



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 4

#### EMPLOYMENT INCOME: EXEMPTIONS

### CHAPTER 9

#### EXEMPTIONS: PENSION PROVISION

#### 307 Death or retirement benefit provision

(1) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of provision made by an employee's employer [<sup>F1</sup>under a registered pension scheme or otherwise] for a retirement or death benefit.

[<sup>F2</sup>(1A) Subsection (1) does not apply to provision made for insuring against the risk that a retirement or death benefit under an employer-financed retirement benefits scheme cannot be paid or given because of the employer's insolvency.

(1B) In subsection (1A) "employer-financed retirement benefits scheme" has the same meaning as in Chapter 2 of Part 6 (see section 393A).]

(2) In [<sup>F3</sup>this section] "retirement or death benefit" means a pension, annuity, lump sum, gratuity or other similar benefit which will be paid or given to the employee [<sup>F4</sup>, or paid or given in respect of the employee to any other individual or to a charity, ] in the event of the employee's retirement or death.

#### Textual Amendments

**F1** Words in s. 307(1) inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 201(1)**, 284(1) (with [Sch. 36](#))

**F2** S. 307(1A)(1B) inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 248(2)**, 284(1) (with [Sch. 36](#))

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**F3** Words in s. 307(2) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 248(3)**, 284(1) (with [Sch. 36](#))

**F4** Words in s. 307(2) substituted (with effect in accordance with s. 11(2) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), **s. 11(1)**

**Modifications etc. (not altering text)**

**C1** S. 307 applied (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Pension Protection Fund \(Tax\) \(2005-06\) Regulations 2005 \(S.I. 2005/1907\)](#), regs. 1(1), **14**

**C2** S. 307 applied (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, **40**

**[<sup>F5</sup>308 Exemption of contributions to registered pension scheme**

No liability to income tax arises in respect of earnings where an employee’s employer makes contributions under a registered pension scheme [<sup>F6</sup>in respect of the employee].]

**Textual Amendments**

**F5** S. 308 substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 201(2)**, 284(1) (with [Sch. 36](#))

**F6** Words in s. 308 inserted (with effect in accordance with s. 11(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), **s. 11(1)**

**[<sup>F7</sup>308A Exemption of contributions to overseas pension scheme**

(1) No liability to income tax arises in respect of earnings where an employer makes contributions under a qualifying overseas pension scheme in respect of an employee who is a relevant migrant member of the pension scheme.

(2) In subsection (1)—

“qualifying overseas pension scheme”, and

“relevant migrant member”,

have the same meaning as in Schedule 33 to FA 2004 (overseas pension schemes: migrant member relief).]

**Textual Amendments**

**F7** S. 308A inserted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), s. 284(1), **Sch. 33 para. 3** (with [Sch. 36](#))

**Modifications etc. (not altering text)**

**C3** S. 308A applied (6.4.2006) by [The Taxation of Pension Schemes \(Transitional Provisions\) Order 2006 \(S.I. 2006/572\)](#), arts. 1(1), **17(4)**

**[<sup>F8</sup>308B Independent advice in respect of conversions and transfers of pension scheme benefits**

(1) No liability to income tax arises in respect of—

(a) the provision to an employee or former employee of appropriate independent advice, or

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- (b) the payment or reimbursement, to or in respect of an employee or former employee, of the cost of such advice,  
if conditions A to C are met.
- (2) Condition A is that the provision, payment or reimbursement is required by regulations under section 49 or 52 of the Pension Schemes Act 2015 (power to require employer to arrange independent advice in respect of conversions and transfers).
- (3) If condition A is met only as respects part of the payment or reimbursement because the amount of the payment or reimbursement exceeds the amount required to be paid or reimbursed, subsection (1) applies in respect of that part.
- (4) Condition B is that the provision, payment or reimbursement is not pursuant to relevant salary sacrifice arrangements.
- (5) Condition C is that such other requirements as may be specified in regulations made by the Treasury are satisfied in relation to the provision, payment or reimbursement.
- (6) In this section—
- “appropriate independent advice”—
- (a) in relation to England and Wales and Scotland, has the meaning given by regulations under section 48 of the Pension Schemes Act 2015;
- (b) in relation to Northern Ireland, has the meaning given by regulations under section 51 of that Act;
- “relevant salary sacrifice arrangements” means arrangements (whenever made, whether before or after the employment began) under which an employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of appropriate independent advice or the payment or reimbursement of the cost of such advice.]

