Fédération des
Experts Comptables
Européens

ASPECTS OF THE TAXATION OF OCCUPATIONAL PENSIONS IN THE EU

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Part I: Summary Conclusions
Part II: Answers by Country

A paper issued by the Direct Tax Working Party of the European Federation of Accountants (FEE)

The Fédération des Experts Comptables Européens (FEE) is the representative organisation for the accountancy profession in Europe, currently grouping together the 38 leading institutes in 26 countries, including the 15 Member States, Cyprus, Czech Republic, Hungary, Iceland, Israel, Malta, Monaco, Norway, Romania, Slovenia and Switzerland. Between them these bodies have a combined membership of approximately 400.000 individuals of whom about 45% work in the public practice, providing a wide range of services to clients, whilst the other 55% work in various capacities in industry, commerce, government and education.

PART I

SUMMARY CONCLUSIONS

I. Introduction

The purpose of the survey was to review aspects of the taxation of occupational pensions in the EU and to identify some of the tax obstacles to the free movement of labour and the freedom to provide services within the Union. Information from FEE members was obtained by means of a questionnaire and the responses have been collated and summarised below.

Occupational pensions are complex in their detail, as the individual surveys show. Most national systems allow a tax deduction for employer and employee contributions to pension providers resident in the state; most provide for exemption of scheme income from taxation and most states will tax pension benefits in the hands of the individual pensioners with some states taxing lump sums at advantageous rates (in some cases giving a tax exemption).

II. FEE Recommendations

- The double taxation inherent in the interface between the tax systems which defer taxation until payment of pensions (the majority of EU states) and those systems in which pension contributions are paid out of taxed income and exempt from taxation on payment of pensions (the survey identifies Germany and Austria) should be eliminated by means of double tax treaties.
- Contributions to resident qualifying pension schemes by self-employed taxpayers should be tax deductible in all Member States.
- Payment of contributions by employers and employees in an EU state to pension schemes resident in other EU states should enjoy the same tax status as contributions to resident pension schemes.
- Taxation of pensions in an EU state should be the same regardless of whether the pension arises from a resident or a non-resident source.
- The development of Pan-European pension institutions is to be welcomed.

III. Overview

The Commission in their Communication of 19th April 2001 analysed the systems of Member States in the following way:

EET Exempt contributions, exempt investment income and capital gains of the pension institution, taxed benefits.

ETT Exempt contributions, taxed investment income and capital gains of the pension institution, taxed benefits, (three members – Denmark, Italy and Sweden).

TEE Contributions out of taxed income, exempt investment income and capital gains of the pension institutions, exempt benefits Germany and Luxembourg

	EET	ETT	TEE
Belgium	**X**		
Denmark		**X**	
Germany	**X**		**X**
Greece	**X**		
Spain	**X**		
France	**X**		
Italy		**X**	
Ireland	**X**		
Luxembourg			**X**
Netherlands	**X**		
Austria	**X**		
Portugal	**X**		
Finland	**X**		
Sweden		**X**	
United Kingdom	**X**		

This Commission analysis is confirmed by our respondents.

Relationships between the different national systems can lead to "double taxation", and "double exemption", which, in the short term, need to be resolved by tax treaties.

To enjoy tax benefits most respondents indicated that contributions had to be paid to a resident pension institution. This is discrimination against other Union pension funds and it is the Commission's view that the EC Treaty obliges Members to abolish discriminatory rules of this kind.

IV. THE SITUATION SO FAR

The Council Directive of 29th June 1998 regarding the safeguarding of supplementary pension rights provides as follows:

1. The safeguarding of the pension rights of an individual who moves from one Member State to another (same rights as someone who ceases to contribute but remains within the State).

2. Member States to ensure that payment is made in another Member State of all pension benefits which are due.

3. In respect of so-called posted (or seconded workers) contributions to continue to be made to a supplementary pension scheme established in a Member State.

4. Information to be given to scheme members on moving from one Member State to another.

There have been many other initiatives and since 1997 the Commission has been engaged in discussions with Member States and with the pension fund industry and industry in general.

Something more comprehensive than the 1998 Directive is needed. However, indications are that Member States only wish to proceed on a step-by-step basis.

The Commission is to commence a detailed study of the tax rules of Member States and if issues of discrimination cannot be resolved proposes to bring cases before the Court of Justice on the basis of the Treaty.

V. THE BIG IDEA – THE PAN-EUROPEAN PENSION INITIATIVE

The idea of a centralised European-wide pension institution has been developed by the pension industry and is being sponsored by the Commission.

Under the proposed arrangements Member States' taxation arrangements would continue as at present. The Pan-European institution, based, say, in one Member State, would have different national sections dealing with the tax situation in each Member State in which a member is employed.

VI. SUMMARY OF THE FINDINGS

Of the types of supplementary pension schemes commonly available Germany and Austria are to be distinguished by having schemes known as Pensionsreuckstellung (a direct pension promise) under which an employer undertakes to provide pensions. A provision is made in the accounts of the employing company and subject to conditions the company obtains tax deductions for the reserve created. Such reserve schemes existed in Belgium down to 1985 but have not been available since that date in that country.

Germany has schemes under which an employer and/or and employee can make contributions to a third party pension scheme with tax deductions for the contributions and taxation deferred until payment of the pension. Contributions in Germany and Austria will be made out of taxed income in such cases.

It follows that a worker seconded to Germany from a country in which he or she is a member of a scheme which defers tax until payment of the pension and allows tax deductions for payment into the scheme will be doubly taxed, once on making a contribution to the scheme when resident in Germany and again when the pension is paid in the employees home country of residence. Neither country has Double Tax Treaties of the kind France has with several EU countries dealing with these circumstances.

To obtain tax deductions all countries required that the pension arrangements were in conformity with the law and a half dozen or so required to be approved by the fiscal authority also.

To obtain tax benefits almost all states required that the residence of the pension scheme was in the state although the residence might be only that of a branch of an insurance company in another state. Pension funds themselves enjoyed a range of benefits but pension fund income is to some extent taxable in France, Belgium and Italy, among those surveyed.

Contributions to pension schemes by the self-employed do not obtain the same tax benefits as contributions by employers and employees in Germany, Austria and Finland.

Contributions to non-resident pension schemes or insurance companies are denied tax relief by Belgium, Spain, Italy, the Netherlands, Portugal and Slovenia. In other cases relief is given by way of Double Tax Treaties (e.g. France) or by a process of concessions (e.g. Germany and the UK).

Not being able to obtain tax relief when buying pensions from other EU states is discriminatory and contrary to the principles of the single market. Italy, it appears, discriminates in the taxation treatment of pensions received from non-resident pension schemes.

VII. CONCLUSION

FEE welcomes the initiative of the Commission in seeking to end discrimination in the pension market and believes the development of Pan-European pension institutions which recognise the tax principles of the individual Member States to be an appropriate way forward.

VIII. Matrix of the key issues regarding the treatment of the Taxation of Pension Funds in the EU:

	BE	DE	ES	FR	IT	IR	LU	NE	AU	PT	FI	UK	SL[1]
To enjoy tax benefits it is necessary for the pension scheme:													
- Conform to legislation	X	X		X	X			X	X	X			
- Conform to legislation + be approved by national fiscal authority			X			X	X				X	X	X
To enjoy tax benefits it is a condition that:													
- Pension scheme is resident in the state	X	X	X	2	X	X	X	X	X	X	X	X	X
Qualifying pension scheme of the separate pension fund exempt from:													
- Income taxes		X	X			X		X	X	X		X	X
- Capital taxes			X			X		X				X	X
- Other tax advantages	X			X	X								
The following contributions to resident qualifying pension schemes are tax deductible:													
- Contributions by employers	X	X	X	X	X	X	X	X	X	X	X	X	X
- Contributions by employees	X		X	X	X	X	X	X		X	X	X	X
- Contributions by self-employed taxpayers	X		X	X	X	X	X	X		X		X	X
The following contributions to pension schemes resident in other member states are tax deductible:													
- Contributions by employers		X		X		X	X		X			X	
- Contributions by employees		X		X		X	X				X	X	
- Contributions by self-employed taxpayers				X		X	X					X	
Is the tax treatment of an employer's contribution different if the pension scheme is resident or non-resident?	2	1		2	X			X	X	2	X	1	2
Is the taxation of pensioners different if the pension scheme is non-resident?	2			2	X					2			2
Is the taxation of pensioners different if the employment in respect of which the pension is payable was exercised in another EU State?		1	1	2						1			X

1 – It depends
2 – Outside of scope

[1] BE: Belgium, DE: Germany, ES: Spain, FR: France, IT: Italy, IR: Ireland, LU: Luxembourg, NE: Netherlands, AU: Austria, PT: Portugal, FI: Finland, UK: United Kingdom, SL: Slovenia

PART II

ANSWERS BY COUNTRY

QUESTIONNAIRE ON ASPECTS OF THE TAXATION OF OCCUPATIONAL PENSIONS IN THE EU

TYPES OF PENSION SCHEME

1. What types of supplementary pension schemes are commonly used in your country

Austria

- Direct pension promise ("Pensionsrueckstellung")

  This is the most frequently used form of pension schemes in Austria. The employer makes the commitment (either to an individual or to his entire staff) to provide pensions at retirement date. The pension promise is usually a defined benefit plan. The pension promise is not funded externally, but only backed by a book reserve (provision) in the balance sheet of the employer. In order to secure the pension, the employer often concludes an insurance to cover the pension commitment ("Rueckdeckungsversicherung"). In order to get a tax deduction for the accrued obligation the employer is required to hold 50% of the accrual set up for tax purposes in bonds or similar interest-bearing securities. Insurance premiums paid by the employer for the back-to-back insurance are deductible but the claim against the insurance company (buy-back value of the policy) has to be capitalised

  The employer grants an irrevocable written pension promise; the promise is made either by agreement with individual employees or for a group of employees by agreement with labour representatives (e.g. works council)

  The pension promise is usually a defined benefit plan. The pension promise is not funded externally, but only backed by a book reserve (provision) in the balance sheet of the employer. In order to secure the pension, the employer often concludes an insurance to cover the pension commitment ("Rueckdeckungsversicherung"). In order to get a tax deduction for the accrued obligation the employer is required to hold 50% of the accrual set up for tax purposes in bonds or similar interest-bearing securities. Insurance premiums paid by the employer for the back-to-back insurance are deductible but the claim against the insurance company (buy-back value of the policy) has to be capitalised

- pension fund ("Pensionskasse")

  A pension fund is a separate legal entity (managed by a third-party professional fund manager) to which contributions on behalf of the employees are being made by the employer. The employee has a direct pension entitlement. The pension fund itself is in principle tax-exempt.

