

Nature and amount of relief for qualifying premiums. ITA67 s236(1) to (2B), (3) to (9) and (11), s238(1) and (2); F(MP)A68 s3(2) and Sch Ptl; FA74 s67(1) and (2); FA75 s33(2) and Sch1 Ptl; FA78 s4; FA90 s27(1); FA96 s13(a) 787.—(1) For the purposes of relief under this section, an individual's relevant earnings shall be those earnings before giving effect to any deduction to be made from those earnings in respect of a loss or in respect of a capital allowance ), and references to income in this section (other than references to total income) shall be construed similarly.

(2) For the purposes of this section, “net relevant earnings”, in relation to an individual and subject to subsections (3) to (5), means the amount of the individual's relevant earnings for the year of assessment in question less the amount of any deductions to be made from the relevant earnings in computing the individual's total income for that year, being either—

(a) deductions in respect of payments made by the individual, or

(b) deductions in respect of losses or of such allowances mentioned in subsection (1), being losses or allowances arising from activities, profits or gains of which would be included in computing relevant earnings of the individual or of the individual's spouse for the year of assessment.

(3) Where in any year of assessment for which an individual claims and is allowed relief under this section there is to be made in computing the total income of the individual or of the individual's spouse a deduction in respect of any such loss or allowance of the individual referred to in subsection (2)(b), and the deduction or part of it is to be so made from income other than relevant earnings, then, the amount of the deduction made from that other income shall be treated as reducing the individual's net relevant earnings for subsequent years of assessment and shall be deducted as far as may be from those of the following year, whether or not the individual claims or is entitled to claim relief under this section for that year, and in so far as it cannot be so deducted, then from those of the next year, and so on.

(4) Where an individual's income for any year of assessment consists partly of relevant earnings and partly of other income, then, as far as may be, any deductions to be made in computing the individual's total income, and which may be treated in whole or in part either as made from relevant earnings or as made from other income, shall be treated for the purposes of this section as being made from those relevant earnings in so far as they are deductions in respect of any such loss referred to in subsection (2)(b) and otherwise as being made from that other income.

(5) An individual's net relevant earnings for any year of assessment shall be computed without regard to any relief to be given for that year under this section either to the individual or to the individual's spouse.

(6) Where relief is to be given under this section in respect of any qualifying premium paid by an individual, the amount of that premium shall, subject to this section, be deducted from or set off against the individual's relevant earnings for the year of assessment in which the premium is paid.

(7) Where in relation to a year of assessment a qualifying premium is paid after the end of the year of

assessment but on or before the 31st day of January in the year following the year of assessment, the premium may, if the individual so elects on or before that date, be treated for the purposes of this section as paid in the earlier year (and not in the year in which it is paid); but where—

(a) the amount of that premium, together with any qualifying premiums paid by the individual in the year to which the assessment relates (or treated as so paid by virtue of any previous election under this subsection), exceeds the maximum amount of the reduction which may be made under this section in the individual's relevant earnings for that year, or

(b) the amount of that premium itself exceeds the increase in that maximum amount which is due to taking into account the income on which the assessment is made,

the election shall have no effect as respects the excess.

(8) Subject to this section, the amount which may be deducted or set off in any year of assessment ) shall not be more than—

(a) in the case of an individual who at any time during the year of assessment was of the age 55 years or over, 20 per cent, and

(b) in any other case, 15 per cent,

of the individual's net relevant earnings for that year, and the amount to be deducted shall to the greatest extent possible include qualifying premiums in respect of contracts approved under section 785.

(9) Subject to this section, the amount which may be deducted or set off in any year of assessment in respect of qualifying premiums paid under a contract approved under section 785 (whether in respect of one or more such premiums) shall not be more than 5 per cent of the individual's net relevant earnings for that year.

(10) Where in any year of assessment a reduction or a greater reduction would be made under this section in the relevant earnings of an individual but for either or both of the following reasons—

(a) an insufficiency of net relevant earnings, or

(b) the operation of subsection (9) ),

the amount of the reduction which would be made but for those reasons, less the amount of any reduction which is made in that year, shall be carried forward to the next year of assessment, and shall be treated for the purposes of relief under this section as the amount of a qualifying premium paid in that next year of assessment.

(11) If and in so far as an amount once carried forward under subsection (10) (and treated as the amount of a qualifying premium paid in the next year of assessment) is not deducted from or set off against the individual's net relevant earnings for that year of assessment, it shall be carried forward again to the

following year of assessment (and treated as the amount of a qualifying premium paid in that year of assessment), and so on for succeeding years.

(12)(a) In this subsection, "individual's contract" means an approved annuity contract, other than one approved under section 785.

(b) Paragraphs (c) and (d) shall apply for determining whether and the extent to which an amount carried forward under subsection (10) is to be treated as paid under an individual's contract on the one hand or a contract approved under section 785 on the other.

(c) Any part of the amount carried forward which is referable to a qualifying premium paid under a contract approved under section 785 shall, when carried forward on the first or any subsequent occasion, be treated for the purposes of this Chapter as the amount of a qualifying premium paid under a contract so approved.

(d) The balance, if any, of the amount shall when similarly carried forward be treated as a qualifying premium paid under an individual's contract.

(13) Where relief under this section for any year of assessment is claimed and allowed (whether or not relief is then to be given for that year), and afterwards there is made any additional assessment, alteration of an assessment, or other adjustment of the claimant's liability to tax, there shall be made also such adjustments, if any, as are consequential thereon in the relief allowed or given under this section for that or any subsequent year of assessment.

(14) Where relief under this section is claimed and allowed for any year of assessment in respect of any payment, relief shall not be given in respect of that payment under any other provision of the Income Tax Acts for the same or a later year of assessment nor (in the case of a payment under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.

(15) Relief shall not be given under this section in respect of a qualifying premium except on a claim made to and allowed by the inspector, but any person aggrieved by any decision of the inspector on any such claim may, on giving notice in writing to the inspector within 21 days after the notification to that person of the decision, appeal to the Appeal Commissioners.

(16) The Appeal Commissioners shall hear and determine an appeal to them under subsection (15) as if it were an appeal to them against an assessment to income tax, and the provisions of the Income Tax Acts relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law shall, with the necessary modifications, apply accordingly.