

Charge to income tax: commutation of entire pension. FA72 s22(1) to (4); FA92 s6(c) 781.—(1) Where—

(a) a scheme which is or has at any time been an approved scheme, or

(b) a statutory scheme established under a public statute,

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 scheme had contained a rule providing that the aggregate value of the relevant benefits payable to an employee on or after retirement, excluding any pension which was not commutable, should not exceed three-eighths of the employee's final remuneration for each year of service up to a maximum of 40 years, or

(ii) the largest sum which would have been receivable in commutation of any part of the pension under any 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 those circumstances,

whichever gives the lesser amount chargeable to tax.

(2) This section shall not apply where the employee's employment was carried on outside the State.

(3) Where any amount is chargeable to tax under this section, the administrator of the scheme shall be charged to income tax under Case IV of Schedule D on that amount and, subject to subsection (6) of section 780 which shall apply as it applies to tax chargeable under that section, the rate of tax shall be 10 per cent.

(4) In applying paragraph (i) or (ii) of subsection (1)—

(a) 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 Revenue Commissioners in applying section 772, and

(b) where the scheme has ceased to be an approved scheme, account shall only be taken of the rules of the scheme at the date of the cesser.