  The tax benefits for pension funds ("Pensionskassen") relate to contributions made by the employer for employees. There are <u>no</u> tax benefits for self-employed persons making contributions to pension funds.

- relief fund ("Unterstuetzungskasse")

  The relief fund is a separate legal entity to which contributions on behalf of the employees are transferred. The employees do not have a legal entitlement against the relief fund: the benefits paid by the relief fund are discretionary. The relief fund itself is in principle tax-exempt.

Relief Funds ("Unterstützungskasse") can be used only to provide very limited additional pension benefits as the maximum pension payout per beneficiary is limited to ATS 16.000 (Euro 1.163) p.a. The beneficiaries usually have no legal claim but the relief fund is making payments to beneficiaries on a discretionary basis

Most schemes of this category are old ones and because of the restrictions in the benefits they can provide there now practically no new schemes of this type being created.

- life insurance (“Direktversicherung”)

  The employer can also conclude a life insurance on behalf of an employee. This can be done either on individual contracts for each employee or in form of a group insurance contract.

  In general, life insurance is used frequently by private individuals to provide supplementary financial means at retirement.

  In case the employer pays premiums towards a life insurance policy where the employee is the direct beneficiary the premiums are taxed as employment income to the employee (there is only an ATS 4.000 / Euro 291 p.a. exemption).

  However, the employer can take also out a life insurance on employees to cover direct pension promises: in this case the employee has a pension claim only against the employer but <u>not</u> directly against the insurance company (although often the policy is pledged to the employee to secure payment of the pension in case the employer becomes insolvent).

  The comments below relate only to the case where a private individual takes out life insurance coverage.

There are <u>no</u> special tax provisions for self-employed persons to provide for supplementary pensions.

When an employer makes contributions to a third party, e.g. a pension fund, other than under the schemes outlined above such contributions will lead to an immediate taxation of the contributions as income in the hands of the employee. This concept can lead to double taxation cases where a foreign national is seconded to Austria as an expatriate and where the individual remains in a qualifying pension scheme in his home country. If the home country legislation provides for a deferred taxation until payments from a pension funds are received but Austria taxes contributions while the individual is resident and working in Austria a double taxation in different periods will be the result. Up to now the Austrian treaties do not provide for a solution of such conflicts.

<u>Belgium</u>

Occupational schemes may be funded through separate and independent (non solely managed by the sponsoring employer) non-profit making pension funds, or insurance companies (principally: group insurances), or by way of a mutual insurance. Occupational scheme are found principally in large companies.

Unfunded schemes (book provisions) were prohibited in 1985: companies have been required to fund the complementary occupational pension through a capitalization scheme operated outside the company. As a result, funding techniques such as retained earning in the balance sheet are no longer allowed since that year.

Private pension schemes are exceptional in the case of commercial companies, and mainly cover their management personnel. Such arrangements are usually made with a life insurance company. By some agreements, which are more commonly used, companies insure themselves against the risk of decease or departure of their managers. This form of insurance requires the concluding of a life insurance contract on the head of the manager, on behalf of the company. Since the entry into force of the Royal Decree of 17 December 1992, managers and chiefs of undertakings will be more easily admitted within the framework of group insurance.

Finland

- a registered supplementary pension of a pension insurance company
- a collective supplementary pension security arranged by the employer using a pension society or a pension trust
- a collective supplementary pension security arranged in an insurance company
- an individual pension insurance

France

According to the definition of the Council Directive 98/49/EC, two types of supplementary pension schemes are commonly used in France.

First, voluntary additional contributions may be paid to a supplementary pension scheme by a firm on behalf of its employees (CGI, art. 83)

Secondly, voluntary additional contributions may be paid by an individual or a member of a partnership or the manager with controlling interest in a business corporation to a supplementary pension scheme for himself (CGI, art. 154 bis).

Germany

- pension promise ("Pensionsrueckstellung")

  Within a pension promise, the employer makes the commitment to provide pensions to his employees at retirement date. The pension promise is not funded externally, but only backed by a book reserve at the level of the employer. In order to secure the pension, the employer often concludes an insurance to cover the commitment (so called "Rueckdeckungsversicherung").

- pension fund ("Pensionskasse")

  A pension fund is a separate legal entity to which contributions on behalf of the employees are transferred. It is characterised by the employees holding an own entitlement against the pension fund. The pension fund itself is in principle tax-exempt.

- relief fund ("Unterstuetzungskasse")

  As the pension fund, the relief fund is a separate legal entity to which contributions on behalf of the employees are transferred. The employees do not hold on own entitlement against the relief fund, however. The relief fund itself is in principle tax-exempt.

- life insurance ("Direktversicherung")

  The employer can also conclude a life insurance on behalf of an employee. This can be done either on individual contracts for each employee or in form of a group insurance contract.

As a general remark it has to be pointed out that Germany up to now has no pension scheme under which an employer and/or an employee can make contributions to a third party, e.g. a pension funds, on a deferred taxation basis. Rather such contributions will lead to an immediate taxation of the contributions as income in the hands of the employee. This concept can lead to double taxation cases where a foreign national is seconded to Germany as an expatriate and where the individual remains in a qualifying pension scheme in his home country. If the home country legislation provides for a deferred taxation until payments from a pension funds are received but Germany taxes contributions while the individual is resident and working in Germany a double taxation in different periods will be the result. Up to now the German treaties do not provide for a solution of those conflicts like, for example, the French/UK treaty does (see Annex A of the OECD-Report on "The tax Treatment of Employee's Contributions to Foreign Pension Schemes").

Ireland

Both for employers and self employees.

Italy

Up to 31.12.2000

Only the ones which conform to legislation because of the deductibility of the relevant contributions.

As from 01.01.2001

Only the ones which conform to legislation because of the deductibility of the relevant contributions.

Luxembourg

The types of pension schemes used are as follows:

a) Internal funding: the company builds a reserve for employee pensions in its balance sheet.

b) External funding: the company adheres or creates a separate legal entity for managing complementary pensions. Two vehicles exist in Luxembourg: ASSEP (Association d'Epargne Pension – kind of mini-insurance company capable of covering all kinds of risk) – SEPCAV (Société d'Epargne à Capital variable) that functions like an investment fund.

c) Group insurance: financing is done by paying premium to an insurance company. The employee is entitled to the rights from the contract. The insurance company takes care of administrative management and makes payments directly to the employee.

Netherlands

'Non-obligatory schemes (professional insurers) and compulsory schemes (schemes being carried out by 'industry pension funds'; membership is compulsory for employees of industry).

Portugal

- Pension fund

A pension fund is a separate legal entity to which contributions on behalf of the employees are being made by the employer.

- Life insurance

Financing is done by paying premium to an insurance company. The insurance company takes care of administrative management and makes payments directly to the employee.

Spain

There are three types of pension plans, depending:

a) on its subjective elements:

   1. working scheme ("sistema de empleo"), where the promoter is the employer and the pension plan partner is the employee.

   2. associated scheme ("sistema asociado"), where the promoter is an association and the pension plan partner are its associates.

   3. individual scheme ("sistema individual") the promoter is a finance entity and the pension plan partner is whatever individual.

b) on its benefits payment:

   1. paid periodically.
   2. paid as a lump sum.

Additionally, we can mention the following products:

- When a company takes a compromise to complement public pensions with its workers, the contingency can be covered by an insurance premium.

- Some banking products are called as “retirement plans” (“planes de jubilación”) but some of them are purely a saving product because the beneficiary can recover the capital in any moment without any penalisation. On the other hand, those retirement plans do not enjoy any tax advantage. We will exclude these retirement plans of our following answers.

United Kingdom

The most common type of supplementary pension in the UK is a pension (or superannuation) fund which is overseen by a body of individuals called trustees (which may include employees of the sponsoring company or business).

Larger pension schemes will manage the fund investments themselves but it is common for smaller and medium-sized schemes to involve payment of contributions to an insurance company which then manages the fund.

The pension fund is exempt from all taxes; this exemption applies both where the fund manages its own investment and where money is held in the pension account of an insurance company.

Pension schemes of this type provide pensions broadly of two kinds; one where the pension is a proportion of final salary (so-called final salary schemes) and one where the pension is related to the individual fund purchased over the years by the individual pensioner (money purchase schemes).

QUALIFYING PENSION SCHEMES

2. To enjoy tax benefits is it necessary for the pension scheme:

(a) to conform to legislation, or

(b) to be approved by the national fiscal authority, or

(c) to conform to legislation and to be approved by the national fiscal authority.

