



Falkland Islands Pension Scheme (FIPS):

Income Tax Relief for Contributions & Taxation of Payments from FIPS (for Tax Years 2015 Onwards)

Introduction

This leaflet provides some basic guidance under the Falkland Islands (FI) Income Tax legislation on FIPS contributions and payments. All sections referred to, unless stated otherwise, are those in the Taxes Ordinance 1997 (TO1997). FI legislation can be found online at www.legislation.gov.fk

Please contact the Taxation Office if you would like information on the tax treatment of contributions or payments in relation to any other Retirement Benefit Scheme (RBS), Personal Pensions Scheme (PPS) or Retirement Pension Contributions (RPCs).

Tax residency determines an individual's entitlement to tax relief for contributions

An individual's entitlement to allowances/deductions and chargeable income depends on their residency position for tax purposes (please note this differs to residency for immigration purposes).

Resident – present in FI for a total of 183 days or more during the relevant tax year (1 Jan – 31 Dec)

Ordinarily resident – repeatedly resident in FI except for a temporary absence

Entitlement to allowances/deductions and chargeable income:

Resident and / or ordinarily resident for tax purposes - assessed on worldwide income, entitled to the full Personal Allowance (PA) and may claim a deduction for RPCs, contributions to certain RBS and/or PPS, subscriptions and charitable donations.

Not resident and not ordinarily resident - assessed on income from within FI and/or for duties performed in FI. Entitled to a proportion of the PA according to the number of days present in FI during the relevant tax year and may claim a deduction for charitable donations and compulsory RPCs. No deduction is allowable for contributions to RBS (including FIPS) or PPS.

Sections 64 to 82 inclusive refer to the general provisions for RBS, PPS, annuities etc.

FIPS is an approved scheme for tax purposes. Section 65A specifies which sections apply to FIPS:

- 67 - Retirement benefit schemes
- 70 - Carry-forward of relief
- 73 - Repayment of employee's contributions
- 74 - Commutation of pension
- 77 - Payments to employers

Tax relief for contributions

Under section 67, tax relief for contributions paid to an approved RBS in the relevant tax year is done by the taxpayer through a claim on their tax return.

Tax relief is restricted to a maximum of 20% of the individual's relevant earnings for the tax year. However, there is a provision to allow a carry-forward of unused relief – see '*Carry-forward of Relief*'

Relevant earnings for the purposes of tax relief for contributions

Section 65, refers to the meaning of 'relevant earnings', in summary these are your earned income less any business/employment expenses but before the tax deductions for PA, RPCs, and subscriptions.

Section 206 defines earned income and unearned income. Below is a summary of earned income:

Earned income	remuneration and non-cash emoluments benefits in kind pension superannuation or other allowance deferred pay or compensation for loss of office business income (sole-trader / partnership)
Not treated as earned income	any income not subject to FI income tax savings/investment income income from residential property situated outside FI

Contributions to both RBS and PPS

Under section 68(5), where an individual makes contributions to an approved RBS and an approved PPS, the total maximum relief in respect of those contributions is an amount equal to 20% of their relevant earnings in the year less the total contributions by their employer(s) in that year under the PPS arrangements.

Carry-forward of relief

Section 70 allows for carry-forward of any unused relief in the previous 6 tax years to be used against contributions made to an approved scheme in the 7th year.

Example below of carry-forward of relief for an individual's contributions to an approved RBS:

Income Tax Yr	Relevant Earnings	Relief Available @ 20% of Relevant Earnings	Contributions Paid & Relief Used	Unused Relief Available to C/F	C/F Relief Used Against 2015 Income	Accumulative C/F Relief Available for Future Income Yrs
2009	27,300	5,460	2,700	2,760	2,760	0
2010	30,000	6,000	3,450	2,550	1,140	1,410
2011	29,000	5,800	3,600	2,200	0	3,610
2012	29,300	5,860	3,600	2,260	0	5,870
2013	29,800	5,960	3,600	2,360	0	8,230
2014	30,500	6,100	3,400	2,700	0	10,930

£10,000 contributions were made in 2015

2015 relevant earnings £30,500, allowable relief @ 20%)	6,100
Accumulative relief taken from previous yrs (2009 & 2010)	3,900
Total relief allowable	10,000
Relief given in 2015 income tax assessment	10,000
Unused relief available to carry-forward to 2016 income	10,930

Therefore 2015 will show:

2015	30,500	6,100	6,100	0	0	10,930
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Contributions paid by an employer into FIPS in respect of an employee

These contributions are not treated as taxable on the employee as a gain or profit from employment. There is no specific legislation provision for this, however there is a '*Statement of Practice: Contributions by an employer to an approved Retirement Benefit Scheme (RBS) – tax treatment on the employee*'.

