

# **An award for injury to feelings for discrimination in connection with termination was taxable as a termination payment**

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**An award for injury to feelings for discrimination in connection with termination was taxable as a**

# termination payment

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A Tribunal has held that a payment made to a claimant on the termination of his employment which related to discrimination and injury to feelings was taxable as a termination payment because it was connected with termination.

Income tax is payable on payments and other benefits received in connection with the termination of an individual's employment in excess of £30,000. However, compensation for discrimination which is linked to discrimination occurring prior to the termination of employment is wholly exempt from tax.

Mr Moorthy brought proceedings against his former employer for unfair dismissal and age discrimination. The proceedings were settled and Mr Moorthy received £200,000 "in compensation for loss of office and employment". Mr Moorthy informed HMRC that he did not believe that the payment was taxable. HMRC opened a formal enquiry and in August 2013 issued a notice stating that save for the first £30,000, the remainder was taxable.

The employee appealed HMRC's decision. The Tribunal held that that the payment was taxable as HMRC had set out. It based its decision on the fact that it was a payment made in connection with the termination of the claimant's employment. It held that regardless of whether part of the payment was also to compensate the claimant for discrimination, unfair dismissal, redundancy or other financial or non-financial loss was immaterial; because it was in connection with the termination of Mr Moorthy's employment, it was taxable. The tribunal

accepted that some compensation payments can be made which are not in connection with a termination and that these will not normally be taxable but this was not applicable in Mr Moorthy's case.

*Moorthy v HMRC [2014] UKFTT 834*

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