Austria

Pension commitment

(a) Yes.
(b) No.
(c) No.

Pension fund

(a) Yes.
(b) No.
(c) The fund has to obtain a license under the Pension Fund Act ("Pensionskassengesetz") from the regulatory authority.

Relief fund

(a) Yes.
(b) No.
(c) No.

Life insurance

(a) Yes.
(b) No.
(c) No.

Belgium

To conform the legislation: Income Tax Code , art. 52 (deduction of personal contributions), art.59 (deduction of employer's contribution; execution by R.D. /ITC , art. 35); art. 60 (deduction of pensions or other allocations).

Finland

To enjoy tax benefits it is necessary for the pension scheme to conform to legislation and to be approved be the national fiscal authority (e.g. to conform to the Finnish tax legislation as well).

France

In the two cases, it is necessary for the supplementary pension scheme to conform to legislation.

Germany

Pension commitment

(a) Yes.
(b) No.
(c) No.

Pension fund

(a) No.
(b) No.
(c) Yes. An application has to be filed with and approved by the national insurance authority (Versicherungsaufsichtsbehoerde).

Relief fund

(a) Yes.
(b) No.
(c) No.

Life insurance

(a) Yes.
(b) No.
(c) No.

Ireland

c) applies.

Italy

Up to 31.12.2000

(a) to conform to legislation.

As from 01.01.2001

(a) to conform to legislation.

Luxembourg

Pension schemes need to conform to legislation and need to be approved by social security authorities.

<u>*Netherlands*</u>

To conform to legislation.

<u>*Portugal*</u>

Pension fund and Life insurance:

(a) Yes.
(b) No.
(c) No.

<u>*Spain*</u>

Pension plans must conform to legislation. But we must emphasize that as far as the registration of the pension fund on the Administration Register is compulsory to operate, and that the registration is in the hands of the Administration there is an indirect but strong control by the authorities.

<u>*United Kingdom*</u>

(a) Yes
(b) Yes
(c) Yes

3. To enjoy tax benefits is it a condition that the pension scheme is resident in the state.

<u>*Austria*</u>

Pension commitment

N/A (this scheme does not involve a separate pension fund but only is only a book reserve set up in the employers financial statements).

Pension fund

A non-resident pension fund is generally not subject to tax in Austria.

Contributions made to a non-resident pension fund on behalf of an employee will be taxable to the employee unless there is a statutory legal obligation for making the contributions. This seems to be a discrimination against foreign pension funds and it is questionable whether it is in line with EU law (principle of non-discrimination, freedom of providing services)

Relief fund

No.

Life insurance

No.

Belgium

Article 35, R.D./ITC provides for that the complementary contributions for insurance against old age or premature death made by the employer are only tax deductible if they are paid definitely into, either an insurance company or pension fund with seat or principal management place in Belgium, or to the Belgian branch of an insurance company or pension fund with a seat or head office abroad.

Finland

The contributions to the individual voluntary pension insurance scheme paid by the employer are regarded as earned income of the insured, if the insurance has been taken out at a foreign insurance company. A pension insurance is regarded as taken out in Finland if it has been granted by a permanent establishment of a foreign insurance company situated in Finland.

In addition, the contributions to the voluntary pension insurance scheme are non-deductible, if the insurance has been taken out at a foreign insurance company.

France

There is no express provision in French tax law as far as the residence of the pension scheme is concerned.

Germany

Pension commitment

N/A (due to the fact that a pension commitment is not a separate legal entity).

Pension fund

As to its own tax exemption, the main requirement essentially is the German residence. As to the flat rate taxation available for the contributions, it will be also granted to foreign pension funds, provided they are comparable to German pension funds.

Relief fund

As to its own tax exemption, the main requirement essentially is the German residence. As to the deferred taxation of the contributions, it will be also be available for foreign relief funds, provided they are comparable to German pension funds.

Life insurance

No.

Ireland

No, but if not there must be an Irish representative.

Italy

Up to 31.12.2000

Yes it is. To enjoy tax benefits it is a condition that the pension scheme is resident in the state.

As from 01.01.2001

Yes it is. To enjoy tax benefits it is a condition that the pension scheme is resident in the state.

Luxembourg

Non-resident pension funds (cf. 1a) are eligible. Non-resident insurance companies (cf. 1c) need to be approved in Luxembourg.

Netherlands

Yes, the pension scheme must be resident in The Netherlands (only in exceptional circumstances non-residence is permitted).

Portugal

Yes. To enjoy tax benefits it is a condition that the pension scheme is resident in the state. Contributions made by the employer are only tax deductible if they are paid definitely into, either an insurance company with seat or principal management place in Portugal, or to the Portuguese branch of an insurance company or pension fund conform to Portuguese legislation.

Spain

All the applicable legislation contains references to Pension Funds set up according to the Spanish legislation. Consequently, even though there is no specific prohibition about foreign pension funds, in practice it is not possible to operate through it.

On the other hand, courts, taking into account general principles of the Rome Treaty could probably reject those indirect prohibitions.

United Kingdom

Yes. It is a condition that it should be in respect of a UK trade and that there should be a UK resident responsible for the conduct of the scheme.

4. Is a qualifying pension scheme of the separate pension fund type exempt from:

(a) income taxes

(b) capital taxes

Austria

Pension commitment

N/A.

Pension fund

(a) Yes.
(b) N/A, since Austria no longer levies capital taxes. Contributions are, however, subject to 2.5% insurance tax.

Relief fund

(a) Yes.
(b) N/A, since Austria no longer levies capital taxes.

Life insurance

(a) N/A.
(b) N/A. There is a 4% insurance tax on life insurance premiums.

Belgium

(a) No exemption, but reduced rates if some conditions are met.

(b) A great variety of capital taxes exists, but their importance is less than the income taxes.

Finland

(a) income taxes:

- Contributions to the collectively-arranged supplementary pension insurance scheme, as defined closely in case law, are not taxable income for the employee.
- The contributions to the individual voluntary pension insurance scheme paid by the employer are regarded as earned income of the insured as far as they would be non-deductible paid by the taxpayer himself or 60 per cent of them would be deductible, in order words, when the level which is regarded as basic pension security would be exceeded.

- A percentage of insurance payments of single-premium pensions is taxable earned income. The rest is exempt. This is affected by the age of the pensioner at the end of the tax year.

(b) capital taxes:

For the Finnish tax purposes, pension payments are not considered as capital income but as earned income.

<u>*France*</u>

No.

<u>*Germany*</u>

Pension commitment

N/A.

Pension fund

(a) Yes.
(b) N/A, since Germany no longer levies capital taxes.

Relief fund

(a) Yes.
(b) N/A, since Germany no longer levies capital taxes.

Life insurance

(a) N/A.
(b) N/A.

<u>*Ireland*</u>

(a) Yes
(b) Yes

<u>*Italy*</u>

Up to 31.12.2000

The pension fund is subject to a “substitute tax” amounting to Lit. 10.000.000 (Euro 5.164) to be paid yearly, which is reduced to Lit. 5.000.000 (Euro 2.582) for the first five years. Should the pension fund own immovable property only a 0,50% tax on the relevant value is due. The financial return on capital investment is subject to a 12.5% withholding tax.

As from 01.01.2001

The income of the separate pension fund type is subject to a 11% “substitute tax”, being the normal rate (I.R.P.E.G.) 37%.

Luxembourg

(a) there is a salary tax of 25% withheld on contributions made by the employer to pension funds or accruals of the reserve. Pensions received later are tax exempt for Luxembourg residents.

(b) in principle wealth tax applies.

Netherlands

(a) Funds: exempted.
(b) Funds: exempted.

Portugal

(a) The pension fund itself is tax-exempt.
(b) N/A.

Spain

(a) Pension Funds are taxed at 0% on the Corporate Tax
(b) Pension Funds are exempted of capital taxes

United Kingdom

Yes.

5. Does a qualifying pension scheme of the separate pension fund type enjoy other tax advantages.

Austria

Pension commitment

N/A.

Pension fund

No.

Relief fund

No.

Life insurance

N/A. The life insurance company will not be taxed on investment income allocated to the insurance policies.

Belgium

No.

Finland

No.

France

Yes.

Germany

Pension commitment

N/A.

Pension fund

No.

Relief fund

No.

Life insurance

N/A.

Ireland

No.

<u>*Italy*</u>

Up to 31.12.2000

No, the separate pension fund type doesn’t enjoy other tax advantages.

As from 01.01.2001

No, the separate pension fund type doesn’t enjoy other tax advantages.

<u>*Luxembourg*</u>

Advantages apply to all types of schemes.

<u>*Netherlands*</u>

No.

<u>*Portugal*</u>

No.

<u>*Spain*</u>

No.

<u>*United Kingdom*</u>

No.

6. If you have answered yes to Question 5, briefly describe the tax advantages.

<u>*Austria*</u>

Pension commitment

N/A.

Pension fund

N/A.

Relief fund

N/A.

Life insurance

N/A.

Belgium

N/A.

Finland

N/A.

France

Pension funds are subject to income tax. The common tax rate is applicable. However, a reduced rate of 10% is in particular applicable to interest received by a mutual insurance company.

Germany

Pension commitment

N/A.

Pension fund

N/A.

Relief fund

N/A.

Life insurance

N/A.

Ireland

N/A

Italy

Up to 31.12.2000

N/A.

As from 01.01.2001

N/A.

Luxembourg

Contributions to approved pension schemes are a business expense with the employer.

