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PRACTICE NOTE

PN 18/88 **Date: 1st September 1988**

National Insurance Retirement Pension Basis Of Assessment

Introduction

1. The object of this Practice Note is to outline the methods adopted to ensure that income from National Insurance Retirement Pension is taken into account in the tax collection procedures.

2. In addition, it sets out a revised procedure being adopted as a result of a decision in June, 88 by the United Kingdom High Court in the tax case of Jones v O'Brien (Chancery Division 14th June 1988).

Basis Of Assessment

1. When the basis of assessing wages, salaries, etc. was changed in the income tax year 1987/88 to the income earned in the year (instead of the income of the previous year) the basis of assessing state benefits was similarly changed. One of the benefits affected was the state retirement pension.

2. Continuity of assessment was achieved by not assessing the pension received in the income tax year 1986/87.

Pension received 6/4/85 - 5/4/86 assessed 1986/87

6/4/86 - 5/4/87 not assessed

6/4/87 - 5/4/88 assessed 1987/88.

3. If the basic pension is the only income received in the year (other than supplementary pension which is not taxable) the personal allowance is high enough to ensure that no income tax is payable

1987/88: Basic Pension (Single) 2054

Personal Allowance 3400

Taxable Income NIL

Liability To Income Tax

1. Where, in addition to the pension, a person is in receipt of other income it may be that some income tax will have to be paid. The method of collecting that tax will depend upon the source of the other income and the amountreceived:

(a) if it is a firms pension or other remuneration, collection will be by I.T.I.P. deductions;

(b) if it is investment income collection will be by direct payment on or before lst January in the year of assessment i.e. 1988/89 - by lst January, 1989.

2. In some cases both methods of collection may be appropriate.

3. The I.T.I.P. route is achieved by restricting the allowances given in the code to be applied against the remuneration:

Occupation Pension (subject to I.T.I.P.) 4000

Allowances in code 3600

Reduced by state pension 1988/89 2138 1462 (Code 146)

I.T.I.P. deducted from 2538 x 15% = £380.70

The authority for reducing the allowances is contained in the I.T.I.P. Regulations.

4. Where an assessment is required the total taxable income for the year is included in the assessment:

1988/89

Investment Income for 1987/88 4000

State Pension for 1988/89 2138

Total Income 6138

Less personal allowance 3600

Taxable £2538 x 15% = 380.70

5. Both methods ensure that the correct tax is paid during the year of assessment.

REVISED COLLECTION PROCEDURE - This section no longer applied following the issue of P.N. 25/89

1. Until recently it was considered to be in order to include the full state pension in the assessment even though all the pension may not have been received at the time the income tax charged by the assessment became due and payable.

2. Following a decision in June, 1988 by the High Court in the United Kingdom on the tax case of Jones v O'Brien, doubt has been cast on this procedure.

3. Although not bound by that decision the Assessor has introduced the following practice for 1988/89 where it proves necessary to include a state pension in an assessment:

(a) to enable a taxpayer to be aware of his total income tax liability for the year the full amount of the state pension will still be included in the assessment;

(b) a letter will be issued (see Appendix A) advising the taxpayer of the additional amount of income tax payable as a result of including the pension;

(c) no action will be taken to collect that additional amount until after the end of the income tax year i.e. it will be deemed to be due and payable on 6th April 1989.

(d) any balance of tax remaining in respect of the other income will still be due and payable on or before lst January, 1989.

(e) interest on late payment of income tax will apply as normal to the tax payable on the other income but only from the 6th April, 1989 on the additional amount attributable to the state pension.

Appendix A:

Letter of explanation to taxpayer

"Dear Sir/Madam,

1988/89 Assessment

You will shortly be receiving your 1988/89 assessment. Included in the 'EARNED INCOME' is the national insurance retirement pension you will receive in the year ended 5th April, 1989.

Until recently it was considered to be in order to include the full state pension even though not all the pension would have been received by the time the income tax charged by the assessment became due and payable. Following a decision in June, 1988 by the High Court in the United Kingdom on the tax case of Jones v O'Brien, doubt has been cast on this procedure.

Although not bound by that decision, for 1988/89 the Assessor will not seek to collect the tax on your state pension of £..... until after 5th

April, 1989. The remainder of the tax (if any) should be paid on or before the normal due and payable date as indicated on the assessment.

Interest on late payment of income tax will apply as normal to the tax payable on your other income but only from 6th April, 1989 on the additional amount attributable to your state pension.

Yours faithfully

for Assessor"