

Certain benefits payable under Social Welfare Acts – increase for qualified adult

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1. Introduction

Section 126 of the Taxes Consolidation Act 1997, as amended, sets out the tax treatment of various payments under the Social Welfare Acts, including payments which, subject to certain conditions, can attract an increase in respect of a qualified adult.

The purpose of this manual is to clarify the tax treatment of the increase in the State Pension (Contributory) in respect of a qualified adult

- for the tax year 2014 and subsequent years, and
- for the tax years up to and including 2013.

2. The tax treatment of an 'increase' in the State Pension (Contributory) for a qualified adult for the tax year 2014 and subsequent tax years

The following State pensions paid by the Department of Social Protection (DSP) are taxable sources of income:

- The State Pension (Contributory)
- The State Pension (Transition)
- The State Pension (Non-Contributory)
- The pre-1953 State Pension (Contributory).

Subject to certain conditions, these pensions can attract an increase in respect of a qualified adult (as defined in the Social Welfare Consolidation Act 2005).

Section 126 (2B) of the Taxes Consolidation Act 1997, as inserted by Section 12 of the Finance (No. 2) Act of 2013, provides that for the tax year 2014 and onwards the State Pension, together with any 'increase' for a qualified adult, is deemed to be emoluments of the person beneficially entitled to the pension, i.e., both the pension and the increase constitute a unitary amount, notwithstanding situations where the increase is paid to the qualified adult. Therefore, from 1 January 2014, the increase for a qualified adult does not represent a separate source of income for the qualified adult. Consequently, the PAYE employee tax credit and increased rate band are not available in respect of the increase for a qualified adult.

3. The tax treatment of the 'increase' for a qualified adult for tax years up to and including 2013

The High Court in the case of Michael O'Neill v The Revenue Commissioners [2018] IEHC 388, concluded that the qualified adult was the beneficial owner, in his or her own right, of the amount of the 'increase' and therefore, was entitled to the PAYE employee tax credit and increased rate band.

It should be noted that this judgment dealt with the legislation applicable prior to the enactment of the Finance (No. 2) Act 2013 referred to in section 2 above, i.e., it applies only to pensions and any associated 'increase' for a qualifying adult received up to 31 December 2013.

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