#### Textual Amendments

- F8** S. 308B inserted (with effect in accordance with s. 54(3) of the amending Act) by [Pension Schemes Act 2015 \(c. 8\)](#), ss. [54\(1\)](#), [89\(3\)\(b\)](#) (with s. 87)

#### [<sup>F9</sup>308C Provision of pensions advice: limited exemption

- (1) No liability to income tax arises in respect of—
- (a) the provision of relevant pensions advice to an employee or former or prospective employee, or
- (b) the payment or reimbursement of costs incurred, by or in respect of an employee or former or prospective employee, in obtaining relevant pensions advice,  
if Condition A or B is met.
- (2) But subsection (1) does not apply in relation to a person in a tax year so far as the value of the exemption in the person's case in that year exceeds £500.
- (3) The “value of the exemption”, in relation to a person and a tax year, is the amount exempted by subsection (1) from income tax in the person's case in that year, disregarding subsection (2) for this purpose.

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- (4) If in a tax year there is in relation to an individual more than one person who is an employer or former employer, subsections (1) to (3) apply in relation to the individual as employee or former or prospective employee of any one of those persons separately from their application in relation to the individual as employee or former or prospective employee of any other of those persons.
- (5) “Relevant pensions advice”, in relation to a person, means information, or advice, in connection with—
- (a) the person's pension arrangements, or
  - (b) the use of the person's pension funds.
- (6) Condition A is that the relevant pensions advice, or payment or reimbursement, is provided under a scheme that is open—
- (a) to the employer's employees generally, or
  - (b) generally to the employer's employees at a particular location.
- (7) Condition B is that the relevant pensions advice, or payment or reimbursement, is provided under a scheme that is open generally to the employer's employees, or generally to those of the employer's employees at a particular location, who—
- (a) have reached the minimum qualifying age, or
  - (b) meet the ill-health condition.
- (8) The “minimum qualifying age”, in relation to an employee, means the employee's relevant pension age less 5 years.
- (9) “Relevant pension age”, in relation to an employee, means—
- [<sup>F10</sup>(a) if any of paragraphs 22, 23, [23ZB](#) or [23ZC](#) of Schedule 36 to FA 2004 apply in relation to the employee, the lowest protected pension age that applies as a result of those paragraphs (in relation to the employee or, as the case may be, to sums or assets that relate to the employee), or]
  - (b) in any other case, the employee's normal minimum pension age, as defined by section 279(1) of FA 2004.
- (10) The “ill-health condition” is met by an employee if the employer is satisfied, on the basis of evidence provided by a registered medical practitioner, that the employee is (and will continue to be) incapable of carrying on his or her occupation because of physical or mental impairment.]

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#### Textual Amendments

**F9** S. 308C inserted (with effect in accordance with s. 3(5) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [s. 3\(1\)](#)

**F10** S. 308C(9)(a) substituted (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), [s. 10\(7\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 452(2)(aa) inserted by [2013 c. 29 Sch. 23 para. 11](#)
- s. 574A(2A) inserted by [2024 c. 3 Sch. 9 para. 61\(2\)](#)
- s. 637G(2)(a)(b) inserted by [S.I. 2024/356 reg. 2](#)
- s. 637Q applied (with modifications) by 2004 c. 12, Sch. 36 para. 20(1A) (as inserted) by [2024 c. 3 Sch. 9 para. 77\(3\)](#)
- s. 637R applied (with modifications) by 2004 c. 12, Sch. 36 para. 19(2)(2A) (as substituted) by [2024 c. 3 Sch. 9 para. 76\(4\)](#)
- s. 637S applied (with modifications) by 2004 c. 12, Sch. 36 para. 20(2) (as amended) by [2024 c. 3 Sch. 9 para. 77\(4\)\(a\)](#)
- s. 688AB inserted by [2024 c. 3 s. 17\(1\)](#)
- s. 707A inserted by [2024 c. 3 s. 36\(4\)](#)