Tax withheld under 4.a.) is deductible with the beneficiary up to LUF 48.000 per year.

Netherlands

N/A.

Portugal

N/A.

Spain

N/A.

United Kingdom

N/A.

7. What tax advantages, if any, are enjoyed by qualifying pension schemes which are not of the separate pension fund type.

Austria

Pension commitment

Presently, direct pension promises are the most frequently used employer pension scheme in Austria. The setting up of the respective book reserves is – within certain limits set out in § 14 EStG (Austrian Income Tax Act) - tax deductible. In order to obtain a tax deduction the employer has to invest 50% of the amount accrued for tax purposes in interest-bearing securities (bonds). The employee is taxed only when he receives actual payments from the employer under the plan.

Pension fund

N/A.

Relief fund

N/A.

Life insurance

N/A.

Belgium

That sort of pension scheme is no more allowed.

Finland

N/A.

France

N/A.

Germany

Pension commitment

Presently, the pension commitment is the most used employer pension scheme in Germany since it is a deferred compensation/deferred taxation scheme. The funding of the pension accrual leads to a tax-deductible expense at the level of the employer, whereas taxation at the level of the employees firstly accrues when the pensions will be distributed.

Pension fund

N/A.

Relief fund

N/A.

Life insurance

N/A.

Ireland

N/A.

Italy

Up to 31.12.2000

In case of pension schemes carried out in the form of insurance scheme:

- vis a vis the insurance company, the financial return of the premiums received is subject to a 12,5% withholding tax

- vis a vis the pensioner formerly an employee

    - 19% of the amounts paid as premium can be deducted from the tax due on the total income (taxed at graduated rates) for an amount not exceeding Lit. 2.500.000 (Euro 1.291)
    - the financial return is taxed as employment income at the regular graduated rates.

As from 01.01.2001

Pension schemes carried out in the form of insurance scheme will have - in substance - the same tax regime than separate pension funds.

Luxembourg

Advantages apply to all types of schemes.

Netherlands

Professional insurers can form a tax-deductible fiscal reserve ("provision").

Portugal

N/A.

Spain

The only possibility of pension schemes different from the Pension Funds is the insurance premium system provided for compromises taken by companies with respect the workers. In this case, the company pays a premium to the insurance company and it has to include the results of the insurance contract in its ordinary profit and loss account, without any tax advantage.

United Kingdom

N/A; internally financed pension schemes (which are rare and probably only apply to smaller companies providing for one or two employees) do not enjoy tax advantages although pensions paid to former employees are tax deductible.

CONTRIBUTIONS TO QUALIFYING PENSION SCHEMES

8. Are the following contributions to resident qualifying pension schemes tax deductible:

(a) contributions by employers

(b) contributions by employees

(c) contributions by self-employed taxpayers.

<u>*Austria*</u>

Pension commitment

(a) Yes, if it there is an irrevocable written commitment of the employer towards the employee to provide defined pension benefits;

Setting up a provision in the books of the employer is tax deductible within certain limits:
- The provision is to be determined by an actuarial calculation
- The interest rate used in calculating the accrual is 6%
- If it is a defined benefit pension promise then the pension must not exceed 80% of the last active salary
- Increases in the pension rights due to salary increases have to be accounted for in the same way as new pension promises, i.e. the provision has to be set up over the remaining time of active service of the employee ("Ansammlungsverfahren") rather than accrued immediately (i.e. the "present value method" – "Teilwertverfahren" is not allowed for tax purposes)
- The employer has to invest 50% of the amount accrued in his books for tax purposes in interest-bearing Austrian securities (bonds).

(b) N/A.
(c) N/A.

Pension fund

(a) Yes. The employer can deduct the contributions made on behalf of his employees as business expenses under the following conditions:

- The agreement with the pension fund is in line with the Pension Fund Act ("Pensionskassengesetz") and was approved by the regulatory authority
- For a defined benefit plan the pension must not exceed 80% of the last salary of the employee
- For a defined contribution plan the annual contribution must not exceed 10% of the total salaries of the beneficiaries

(b) Generally not deductible (there is a small tax deductible amount of max ATS 10.000 (Euro 726) p.a which is, however, subject to extensive restrictions so that it is in practice not applicable in most cases). Only 25% of the pension payments received from the fund which originate from the employee's contributions are taxed.

(c) No.

Relief fund

(a) Yes (but fully taxable to the employee except for an ATS 4.000 / Euro 291 exemption).
(b) N/A.
(c) N/A.

Life insurance

(a) Yes, but current contributions made by the employer must not exceed 10% of the salaries and wages paid by the employer to the potential beneficiaries.
(b) No; there is a very low allowance which can be claimed by the taxpayer of max ATS 10.000 (Euro 727) p.a.; this allowance is reduced for taxable incomes over ATS 500.000 (Euro 36.336) p.a. and is not available for incomes over ATS 700.000 (Euro 50.871) p.a..
(c) N/A.

<u>*Belgium*</u>

(a) The complementary contributions for insurance against old age or premature death are regarded as professional expenses, provided that they are paid definitely into an insurance company or a pension fund located in Belgium and that the benefits, in relation to retirement, both statutory (which means: the State pension) and extra-statutory, expressed in yearly allowance, do not exceed 80 percent of the last gross yearly normal remuneration and that they take a normal duration of professional activity in consideration (article 59, ITC). The employer's contributions will be tax deductible only if the *employee's* contributions (which have to be withheld from the salary by the employer) are mentioned on the salary slips. Other condition to meet is that advance payments and pledges on contracts are not granted (excepted for the acquisition, building or transformation of a real estate located in Belgium) (article 35, R.D./ITC).

(b) These contributions are not tax deductible, but benefit from a tax allowance (tax reduction for long term sparing), provided that they are paid definitely into an insurance company or a pension fund located in Belgium and that the benefits, in relation to retirement, both statutory (which means: the State pension) and extra-statutory, expressed in yearly allowance, do not exceed 80 percent of the last gross yearly normal remuneration and that they take a normal duration of professional activity in consideration (article145/3, ITC). The contributions will be tax deductible only if they are mentioned on the salary slips. Other condition to meet is that advance payments and pledges on contracts are not granted (excepted for the acquisition, building or transformation of a real estate located in Belgium) (articles 35 and 63/1, R.D./ITC).

(c) The contributions in execution of life insurance contracts benefit from the tax reduction for long term sparing if some conditions are met, among others:
- the contracts are subscribed by Belgian companies, or by Belgian branchs of foreign companies;
- the insurance begins before the age of 65 for men and 60 for women, for a minimum duration of 10 years;
- allowance are granted in the yearly limit of an amount of BEF 60.000 (further to indexation, amounts presently to BEF 66.000).

Finland

(a) contributions by employers

- The contributions to the individual voluntary pension insurance scheme paid by the employer are regarded as earned income of the insured as far as they would be non-deductible paid by the tax payer himself or 60 per cent of them would be deductible.
- If the contributions are considered as an earned income of an employee, contributions are deductible in taxation of the employee.
- It must be noted that if insurance premium payments are regarded as compensation for normal earned income (e.g. the normal pay for the employee is lowered correspondingly), the insurance payments could possibly be interpreted as taxable earned income for the employee.

(b) contributions by employee:

- Contributions paid by an individual are deducted from the net earned income. The contributions to the collective supplementary pension security scheme are unrestrictedly deductible, if this security is arranged at an insurance company and if the supplementary pension security benefits do not exceed the registered supplementary pension security, provided that the collective is deemed acceptable for the tax purposes.
- The deductibility of voluntary pension insurance contributions depends on the total pension security, which is achieved by insurance. The total pension security means the total amount of a person's all pensions. There are both quantitative and qualitative restrictions on the deductibility.
- The taxpayer has the right to deduct pension insurance contributions up to FIM 50.000 from earned income annually, if according to the insurance agreement the insurance-based pension will not be paid before the age of 60 years (retirement age), and if voluntary pension security would not be more than 60 per cent of the income, on the basis of which the statutory pension would be calculated if the insured had become incapable of work in the same year the insurance had been taken (pension level). Please note that insurance policies, which have been taken out by 23.6.1999, are applied the limit of retirement age of 58 and the limit of pension level of 66 per cent.
- There are so exceptions to the requirement of the pension level. The insurance contributions are fully deductible if they do not exceed the amount of FIM 15.000 and are not more than 10 per cent of the taxpayer's net earned income.
- 60 per cent of insurance contributions are deductible up to FIM 50.000, if the future pension benefit exceeds the basic pension security or the retirement begins before the age of 60. Please note the earlier limit of retirement age of 58.

(c) contributions of self-employed taxpayers

Please note that the definition self-employed taxpayers we understand a shareholder who is working in his own company.

- If the insurance is taken out through the enterprise its deductibility in business taxation should be examined, whether the insurance is based on an employment for working in the business. Contributions which have been paid merely on the basis of the status of a shareholder are not deductible.

- The contributions can be regarded as deductible as far as they are reasonable with respect to the conditions of the company and the shareholder's activity together with a shareholder's other benefits from the company.
- In addition, contributions paid by a company could be deemed as hidden dividend, if paying of contributions is considered to based merely on the status of a shareholder, and work contribution for the company is nominal.

France

Contributions paid by employers on behalf of their employees

Contributions paid by employers on behalf of their employees to pension schemes are tax deductible under two conditions:

- a legal commitment of the employer,
- the pension scheme concerns all the employees or a category of employees.

Contributions by self-employed taxpayers

Contributions paid by self-employed taxpayer are deductible. However, if the total of the compulsory contributions and voluntary additional contributions to pension schemes paid by the self-employed tax payer exceeds an amount equal to 19% of eight times the ceiling of National Security (268 128 F for the Y2K), the surplus is not deductible.

