

SCHEDULE 3 Reliefs in Respect of Income Tax Charged on Payments on Retirement, Etc

Section 201.

ITA67 Sch3; FA80 s10(2); FA90 s12; FA93 s8(b)

PART 1

Interpretation and preliminary

1. (1) In this Schedule—

“the relevant capital sum in relation to an office or employment” means, subject to subparagraph (2), the aggregate of—

(a) the amount of any lump sum (not chargeable to income tax) received,

(b) the amount equal to the value at the relevant date of any lump sum (not chargeable to income tax) receivable, and

(c) the amount equal to the value at the relevant date of any lump sum (not chargeable to income tax) which, on the exercise of an option or a right to commute, in whole or in part, a pension in favour of a lump sum, may be received in the future,

by the holder in respect of the office or employment in pursuance of any scheme or fund described in section 778 (1);

“the standard capital superannuation benefit”, in relation to an office or employment, means a sum determined as follows:

(a) the average for one year of the holder's emoluments of the office or employment for the last 3 years of his or her service before the relevant date (or for the whole period of his or her service if less than 3 years) shall be ascertained,

(b) one-fifteenth of the amount ascertained in accordance with clause (a) shall be multiplied by the whole number of complete years of the service of the holder in the office or employment, and

(c) an amount equal to the relevant capital sum in relation to the office or employment shall be deducted from the product determined in accordance with clause (b).

(2) (a) The relevant capital sum in relation to an office or employment shall include the amount mentioned in clause (c) of the definition of “the relevant capital sum in relation to an office or employment” whether or not the option or right referred to in that clause is exercised.

(b) Where, under the conditions or terms of any scheme or fund described in section 778(1), the holder of the office or employment is entitled to surrender irrevocably the option or right referred to in clause (c) of the definition of “the relevant capital sum in relation to an office or employment” and has done so at the relevant date, the relevant capital sum in relation to an office or employment shall not include the amount mentioned in that clause.

2. Any reference in this Schedule to a payment in respect of which income tax is chargeable under section 123 is a reference to so much of that payment as is chargeable to tax after deduction of the relief applicable to that payment under section 201 (5).

3. Any reference in this Schedule to the amount of income tax to which a person is or would be chargeable is a reference to the amount of income tax to which the person is or would be chargeable either by assessment or by deduction.

4. Relief shall be allowed in accordance with this Schedule in respect of income tax chargeable by virtue of section 123 where a claim is duly made in accordance with section 201.

5. A claimant shall not be entitled to relief under this Schedule in respect of any income the tax on which he or she is entitled to charge against any other person, or to deduct, retain or satisfy out of any payment which he or she is liable to make to any other person.

PART 2

Relief by reduction of sums chargeable

6. In computing the charge to tax in respect of a payment chargeable to income tax under section 123, a sum equal to the amount (if any) by which the standard capital superannuation benefit for the office or employment in respect of which the payment is made exceeds the basic exemption shall be deducted from the payment.

7. Where income tax is chargeable under section 123 in respect of 2 or more payments to which paragraph 6 applies, being payments made to or in respect of the same person in respect of the same office or employment or in respect of different offices or employments held under the same employer or under associated employers, then—

(a) paragraph 6 shall apply as if those payments were a single payment of an amount equal to their aggregate amount and, where they are made in respect of different offices or employments, as if the standard capital superannuation benefit were an amount equal to the sum of the standard capital superannuation benefits for those offices or employments, and

(b) where the payments are treated as income of different years of assessment, the relief to be granted under paragraph 6 in respect of a payment chargeable for any year of assessment shall be the amount by which the relief computed in accordance with subparagraph (a) in respect of that payment and any payments chargeable for previous years of assessment exceeds the relief in respect of those payments chargeable for previous years of assessment,

and, where the standard capital superannuation benefit for an office or employment in respect of which 2 or more of the payments are made is not the same in relation to each of those payments, it shall be treated for the purposes of this paragraph as equal to the higher or highest of those benefits.

8. In computing the charge to tax in respect of a payment chargeable to income tax under section 123 in the case of a claimant, if the claimant has not previously made a claim under section 201 and the relevant capital sum (if any) in relation to the office or employment in respect of which the payment is made does not exceed £4,000, subsection (5) of section 201 and paragraph 6 shall apply to that payment as if each reference in that subsection and in that paragraph to the basic exemption were a reference to the basic exemption increased by the amount by which £4,000 exceeds that relevant capital sum.

9. In computing the charge to tax in respect of a payment chargeable to income tax under section 123, being a payment made in respect of an office or employment in which the service of the holder includes foreign service, a sum which bears to the amount which would be chargeable to income tax apart from this paragraph the same proportion as the length of the foreign service bears to the length of the service before the relevant date shall be deducted from the payment (in addition to any deduction allowed under paragraphs 6 to 8 of this Schedule).

PART 3

Relief by reduction of tax

10. In the case of any payment in respect of which income tax is chargeable under section 123, relief shall be allowed by means of deduction from the tax chargeable by virtue of that section of an amount equal to the amount determined by the formula—

$$A - (P \times T \div I)$$

where—

A is the amount of income tax which apart from this paragraph would be chargeable in respect of the total income of the holder or past holder of the office or employment for the year of assessment of which the payment is treated as income after deducting from that amount of tax the amount of tax which would be so chargeable if the payment had not been made,

P is the amount of that payment after deducting any relief applicable to that payment under the preceding provisions of this Schedule,

T is the aggregate of the amounts of income tax chargeable in respect of the total income of the holder or past holder of the office or employment for the 5 years of assessment preceding the year of assessment of which the payment is treated as income before taking account of any relief provided by section 826, and

I is the aggregate of the taxable incomes of the holder or past holder of the office or employment for the 5 years of assessment preceding the year of assessment of which the payment is treated as income.

11. Where income tax is chargeable under section 123 in respect of 2 or more payments to or in respect of the same person in respect of the same office or employment and is so chargeable for the same year of assessment, those payments shall be treated for the purposes of paragraph 10 as a single payment of an amount equal to their aggregate amount.

12. Where income tax is chargeable under section 123 in respect of 2 or more payments to or in respect of the same person in respect of different offices or employments and is so chargeable for the same year of assessment, paragraphs 10 and 11 shall apply as if those payments were made in respect of the same office or employment.