

EIM74302 - Pensions: particular occupations: armed forces: statutory exemption for specified wounds and disability pensions

INCOME TAX (EARNINGS AND PENSIONS) ACT 2003

Section 641 ITEPA 2003

Section 641(1) provides that no liability to income tax arises on

- a. a wounds pension granted to a member of the armed forces of the Crown
- b. retired pay of a disabled officer granted on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown
- c. a disablement or disability pension granted to a member of the armed forces of the Crown, other than a commissioned officer, on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown
- d. a disablement pension granted to a person who has been employed in the nursing services of any of the armed forces of the Crown on account of medical unfitness attributable to or aggravated by service in the armed forces of the Crown
- e. an injury or disablement pension payable under any scheme made under the Injuries in War (Compensation) Act 1914
- f. an injury or disablement pension payable under any War Risks Compensation Scheme for the Mercantile marine
- g. a pension granted to a person on account of disablement, and payable under any scheme made under section 3, 4 or 5 of the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939
- h. a benefit under a scheme established by an order under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 payable to a person by reason of his illness or injury by way of a lump sum, or following the termination of the person's service in the armed forces or reserve forces.

If the Secretary of State certifies that a pension or retired pay of a kind listed above is only partly attributable to disablement or disability, only the part attributable to disablement or disability will fall within section 641(1).

Injury or disablement pensions under subsection 1(f) and 1(g) are payable by the Ministry of Defence to merchant seafarers (including naval auxiliary personnel and persons serving in the fishing fleets and the pilotage and light vessel services).

Section 641 covers a wide variety of pensions and awards in respect of disablement including all War Disablement Pensions administered by the Veterans Agency, an executive agency of the Ministry of Defence. Relief from income tax applies whether the disablement was contracted in time of war or peace.

Disablement caused by service on or after 6 April 2005

Awards in respect of disablement caused by service in the armed forces on or after 6 April 2005 have to be made under the Armed Forces Compensation Scheme ("the AFCS") established under section 1(2) of Armed Forces (Pensions and Compensation) Act 2004. The AFCS provides for benefits to be payable to a person by reason of illness or injury (whether physical or mental), which is attributable (wholly or partly) to service in the armed forces or the reserve forces. AFCS benefits include lump sum payments to armed forces personnel who remain in service in addition to lump sums and Guaranteed Income Payments paid after termination of service. No liability to income tax arises on these AFCS benefits by virtue of section 641(1)(h) introduced by section 16(6) Finance Act 2005 which has effect for tax years 2005-06 onwards.

Practical issues

See [EIM74303](#) for further guidance on how the section 641 exemption applies in practice. [EIM74304](#) lists a number of allowances intended to supplement an exempt pension that may be regarded as covered by the section 641 exemption.

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**Senate Standing Committee on Economics
Inquiry into the provisions of the Tax Laws Amendment
(Simplified Superannuation) Bill 2006 and
five related Bills
Tabled Document**

By: Mr Colin Wade
Date: 30 January 2007

EIM74303 - Pensions: particular occupations: armed forces : exempt pensions: practical issues

Length of service

Length of service may sometimes be taken into account in calculating the amount of a pension or retired pay of a kind listed in section 641(1) ITEPA 2003. In these circumstances, the whole of the disablement pension etc should be excluded from liability to income tax provided that the immediate occasion of retirement was disablement attributable to service.

Combining service and disablement pensions

Where a member of the armed forces is invalidated out in circumstances which qualify him for both a disablement pension (awarded for a cause attributable to service) and a service pension, the combined pension should be regarded as within section 641(1) and exempt from income tax. Where it is found that tax has been wrongly charged on an exempt pension, the taxpayer should be informed and repayment made for all years, including those outside normal time limits.

Where a member of the armed forces retires, not because of disablement but because, for example, his period of service has ended, and after retirement establishes a claim in respect of disablement attributable to service, the pension awarded in respect of disablement will fall within section 641(1). However, the service pension will remain taxable.

Disablement following re-enlistment

A former member of the armed forces in receipt of a service pension may rejoin and suffer disablement attributable to the later period of service. In these circumstances, only the additional award in respect of disablement will fall within section 641(1). The original pension (recalculated in some cases by reference to the further period of service) will remain liable to income tax.

Disablement not attributable to service

A disability pension awarded for a cause not attributable to service is taxable. A former member of the armed forces who has been invalidated out may have failed to return a service pension under the misapprehension that it was exempt under section 641. Where the relevant HMRC officer is satisfied that there have been no other irregularities in the pensioner's returns, the case should be referred to Public Departments (London) before seeking to recover tax for any year prior to that in which the omission is discovered.

Cases of doubt or difficulty

As the notification of an increase in the rate of a service pension may not always indicate clearly whether the pension is taxable or exempt, any cases of doubt or difficulty should be referred to South Wales Area.

Former service personnel of foreign governments

Wounds or disablement pensions paid by foreign governments to former service personnel resident in the United Kingdom will normally be exempt by reason of section 644 ITEPA (see [EIM74012](#)).

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