Germany

Pension commitment

(a) Yes.
(b) N/A.
(c) N/A.

Pension fund

(a) Yes. The employer can deduct the contributions made on behalf of his employees as business expenses. In addition, the employees can claim a deduction of the employer contributions as special purpose expenses ("sonderausgaben") within their personal income tax returns. Please note in this context that the consideration of these expenses is limited to threshold, which is normally already eaten up by the mandatory social security contributions. In case the employer contributions will benefit from the flat rate taxation (see answer to question 11), a consideration within the income tax return will be denied, however.

(b) Yes. In principle, employee contributions to a pension fund are so called after tax contributions. As already mentioned, however, the employee can claim for a deduction as special purpose expenses within his personal income tax return. The claim may not lead to a effective deduction due to the aforementioned threshold.

(c) N/A.

Relief fund

(a) Yes.
(b) No.
(c) N/A.

Life insurance

(a) Yes.
(b) Yes.
(c) N/A.

<u>Ireland</u>

(a) Yes.
(b) Yes.
(c) Yes.

(In all cases subject to limits)

<u>Italy</u>

Up to 31.12.2000

(a) Contributions by employers are deductible for an amount not exceeding 2% of the employment income and in any case for an amount not exceeding Lit. 2.500.000 (Euro 1.291).
(b) Contributions by employees are deductible for an amount not exceeding 2% of the employment income and in any case for an amount not exceeding Lit. 2.500.000 (Euro 1.291).
(c) Contributions by self-employed taxpayers are deductible for an amount not exceeding 6% of taxable income and in any case for an amount not exceeding Lit. 5.000.000 (Euro 2.582).

As from 01.01.2001

(a) Contributions by employers are fully deductible. No limit. But should the amount exceed 12% of employment income and in any case the amount of Lit. 10.000.000 (Euro 5.164) the excess amount is taxed as ordinary employment income.
(b) Contributions by employees are deductible for an amount not exceeding 12% of employment income and in any case for an amount not exceeding Lit. 10.000.000 (Euro 5.164). The amount of Lit. 10.000.000 (Euro 5.164) include also the contribution by the employer.
(c) Contributions by self-employed taxpayers are deductible for an amount not exceeding 12% of self-employment income and in any case for an amount not exceeding Lit. 10.000.000 (Euro 5.164.).

Luxembourg

(a) Yes.
(b) Yes within the limit of LUF 48.000.
(c) Yes within the limit of LUF 48.000.

Netherlands

(a) Contributions by employers are tax-deductible indifferent of the amount of the contribution. Contributions exceeding 2%-2,25% of pension income (70% of income) will be taxed at employee level (wage tax or employee income tax).
(b) Contributions by employees are tax-deductible if not-exceeding 2%-2,25% of pension income.
(c) Contributions are tax-deductible (special regulations for computation).

Portugal

(a) Yes, but current contributions made by the employer must not exceed 15% of the salaries and wages paid by the employer to the potential beneficiaries.
(b) Contributions by employees are deductible for an amount not exceeding 5% of the taxable income and in any case for an amount not exceeding. PTE 218 400 (1 090 €).
(c) Contributions by self-employed taxpayers are deductible for an amount not exceeding 5% of taxable income and in any case for an amount not exceeding PTE 218 400 (1 090 €).

Spain

a) The contribution made by the employer to the Pension Fund is fully tax deductible. The payment of an insurance premium covering compromises with the employees is also tax deductible provided the following conditions are met:

- The company must impute the contribution to the employee and he will be taxed in his Income Tax. The company has the option of non imputation and in this case the employee is not taxed.
- The company must not have the possibility of recover its investment.
- The company cannot have a control of the funds.

b) and c) Contributions made by employees and self-employed are tax deductible provided that the amount is not over the following limits:

- Limit of 20% of the income coming from 1) personal work and 2) economic activities. If the taxpayer is over 52 years old the limit can arrive to 40%

- Limit of 1.200.000 PTA (7.212.15€). If the taxpayer is over 52, the limit increases 100.000PTA (601.01€) each year until a maximum amount of 2.500.000PTA (15.025,30€). When the spouse or the husband of the taxpayer has an income under 1.200.000PTA (7212.15€) the taxpayer can contribute in the name of the spouse or the husband a maximum amount of 300.000PTA (1803.04€)

United Kingdom

Subject to limits contributions under (a), (b) and (c) are tax deductible. As regards employers' contributions, ordinary annual payments are tax deductible; contributions by employees may not normally exceed 15% of salary.

Under the rules for approval of a pension scheme pensions generally cannot exceed two-thirds of final salary; final salary in certain cases is limited in amount.

Contributions by self-employed persons are tax deductible up to 17.5% of earnings; the amount of earnings for this purpose is limited to £91800 (2000/2001) and the percentage limit of 17.5% is increased in a range from 20% to 40% depending on age. New "stakeholder pensions" from 6th April 2001 provide for payments of us to £3600 without reference to earnings.

9. Are the following contributions to pension schemes resident in other member states tax deductible:

(a) contributions by employers

(b) contributions by employees

(c) contributions by self-employed taxpayers

Austria

Pension commitment

(a) Since this type of pension scheme is not externally funded, contributions to pension schemes resident in other member states can only be understood in the way that the employer granting the pension promise is resident outside Austria. The tax deductibility depends on the tax regulations of the country of residence of the employer.

In case the employee has been seconded to an Austrian affiliate / branch of a an employer resident in another member state, the cost borne by the Austrian affiliate / branch should be tax deductible in Austria within the limits set out for Austrian employers (see answer to question 8 (a)).

(b) N/A.

(c) N/A.

Pension fund

(a) In case the employee has a direct pension entitlement towards the non-resident fund: employer contributions are deductible for the employer but taxable to the employee (the employee is subsequently not or only partly taxed on the pension payments received from the fund. An exemption of ATS 4.000 / Euro 291 p.a. is available.

In case there is a statutory legal obligation to make contributions to the non resident fund (e.g. for an employee on a short-term secondment to Austria) the contributions are tax deductible to the employer and not taxable to the employee (the employee would then be fully taxed on the pensions received).

(b) Generally not deductible for the employee unless there is a statutory legal obligation to make such contributions.

(c) No.

Relief fund

(a) Yes (if under general tax law the payments represent a bona fide business expense).
(b) N/A.
(c) N/A.

Life insurance

(a) Yes (but fully taxable to the employee except for an ATS 4.000 / Euro 291 exemption).
(b) No (see 8 (b) in case the foreign insurer has a licence to do business in Austria).
(c) No (see 8 (b) in case the foreign insurer has a licence to do business in Austria).

Belgium

(a) No.
(b) No.
(c) No.

Finland

The contributions to the voluntary pension insurance scheme are non-deductible, if the insurance has been taken out at a foreign insurance company. But a pension insurance is regarded as taken out in Finland if it has been granted by a permanent establishment of a foreign insurance company situated Finland.

Contributions paid by an employee, who has moved to Finland from abroad, or his employer are deductible in his taxation in a moving year and following 3 years if an insurance has been taken out at least a year before a moving.

France

As seen above point 3 there is no specific condition as to the residence of the pension scheme. But, if the French Tax Authorities tried to dispute the deductibility of contributions by employers or self-employed taxpayer on the basis of the foreign residence of the scheme, double tax treaties between France and other Member States following the OECD model tax convention would preclude them from doing so.

As a matter of fact, according Article 24-4 of the OECD model tax convention (non discrimination) interest royalties and other disbursements paid by an enterprise of a Contracting state to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions if they had been paid to a resident of the first-mentioned State.

The tax treaties between France and some other Member States include such a provision :

- Austria (Art. 24-3),
- Spain (art. 24-3),
- Italy (art. 25-3),
- Sweden (art. 24-4).

Germany

Pension commitment

(a) Since the pension commitment is not externally funded, contributions to pension schemes resident in other member states can only be understood in the way that the employer is resident in another member state. The tax deductibility in principle depends on the tax regulations of the other member state, assumed the employee is still employed with the employer resident in the other member state. In case the employee has been posted to a German subsidiary of a parent company resident in the other member state, the "contributions" should be tax deductible in Germany – either in form of a charge by the parent company or in form of the assumption of a hidden capital contribution.

(b) N/A.

(c) N/A.

Pension fund

(a) Yes (see answer to question 7 (a)), assumed the foreign pension scheme is comparable to a pension fund.

(b) Yes (see answer to question 7 (b)), assumed the foreign pension scheme is comparable to a pension fund.

(c) N/A.

Relief fund

(a) Yes.
(b) No.
(c) N/A.

Life insurance

(a) Yes. The employer can deduct the contributions made on behalf of his employees as business expenses. In addition, the employees can claim a deduction as special purpose expenses ("sonderausgaben") of the employer contributions within their personal income tax returns. Please note in this context that the consideration of these expenses is limited to thresholds, which are normally already covered by mandatory social security contributions. In case the employer contributions will benefit from the flat rate taxation (see answer to question 11), a consideration within the income tax return will be denied.

(b) Yes.
(c) N/A.

Ireland

(a) Yes.
(b) Yes.
(c) Yes.

Italy

Up to 31.12.2000

(a) Contributions to pension schemes resident in other member states by employers are not deductible.
(b) Contributions to pension schemes resident in other member states by employees are not deductible.
(c) Contributions to pension schemes resident in other member states by self-employed taxpayers are not deductible.