Charge to tax in certain cases

The sections below cover cases where tax may be charged in relation to FIPS:

- 73 – Repayment of employee's contributions
- 74 – Commutation of pension
- 77 – Payments to employers

Repayment of contributions

In accordance with Section 73, a repayment of any contributions to an employee, where the repayment is made under a RBS which is or has at any time been approved, is subject to Income Tax in the year in which the payment was made. However there is a provision which allows the employee to elect to have their contributions, if any, made in that year and the previous 6 years added back to their income in each of those years and have their income re-assessed for those years. If the repayment exceeds the total of those contributions, the excess will be treated as income in the year after the repayment was made.

For example, an individual has a refund of £10,000 contributions, the refund was paid in 2015 and he makes an election under section 73(2). The individual will be assessed as follows:

Income Tax Year	Contributions made during that year	Additional income to be included in the revised tax assessment for that year
2009	600	600
2010	800	800
2011	1,000	1,000
2012	1,000	1,000
2013	1,000	1,000
2014	1,000	1,000
2015	1,000	1,000

The balance of £3,600 refunded contributions will then be treated as income for the 2016 tax year.

The time limit for making an election under section 73(2) is not more than 2 years after the end of the year in which the repayment was made e.g. repayment of contribution made in June 2015, the employee has until 31 December 2017 to make an election.

A repayment of contributions is not subject to Income Tax where the employee's employment was carried on outside FI.

Transfer of Funds

There is no specific legislation covering the transfer of monetary funds from one approved scheme to another. Any refund of contributions may be taxable (see '*Repayment of contributions*'), and this would include a monetary transfer if the transfer relates to employment in FI. Entitlement to relief for the investment into the new scheme depends on the individual's FI tax residency status for the relevant tax year and the amount of relief available is limited – see '*Tax relief for contributions*'.

Commutation of Pension

A lump sum paid to an individual in accordance with the approved scheme is exempt from Income Tax. **However** under Section 74, a whole or part pension paid under a RBS which is or has at any time been approved, if that pension exceeds 25% of the total benefits value, Income Tax is charged on the amount which exceeds 25%. In such cases the basic Income Tax rate should be applied (21% for 2015 - 2018 tax years) and the administrator of the scheme is responsible for accounting for the tax. The

amount of the benefit subject to tax is not treated as income for any other provision of the TO1997 and the employee is not entitled to recover the tax from the administrator. However, Executive Council agreed 25/9/08 to an amendment to section 74(2A) and (2B) specifically only for FIPS, to allow payment of trivial pensions to be treated as income so that any refunds of tax can be made or additional tax charged, whichever is appropriate.

Section 74 does not apply if the employee's employment was carried on outside FI.

Please note

This paper is intended to give only broad guidance, and is not intended as a statement of law. The points covered in this paper reflect current tax practice at the time of writing. Special rules exist to deter tax advantages being gained by dealings between connected parties.

Questions and further information

If you have any questions or need more information on this subject, or any aspect of FI tax, please contact the Taxation Office. Alternatively you may wish to seek professional advice e.g. from a lawyer or accountant.

FIG Taxation Office St Mary's Walk Stanley Falkland Islands FIQQ 1ZZ	Tel Email Public opening hrs	(+ 500) 28470 general@taxation.gov.fk Mon - Fri, 9am – 12noon (afternoon appointments by prior arrangement)
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If you have any questions or need more information on the rules and administration of FIPS, please contact the Pensions Office.

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Acronyms used in this guide:

FI	Falkland Islands
FIPS	Falkland Islands Pension Scheme
PA	Personal Allowance
PPS	Personal Pension Scheme
RBS	Retirement Benefit Scheme
RPC	Retirement Pension Contributions
TO1997	Taxes Ordinance 1997