



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 4

REGISTERED PENSION SCHEMES: TAX RELIEFS AND EXEMPTIONS

Employers' contributions

196 Relief for employers in respect of contributions paid

- (1) This section makes provision about an employer's entitlement to relief in respect of contributions paid by the employer under a registered pension scheme in respect of any individual.
- (2) For the purposes of Case I or II of Schedule D—
 - (a) the contributions are to be treated as not being payments of a capital nature to the extent that they otherwise would be, and
 - (b) if they are allowed to be deducted in computing the amount of the profits of the employer, they are deductible in computing the amount of the profits for the period of account in which they are paid.
- (3) For the purposes of section 75 of ICTA (expenses of management: companies with investment business), the contributions—
 - (a) are to be treated as being expenses of management to the extent that they otherwise would not be, and
 - (b) are referable to the accounting period in which they are paid.
- (4) For the purposes of section 76 of ICTA (expenses of insurance companies), the contributions—

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- (a) are to be brought into account at Step 1 in subsection (7) of that section to the extent that they otherwise would not be, and
 - (b) are referable to the accounting period in which they are paid.
- (5) The references in this section to contributions include minimum payments under—
- (a) section 8 of the Pension Schemes Act 1993 (c. 48), or
 - (b) section 4 of the Pension Schemes (Northern Ireland) Act 1993 (c. 49),
- other than any part recovered from a member of the pension scheme under regulations made under subsection (3) of either of those sections.
- (6) This section is subject to sections 197 and 198 (spreading of relief) (and to transitional provision contained in Part 4 of Schedule 36).

197 Spreading of relief

- (1) This section applies where—
- (a) contributions are paid by an employer under a registered pension scheme in two consecutive chargeable periods (“the previous chargeable period” and “the current chargeable period”), and
 - (b) the amount of the contributions paid in the current chargeable period otherwise than for an excepted purpose (“CCCP”) exceeds 210% of the amount of the contributions paid in the previous chargeable period (“CPCP”).
- (2) Relief under section 196 (relief for employers in respect of contributions paid) is to be given in respect of so much of CCCP as exceeds 110% of CPCP (“the amount of the relevant excess contributions”) in accordance with subsections (4) and (5).
- (3) But subsection (2)—
- (a) does not apply if the amount of the relevant excess contributions is less than £500,000, and
 - (b) has effect subject to section 198 (cessation of business).
- (4) A fraction of the whole of the amount of the relevant excess contributions is to be treated for the purposes of section 196 as if it had been paid in the chargeable period, or in each of the two or three chargeable periods, immediately after the current chargeable period (leaving only the remainder to be treated as paid in the current chargeable period).
- (5) The following table specifies (by reference to the amount of the relevant excess contributions)—
- (a) the fraction of the whole of the amount of the relevant excess contributions which is to be treated as paid in the chargeable period, or in each of the two or three chargeable periods, immediately after the current chargeable period, and
 - (b) the chargeable period or periods in which it is to be treated as paid.

<i>AMOUNT OF THE RELEVANT EXCESS CONTRIBUTIONS</i>	<i>FRACTION AND CHARGEABLE PERIOD OR PERIODS</i>
500,000 or more but less than 1,000,000	One-half of the whole of the amount of the relevant excess contributions is to be treated as paid in the chargeable period immediately after the current chargeable period

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<i>AMOUNT OF THE RELEVANT EXCESS CONTRIBUTIONS</i>	<i>FRACTION AND CHARGEABLE PERIOD OR PERIODS</i>
1,000,000 or more but less than 2,000,000	One-third of the whole of the amount of the relevant excess contributions is to be treated as paid in each of the two chargeable periods immediately after the current chargeable period
2,000,000 or more	One-quarter of the whole of the amount of the relevant excess contributions is to be treated as paid in each of the three chargeable periods immediately after the current chargeable period

- (6) Subsection (7) specifies for the purposes of subsection (1) when contributions paid by the employer in the current chargeable period are paid for an excepted purpose.
- (7) They are paid for an excepted purpose if paid with a view to funding—
- (a) an increase in the amount of pensions paid to pensioner members of the pension scheme to reflect increases in the cost of living, or
 - (b) benefits which may accrue under the pension scheme to or in respect of individuals who become members of the pension scheme in the current chargeable period as a result of future service as employees of the employer.
- (8) Where the previous chargeable period and the current chargeable period are not of equal length, this section has effect as if CPCP were the amount it would otherwise be as adjusted by being multiplied by the appropriate factor.
- (9) The appropriate factor is—
- $$\frac{\text{DCCP}}{\text{DPCP}}$$

where—

DCCP is the number of days in the current chargeable period, and
DPCP is the number of days in the previous chargeable period.