As from 01.01.2001

(a) Contributions to pension schemes resident in other member states by employers are not deductible.
(b) Contributions to pension schemes resident in other member states by employees are not deductible.
(c) Contributions to pension schemes resident in other member states by self-employed taxpayers are not deductible.

Luxembourg

(a) Yes.
(b) Yes within the limit of LUF 48.000.
(c) Yes within the limit of LUF 48.000.

Netherlands

(a) No.
(b) No.
(c) No.

Portugal

(a) No.
(b) No.
(c) No.

Spain

Even though there is not specific prohibition the deduction is not actually possible.

United Kingdom

For tax exempt retirement schemes the fundamental conditions are that the scheme must be established in connection with a UK trade and that there is a UK resident who will be responsible for carrying out statutory duties in connection with the administration of the scheme.

Otherwise there is no reason why the scheme should not be resident overseas to enjoy tax deductions under (a) and (b) (following approval).

As regards deductibility of contributions by migrant workers to unapproved schemes there is no statutory or regulatory tax relief but by concession if the Inland Revenue is satisfied that the overseas scheme is similar to UK approved superannuation funds relief will be given.

(c) Yes, if an EC insurance company but contributions to a personal pension scheme established by the EU insurance company must carry on long term business or provide long term insurance in the UK.

10. If the answer to Question 9 is yes, is deductibility because of a double tax treaty. If yes, please specify EU treaties; if no, please explain.

Austria

Pension commitment

See 9. Above; no tax treaties are involved.

Pension fund

Deductibility is based on Austrian domestic law. No double taxation treaty concluded by Austria contains a provision concerning the deductibility of "contributions".

Relief fund

Domestic law – no treaty involved.

Life insurance

N/A.

Belgium

N/A.

Finland

No.

France

See question 3 above.

Germany

Pension commitment

See response to 9 (a). As a matter of fact, no double taxation treaty concluded by Germany contains a provision concerning the deductibility of "contributions". Only the subsequent distributions are covered.

Pension fund

The deductibility will be achieved by applying the general German tax provisions, and not because of a double taxation treaty. As a matter of fact, no double taxation treaty concluded by Germany contains a provision concerning the deductibility of "contributions". Only the subsequent distributions are covered.

Relief fund

The deductibility will be achieved by applying the general German tax provisions, and not because of a double taxation treaty. As a matter of fact, no double taxation treaty concluded by Germany contains a provision concerning the deductibility of contributions. Only the subsequent distributions are covered.

Life insurance

The deductibility will be achieved by applying the general German tax provisions, and not because of a double taxation treaty. As a matter of fact, no double taxation treaty concluded by Germany contains a provision concerning the deductibility of contributions. Only the subsequent distributions are covered.

Ireland

Allowed under general principles once scheme approved.

Italy

Up to 31.12.2000

N/A.

As from 01.01.2001

N/A.

Luxembourg

No.

Netherlands

N/A.

Portugal

N/A.

Spain

N/A.

United Kingdom

Deductibility arises out of the general law and regulations and concessionary treatment and not out of double tax treaties.

11. Are contributions made by employers to a pension scheme in respect of an employee taxed in the hands of the employee at or about the time of making the contribution.

Austria

Pension commitment

This type of pension schemes is a deferred compensation. The setting up of a provision in the books of the employer is not taxable to the employee.

Pension fund

No if it is a qualifying pension scheme.

Relief fund

No, contributions to a relief fund are generally not made in respect of a specific employee.

Life insurance

Payment of insurance premiums by the employer are fully taxable to the employee except for an ATS 4.000 / Euro 291 exemption.

Belgium

No as for that contributions to group insurance contracts or pension funds are concerned. It may happen however that the tax authorities disregard schemes by which companies apparently insure themselves against the risk of decease or departure of their managers, when the advantages are passed on the manager himself. In some case, the contract will be considered as being definitively acquired, f.i. if the advantages are not withdrawn by grove fault, or if an important premium is paid instead an increase of remuneration. Taxation as professional income is then entailed.

Finland

An employer is liable to impose a payroll withholding tax on contributions from an employee, as far as contributions would be considered as an earned income. Withholding taxes are imposed on the basis of paying of contributions.

France

The tax treatment of supplementary pension schemes made by employers on behalf of their employees depends on their characteristics.

Supplementary pension scheme with fixed contributions

If the contributions are fixed, these contributions are exempt from income tax for the employees. However, if the total of the compulsory contributions and voluntary additional contributions to pension schemes paid by the employer for an employee exceed an amount equal to 19% of eight times the ceiling of National Security (268 128 F for the Y2K)), the surplus is included in the employee 's income subject to income tax.

Supplementary pension scheme with fixed pensions

If the pensions are fixed, these contributions are exempt from income tax for the employees.

Germany

Pension commitment

Since the pension promise is a deferred taxation scheme, the "contributions" (funding) are not taxable in the hands of the employees at the time they will be made.

Pension fund

Since the pension fund is not a deferred taxation scheme, the employer contributions are taxable in the hands of the employees at the time they will be made. In principle, they will be subjected to income tax, solidarity surcharge thereon and church tax (if applicable).

A special tax regime is available in case the employer contributions do not exceed DM 3,408 per annum for each employee. In this case, German income tax can be optionally levied at a flat rate of 20%.

Relief fund

Since the relief fund is a deferred taxation scheme, the employer contributions are not taxable in the hands of the employees at the time they will be made.

Life insurance

Since the life insurance is not a deferred taxation scheme, the employer contributions are taxable in the hands of the employees at the time they will be made. In principle, they will be subject to income tax, solidarity surcharge thereon and church tax (if applicable). A special tax regime is available in case the employer contributions do not exceed DM 3,408 per annum for each employee. In this case, German income tax can be optionally levied at a flat rate of 20%.

Ireland

No.

<u>*Italy*</u>

Up to 31.12.2000

Contributions made by employers to a pension scheme in respect of an employee are not taxed in the hands of the employee, at or about the time of making the contribution, for an amount not exceeding 2% of the employment income and in any case for an amount not exceeding Lit. 2.500.000 (Euro 1.291).

As from 01.01.2001

Contributions made by employers to a pension scheme in respect of an employee are not taxed in the hands of the employee, at or about the time of making the contribution, for an amount not exceeding 12% of employment income and in any case for an amount not exceeding Lit. 10.000.000 (Euro 5.164).

<u>*Luxembourg*</u>

Cf. 4.a.).

<u>*Netherlands*</u>

Contributions by employers are taxed at employees-level if pension is paid to employee.

<u>*Portugal*</u>

Contributions made by employers to a pension scheme in respect of an employee are not taxed in the hands of the employee, at or about the time of making the contribution, for an amount not exceeding 15% of the salaries and wages paid by the employer.

Spain

In principle, not, but a clarification must be done:

- When the contribution is done, it receives the treatment of payment in kind and it must be included in the taxable base.

- As we have explained in point 2, the same amount is deductible of the taxable base if certain limits are not surpassed. It is not reasonable to suppose that the quantitative limit (7212.15€ in the standard case) is going to be surpassed because the Pension Fund cannot admit contributions over this limit. But the percent limit (20% in the standard case) could be broken and, in this case, the taxpayer is effectively taxed in his income tax.

<u>*United Kingdom*</u>

Not in respect of contributions to approved funds.

12. Is the tax treatment of an employer's contribution as in Question 11 different if the pension scheme is resident or non-resident.

Austria

Pension commitment

No.

Pension fund

Yes. Contributions to non-resident pension fund will generally be taxable to the employee.

Relief fund

Yes; contributions by the employer to a non-resident scheme are not taxable to the employee only if the employee does not derive a specified (allocable) benefit out of the employer's contribution. If the contribution creates a specific (allocable) benefit then the employee is usually taxed at the time the employer makes the contribution.

Life insurance

No.

Belgium

That possibility is out of scope (see above, answer to question 9).

Finland

No, but in the case where an insurance has been taken out a foreign insurance company, employer is liable to impose withholding tax, because the contributions to the individual voluntary pension insurance scheme paid by the employer are regarded as earned income of the insured, if the insurance has been taken out at a foreign insurance company. A pension insurance is regarded as taken out in Finland if it has been granted by a permanent establishment of a foreign company situated in Finland.

France

There is no specific provisions in French tax law.

Germany

Pension commitment

No.

Pension fund

No, i.e. the contributions to a non-resident pension fund are in principle fully taxable at the time the contributions will be made. The application of the special tax regime depends on the question whether the non-resident pension fund is comparable to a German pension fund.

Relief fund

No, assumed the foreign pension scheme is comparable to a relief fund.

Life insurance

No, i.e. the contributions to a non-resident life insurance are in principle fully taxable at the time the contributions will be made. The application of the special tax regime depends on the question whether the non-resident pension fund is comparable to a German pension fund.

Ireland

No.

Italy

Up to 31.12.2000

Yes it is. If the pension scheme is non-resident contributions are fully taxable as employment income.

As from 01.01.2001

Yes it is. If the pension scheme is non-resident contributions are fully taxable as employment income.

Luxembourg

No.

Netherlands

No.

Portugal

That possibility is out of scope (see above, answer to question 9).

Spain

Even though there is not specific prohibition, the described treatment is not actually possible.

United Kingdom

If the fund is non-resident and is not an approved exempt fund (in respect of a UK trade with a UK resident administration etc) and is not a payment to which a concession applies (payment by migrant employee to non-resident fund similar to UK pension fund) then the payment will be to an "unapproved retirement scheme" and the contribution will be taxable in the hands of the employee.

