2 contains amendments relating to employee securities.

**Changes to legislation:**

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