- (10) In this section “chargeable period” means—
- (a) in a case where the contributions are deducted in computing profits to be charged under Case I or II of Schedule D, a period of account, and
 - (b) in a case where relief in respect of the contributions is given under section 75 or 76 of ICTA (expenses of management: companies with investment business and expenses of insurance companies), an accounting period.

198 Spreading of relief: cessation of business

- (1) This section applies if—
- (a) the employer ceases to carry on business in the current chargeable period or a later chargeable period in which section 197(4) would require a fraction of the amount of the relevant excess contributions to be treated as paid, and
 - (b) were section 197(4) to apply, relief in relation to the whole of the amount of the relevant excess contributions would not be given pre-cessation.

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- (2) Relief is given pre-cessation if it is given for the chargeable period in which the employer ceases to carry on business or any earlier chargeable period.
- (3) The portion of the amount of the relevant excess contributions in relation to which relief would not have been given pre-cessation (“the unrelieved portion”) is to be treated as paid (at the option of the employer) either—
- (a) in the chargeable period in which the employer ceases to carry on business, or
 - (b) as provided by subsection (4).
- (4) This subsection provides that the amount determined under subsection (5) is to be treated as paid on each day in the period—
- (a) beginning with the current chargeable period, and
 - (b) ending with the day on which the employer ceases to carry on business, (“the relevant period”).
- (5) The amount referred to in subsection (4) is—
- $$\frac{UP}{DRP}$$
- where—
- UP is the amount of the unrelieved portion, and
- DRP is the number of days in the relevant period.
- (6) Expressions used in this section and section 197 have the same meaning in this section as in that section.

199 Deemed contributions

- (1) This section applies where a sum is paid to the trustees or managers of a registered pension scheme by an employer in or towards the discharge of any liability of the employer under—
- (a) section 75 of the Pensions Act 1995 (c. 26)(deficiencies in the assets of a pension scheme), or
 - (b) Article 75 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) (corresponding provision for Northern Ireland).
- (2) The making of the payment is to be treated for the purposes of—
- (a) Case I and II of Schedule D,
 - (b) section 75 of ICTA (expenses of management: companies with investment business), and
 - (c) section 76 of ICTA (expenses of insurance companies),
- as if it were the payment of a contribution by the employer under the pension scheme.
- (3) Subsections (4) and (5) apply if the employer’s trade, profession, vocation or business is discontinued before the making of the payment.
- (4) The payment is to be relieved—
- (a) to the same extent as it would have been but for the discontinuance, and
 - (b) as if it had been made on the last day on which the trade, profession, vocation or business was carried on.

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- (5) And for the purposes of section 76 of ICTA it is to be treated (to the extent that it would not otherwise be) as part of expenses payable falling to be brought into account at Step 1 in subsection (7) of that section.

200 No other relief for employers in connection with contributions

No sums other than contributions paid by an employer under a registered pension scheme—

- (a) are deductible in computing the amount of the profits of the employer for the purposes of Case I or II of Schedule D,
- (b) are expenses of management for the purposes of section 75 of ICTA (expenses of management: companies with investment business), or
- (c) are to be brought into account at Step 1 in section 76(7) of ICTA (expenses of insurance companies),

in connection with the cost of providing benefits under the pension scheme.

201 Relief for employees

- (1) In section 307(1) of ITEPA 2003 (exemption for provision made by employer for retirement or death benefit), after “employer” insert “under a registered pension scheme or otherwise”.
- (2) For section 308 of ITEPA 2003 (exemption of contributions to approved personal pension arrangements) substitute—

“308 Exemption of contributions to registered pension scheme

No liability to income tax arises in respect of earnings where an employee’s employer makes contributions under a registered pension scheme.”