13. As regards the taxation of pensioners:

(a) at what time is the pension benefit taxable;

(b) how are the benefits treated, eg as employment income of a pensioner formerly an employee;

(c) what are the tax advantages, if any, available in respect of payments to pensioners.

Austria

Pension commitment

(a) At the time the employee receives the pension payments.

(b) The pension benefits are taxed as subsequent employment income, i.e. as employment income of a pensioner who was formerly an employee. As a consequence, they are fully subjected to Austrian income tax (to be withheld by the employer). Pensions paid by the employer are, however, not subject to social security contributions and employers payroll taxes.

(c) There are generally no significant tax advantages with regard to payments to the employee; the employee will be fully taxable with the pension payments at ordinary rates as employment income

- There is a ATS 5.500 (Euro 400) tax exemption p.a.; the exemption does not apply if the pension exceeds ATS 300.000 (Euro 21.800) p.a.
- One-time payments in settlement of a pension obligation are taxed at half the regular income tax rate but only to the extent that such payments do not exceed ATS 120.000 (Euro 8.721). Special transitional provisions apply for the year 2001.

Pension fund

(a) At the time the pension is paid.
(b) Taxed as employment income; no social security contributions or employer payroll taxes payable
(c) There are no specific tax advantages available for the pensioners.

Relief fund

(a) At the time when the employee receives payments out of the fund.

(b) Benefits are treated as employment income.
(c) No specific benefits.

Life insurance

(a) Benefits out of a life insurance become taxable after the payments exceed the capitalised value according to § 16 (2) BewG.

A one-time payment to the policyholder in settlement of all claims under a life insurance policy (buy back of the insurance policy by the insurer) is tax exempt if the insurance policy was taken out more than 10 years before the settlement date.

(b) Other income.
(c) There are no further tax advantages available.

Belgium

(a) Pensions are taxed when they are obtained, at the rate applicable to the taxpayer's aggregate income. Nevertheless, a tax allowance is granted, the amount of which is fixed in such a way that if the sole income is a pension, not exceeding the unemployment allocation, no tax will be due.

The taxation of lump sum payments is as follows: a tax of 10 % is levied on the part attributable to personal contributions; 16,5 % on the part attributed to employer's contributions; those rates apply only if the capital sum is paid at the normal retirement date, or prior to that date, during one of the five years preceding, or at the early retirement ("prépension/brugpensioen") or if the beneficiary deceases. If the disposition of the benefits occurs before one of these events, the rates will be: on the part attributed to personal contributions: 33%; on the part attributed to employer's contributions: the marginal rate.

(b) See answer to point (a).

(c) See answer to question (a).

Finland

(a) and (b) The insured-based pension will not be paid before the age of 60 years. Pension payments will be paid during the pension years as normal earned income. Payments of a continuous pension are an item of earned income in tax years when insurance-based pension has been paid.

(c) N/A.

France

The tax advantages available in respect of payment to a pensioner are those granted to all pensions received by all former employees ie an allowance for costs equal to 10% of the taxable income (minimum: 2050 F by pensioner ; ceiling : 20 100 F by household) and a general 20% reduction granted to income declared by third parties.

Germany

Pension commitment

(a) At the time of its distribution, which is /starts normally at retirement date.

(b) The pension benefits are taxed as subsequent employment income, i.e. as employment income of a pensioner who was formerly an employee. As a consequence, they are fully subjected to German income tax, solidarity surcharge thereon and church tax (if applicable).

(c) It will be granted a special tax-free allowance of 40% of the pension, limited to DM 6,000 in total per annum. If the pension is paid out in one lump sum, a special tax regime is available. It provides for a taxation with an average income tax rate for income derived for a period of more than one year in order to reduce the progressive effect of the German income tax.

Pension fund

(a) At the time of contribution, the contributions will be subjected to tax. Hence the later distributions at retirement date will not be taxed, if made in one lump sum, or only on their interest part, if paid out in form of annuities.

(b) The pension benefits are taxed as other income since already the contributions have been taxed as an employment income. Due to the fact that other income only prevails in case the income recurs, a lump sum distribution will not be taxable, whereas in case of annuities the interest part will be subjected to German income tax, solidarity surcharge thereon and church tax (if applicable).

(c) There are no further tax advantages available for the pensioners.

Relief fund

(a) At the time of its distribution, which is /starts normally at retirement date.

(b) The pension benefits are taxed as subsequent employment income, i.e. as employment income of a pensioner formerly an employee. As a consequence, they are fully subjected to German income tax, solidarity surcharge thereon and church tax (if applicable).

(c) It will be granted a special tax-free allowance of 40% of the pension, limited to DM 6,000 in total per annum. If the pension is paid out in one lump sum, a special tax regime is available. It provides for taxation with an average income tax rate for income derived for a period of more than one year in order to reduce the progressive effect of the German income tax.

Life insurance

(a) At the time of contribution, the contributions will be subjected to tax. Hence the later distributions at retirement date will not be taxed, if made in one lump sum, or only on their interest part, if paid out in form of annuities.

(b) The pension benefits are taxed as other income since already the contributions have been taxed as employment income. Due to the fact that other income only prevails in case the income recurs, a lump sum distribution will not be taxable, whereas in case of annuities the interest part will be subjected to German income tax, solidarity surcharge thereon and church tax (if applicable).
(c) There are no further tax advantages available for the pensioners.

Ireland

(a) When received.
(b) As employment income.
(c) Lump sum at time of retirement tax free subject to limits..

Italy

Up to 31.12.2000

(a) The pension benefit is taxable on payment.
(b) The benefits of a pensioner formerly an employee are treated as follows:

- benefit paid out in the form of capital:
    - the amount not exceeding the 50% of the total pension benefit is taxed "separately" on the basis of the average of the taxable income declared in the five-year previous period. Consequently it is not aggregated with other income which is taxed at the regular graduated rates;
    - the excess amount is taxed as ordinary employment income;
- benefit paid out in the form of financial return:
    - 87,5% is taxed as ordinary employment income;
    - 12,5% is exempt.

(c) There are not tax advantages available in respect of payments to pensioners.

As from 01.01.2001

(a) The pension benefit is taxable on payment.
(b) The benefits of a pensioner formerly an employee are treated as follows:

- benefit paid out in the form of capital, which in any case has not to exceed 1/3 (one third) of the total pension benefit, has to be divided into three parts:
    - the one corresponding to contributions which were deducted during the pension scheme is taxed "separately" on the basis of the average of the taxable income declared in the five-year previous period. Consequently it is not aggregated with other taxable income which is taxed at the regular graduated rates;

- the one corresponding to contributions which were not deducted during the pension scheme is exempt;

- the excess amount is taxed as ordinary employment income.

- benefit paid out in the form of financial return, which in any case can not be lower than 50% of the total pension benefit, has to be divided into three parts:

  - the part corresponding to the financial return earned by the pension fund is exempt since it was subject to the 11% “substitute tax” vis a vis the pension fund;

  - the part corresponding to contributions which were not deducted during the pension scheme is exempt as well;

  - the excess amount is taxed as ordinary employment income.

(c) There are not tax advantages available in respect of payments to pensioners.

Luxembourg

(a) at the time the employer pays the contribution.
(b) contributions are considered as salary.
(c) no taxation on pensions received later. Tax withheld under 4.a.) is deductible with the beneficiary up to LUF 48.000 per year.

Netherlands

(a) At the time of payment of the pension the full pension is taxed at the receiver (pensioner/ex-employee).
(b) Pension is being treated as former-employee income.
(c) Pensioners do not pay premiums for State pensions.

Portugal

(a) At the time the pension is paid.
(b) At the rate applicable to the taxpayer’s aggregate income. Nevertheless, a tax allowance is granted, the amount of which is fixed in such a way that if the sole income is a pension.
(c) There are no specific tax advantages available for the pensioners.

Spain

The benefit is taxed when collected by the pensioner.

Pension plan benefits are treated as employment income, however, when the benefit is paid as a lump sum, the pensioner will reduce the gross income in 40% (if the contribution is minimum 2 years old).

United Kingdom

(a) pensions are taxable at pensionable age in terms of the contract and on payment of the pension.
(b) as employment income.
(c) lump sum payments up to certain limits (eg 25% of the fund in respect of personal pension contracts of the self-employed) are payable tax free.

14. Is the taxation of pensioners in Question 13 different if the pension scheme is non-resident.

Austria

Pension commitment

No.

Pension fund

If the employer pension contributions to the non-resident pension fund were made under a statutory legal obligation (and the contributions were therefore not taxable to the employee) then the pension received is fully taxable to the employee as employment income (income from a previous employment).

If, however, the employer contributions to the non-resident fund were taxable in Austria (because the contributions are not based on a statutory legal obligation) then only 25% of the payments received from the non-resident fund are taxed under domestic law (§ 25 Z.2 b EStG); whether there is actually a tax in Austria depends also on the provisions of applicable tax treaties.

Relief fund

Generally not different (taxable as income from employment).

Life insurance

No.

Belgium

That possibility is out of scope (see above, answer to question 9).

Finland

If pension payments are paid to abroad the width of Finland's taxing right in the case in question is defined by a possible tax treaty. According to the most of the tax treaties the payments of voluntary pension insurances are taxed in the country of residence.

France

There is no specific provision in French tax law.

Germany

Pension commitment

No.

Pension fund

No, as far as German taxes are concerned. There might be other tax issues in the country of which the pension fund is resident of, however.

Relief fund

No, assumed the foreign pension scheme corresponds to a relief fund.

Life insurance

No.

Ireland

No.

Italy

Up to 31.12.2000

Yes it is. The taxation of pensioners in Question 13 is different if the pension scheme is non-resident since the benefits of a pensioner formerly an employee are taxed as an ordinary employment income.

As from 01.01.2001

The taxation of pensioners in Question 13 is different if the pension scheme is non-resident since the benefits of a pensioner formerly an employee are taxed as an ordinary employment income.

Luxembourg

No.

Netherlands

No.

Portugal

That possibility is out of scope (see above, answer to question 9).

Spain

Yes, since only those plans registered in Spain qualify as "pension plans."

United Kingdom

The position in Questions 13 and 14 would be the same except that the lump sum exemption would not be available (this assumes that the non-resident scheme is not in fact an approved exempt scheme).

15. Is the taxation of pensioners in Question 13 different if the employment in respe ct of which the pension is payable was exercised in another EU state.

Austria

Pension commitment

There is no difference under Austrian domestic law. A pensioner resident in Austria receiving a pension from an employer not resident in Austria will in principle be fully taxable in Austria. The actual tax treatment depends on the applicable tax treaty (if any).

Pension fund

Generally not, but this depends on the applicable tax treaty.

Relief fund

No (subject to provisions in applicable tax treaties).

Life insurance

N/A.

Belgium

The application of the rates of 10 % and 33 % on the part of capital sums which are attributable to personal contributions are made conditional on the payments of the contributions in the hands of an insurance company or a pension fund located in Belgium. Whether the employment was exercised in Belgium or in another EU State is irrelevant.

As for the application of the rate of 16,5 %, there is no such condition that the contributions would have been paid in the hands of an insurance company or a pension fund located in Belgium. Whether the employment was exercised in Belgium or in another EU State is also irrelevant.

Finland

No. See answer to question 14.

France

There is no specific provision in French tax law.

Germany

Pension commitment

The answer to this question mainly depends on the classification of the pension under the applicable double taxation treaty. If the pension will be subsumed under Art. 15 (employment income) the right to tax the pension will be solely attributed to the state in which the former employment was exercised. However, if the pension is classified a pension (Art. 18) in the sense of the applicable treaty, the state in which the (former) employee is resident of at the time of receipt will have the sole right to tax the pension.

Assumed a German pensioner will receive a pension out of another EU member state, the right to tax the pension should be attributed to Germany, even in case the former employment was exercised in another EU member state. According to the leading German commentaries of double taxation treaties, for simplification reasons any pension should fall under the scope of Art. 18, even if the underlying employment generated employment income in another (the employment) state. The only requirement to be fulfilled is that the recipient actually is retired and does no longer work. In case the recipient is unemployed or changed from dependent services to independent services, the pension will not be qualified as a pension in the sense of the treaty, but as employment income instead. Hence the right to tax the income will be switched to the state in which the former employment was performed.

Pension fund

The answer to this question mainly depends on the qualification of the pension paid by the pension fund. According to one of the leading commentaries on double taxation treaties payments made by a pension fund should not qualify as a pension in the sense of Art. 18 of the OECD Model Convention, but as other income in the sense of Art. 11 of the OECD Model Convention. This view is based on the fact that the underlying contributions have already been taxed as employment income. Hence any benefit distributed by the pension fund is regarded as part of the private property sphere of the employee. The different qualification of the payment (compared to the pension commitment, relief fund) does not lead to a different result, however: The right to tax the income will be attributed to the residence state of the recipient.

Relief fund

The answer to this question mainly depends on the classification of the pension paid out of the relief fund under the applicable double taxation treaty. If the pension will be subsumed under Art. 15 (employment income) the right to tax the pension will be solely attributed to the state in which the former employment was exercised. However, if the pension is classified a pension (Art. 18) in the sense of the applicable treaty, the state in which the (former) employee is resident of at the time of receipt will have the sole right to tax the pension.

Assumed a German pensioner will receive a pension out of another EU member state, the right to tax the pension should be attributed to Germany, even in case the former employment was exercised in another EU member state. According to the leading German commentaries of double taxation treaties, for simplification reasons any pension should fall under the scope of Art. 18, even if the underlying employment generated employment income in another (the employment) state. The only requirement to be fulfilled is that the recipient actually is retired and does no longer work. In case the recipient is unemployed or changed from dependent services to independent services, the pension will not be qualified as a pension in the sense of the treaty, but as employment income instead. Hence the right to tax the income will be switched to the state in which the former employment was performed.

Life insurance

The answer to this question mainly depends on the qualification of the pension paid out of the life insurance. According to one of the leading commentaries on double taxation treaties payments made by a pension fund should not qualify as a pension in the sense of Art. 18 of the OECD Model Convention, but as other income in the sense of Art. 11 of the OECD Model Convention. This view is based on the fact that the underlying contributions have already been taxed as employment income. Hence any benefit distributed by the pension fund is regarded as part of the private property sphere of the employee. The different qualification of the payment (compared to the pension commitment, relief fund) does not lead to a different result, however: The right to tax the income will be attributed to the residence state of the recipient.

Ireland

No.

<u>Italy</u>

Up to 31.12.2000

The taxation of pensioners in Question 13 is not different if the employment in respect of which the pension is payable was exercised in another EU state providing that the Italian pension fund continues getting contributions after the transfer of the employees abroad; in other words providing that the pension scheme goes on in the same way as it was before the transfer of the employees abroad.

As from 01.01.2001

The taxation of pensioners in Question 13 is not different if the employment in respect of which the pension is payable was exercised in another EU state providing that the Italian pension fund continues getting contributions after the transfer of the employees abroad; in other words providing that the pension scheme goes on in the same way as it was before the transfer of the employees abroad.

Luxembourg

No.

Netherlands

Pensions are generally taxed in the State of living at the moment of receival of the pension. Pensions for former government employees can be taxed in the State of origin (art. 19 Dutch Standard Tax Treaty).

Portugal

Generally not, but this depends on the applicable tax treaty.

Spain

Spanish law does not provide for any difference with respect to the place of employment; however, in practice, given that only plans registered in Spain qualify as "pension plans", the pension benefits only apply to "Spanish employment" since it is not frequent that "non-Spanish employment" uses a pension plan registered in Spain (except in cases of expatriates of Spanish companies).

United Kingdom

Under most double tax treaties pensions are taxable where the pension is received and not where it originates. Pensions received in the UK from EU states will be taxed in the same way as UK pensions from UK sources.

QUESTIONNAIRE ON TAXATION OF THE PENSION FUNDS IN THE EU (ANSWERS FROM ACCESSION COUNTRIES - SLOVENIA)

TYPES OF PENSION SCHEME

1. What types of supplementary pension schemes are commonly used in your country

Voluntary contributions by employers and employees.

QUALIFYING PENSION SCHEMES

2. To enjoy tax benefits is it necessary for the pension scheme:

(a) to conform to legislation, or

(b) to be approved by the national fiscal authority, or

(c) to conform to legislation and to be approved by the national fiscal authority.

To conform to legislation and to be approved by the national fiscal authority.

3. To enjoy tax benefits is it a condition that the pension scheme is resident in the state.

Yes.

PENSION SCHEME TAX ADVANTAGES

4. Is a qualifying pension scheme of the separate pension fund type exempt from:

(a) income taxes

(b) capital taxes

(a) Yes.
(b) Yes.

(in limited amounts of min. 3.000,00 SIT and max. 30.000,00 SIT, but supplementary contributions per month can’t be more than 24% of obligatory pensions contributions)

5. Does a qualifying pension scheme of the separate pension fund type enjoy other tax advantages.

No.

6. If you have answered yes to Question 5, briefly describe the tax advantages.

N/A.

7. What tax advantages, if any, are enjoyed by qualifying pension schemes which are not of the separate pension fund type.

None.

CONTRIBUTIONS TO QUALIFYING PENSION SCHEMES

8. Are the following contributions to resident qualifying pension schemes tax deductible:

- **(a) contributions by employers**
- **(b) contributions by employees**
- **(c) contributions by self-employed taxpayers.**

Yes, the three of them, but in limited amount mentioned in question 4.

9. Are the following contributions to pension schemes resident in other member states tax deductible:

- **(a) contributions by employers**
- **(b) contributions by employees**
- **(c) contributions by self-employed taxpayers**

(a) No.
(b) No.

(c) No.

10. If the answer to Question 9 is yes, is deductibility because of a double tax treaty. If yes, please specify EU treaties; if no, please explain.

N/A.

TAXATION OF CONTRIBUTORS AND OF PENSIONERS

11. Are contributions made by employers to a pension scheme in respect of an employee taxed in the hands of the employee at or about the time of making the contribution.

Yes.

12 Is the tax treatment of an employer's contribution as in Question 11 different if the pension scheme is resident or non-resident.

Just resident pension scheme is acceptable.

13. As regards the taxation of pensioners:

- **(d) at what time is the pension benefit taxable;**
- **(e) how are the benefits treated, eg as employment income of a pensioner formerly an employee;**
- **(f) what are the tax advantages, if any, available in respect of payments to pensioners.**

(a) at the time of paying out.
(b) benefits are treated as employment income of a pensioner formerly an employee but pensioner has some additional tax relief.
(c) the pensioners over 65 years has a tax relief in amount of 8% of the average year payment of employees in Slovenia. The other kinds of tax relief are the same as for employees income.

14. Is the taxation of pensioners in Question 13 different if the pension scheme is non-resident.

Non-resident pension scheme is not acceptable.

15. Is the taxation of pensioners in Question 13 different if the employment in respect of which the pension is payable was exercised in another EU state.

Legislation about personal income tax is in process of changing because of its accommodation to new pension system in Slovenia.