
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, Cross Heading: Application and interpretation. (See end of Document for details)

SCHEDULES

SCHEDULE 13

EMPLOYER ASSET-BACKED PENSION CONTRIBUTIONS ETC

PART 2

TRANSITIONAL PROVISION RELATING TO PART 1

Application and interpretation

- 4 (1) This Part of this Schedule applies if—
- (a) before 29 November 2011, an employer (“E”) pays a contribution (“E’s contribution”) under a registered pension scheme (“the relevant scheme”),
 - (b) at any time, relief is given in respect of E’s contribution,
 - (c) if the reference in paragraph 3(2) above to 29 November 2011 were instead a reference to the date on which E’s contribution is paid, E would have no entitlement to relief in respect of E’s contribution by virtue of section 196B, 196C or 196D of FA 2004, and
 - (d) the asset-backed arrangement is not completed before 29 November 2011.
- (2) For the purposes of sub-paragraph (1)(c) section 196F of FA 2004 is to be ignored.
- 5 For the purposes of this Part of this Schedule—
- (a) terms used in section 196B, 196C or 196D of FA 2004 (as the case may be) have the same meaning as in that section, and
 - (b) as necessary, assume that section 196B, 196C or 196D of FA 2004 (as the case may be) has effect in relation to E’s contribution.
- 6 (1) This paragraph applies for the purposes of this Part of this Schedule.
- (2) Sub-paragraph (3) applies if the section which would have applied as mentioned in paragraph 4(1)(c) above is section 196B of FA 2004.
- (3) The asset-backed arrangement is “completed” when neither the lender nor any person connected with the lender is any longer entitled under the asset-backed arrangement (conditionally or unconditionally) to payments in respect of the security.
- (4) Sub-paragraph (5) applies if the section which would have applied as mentioned in paragraph 4(1)(c) above is section 196C or 196D of FA 2004.
- (5) The asset-backed arrangement is “completed”—
- (a) when the share in the partnership’s profits of the person involved in the relevant change is no longer to be determined under the asset-backed arrangement (conditionally or unconditionally) by reference (wholly or partly) to payments in respect of the security, or

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- (b) if earlier, when no responsible authority is any longer entitled (conditionally or unconditionally) to any payments in connection with the asset-backed arrangement.
- (6) In sub-paragraph (5)(b) the reference to payments are to payments of any type including drawings or distributions from a partnership, payments in respect of the security and other payments in respect of an asset (as read in accordance with section 776(4)(b) of CTA 2010).
- (7) “Responsible authority” means—
 - (a) the persons who from time to time are the trustees of the relevant scheme, or
 - (b) the persons who from time to time are the persons controlling the management of the relevant scheme,
 in their capacity as such.
- (8) A responsible authority is entitled to a payment “in connection with” the asset-backed arrangement if it is entitled to the payment directly or indirectly in consequence of the arrangement or otherwise in connection with the arrangement.
- 7 (1) In this Part of this Schedule “the completion day” means the earliest of the following—
 - (a) the day on which the asset-backed arrangement is to be completed determined as at the beginning of 29 November 2011;
 - (b) the day on which the asset-backed arrangement is actually completed;
 - (c) the day on which a completion event occurs (see sub-paragraphs (2) to (5));
 - (d) if an event falling within paragraph 8 occurs, the day on which falls the time immediately before the occurrence of the event.
- (2) To determine if a completion event occurs for the purposes of sub-paragraph (1)(c) first determine, as at the beginning of 22 February 2012, the following—
 - (a) the number of payments to be made after the beginning of 22 February 2012 to which a responsible authority is entitled in connection with the asset-backed arrangement,
 - (b) what the amounts of those payments are to be, and
 - (c) the times at which those payments are to be made.
- (3) A completion event occurs for the purposes of sub-paragraph (1)(c) if, after the beginning of 22 February 2012—
 - (a) whether as a result of a term of the asset-backed arrangement or another arrangement or otherwise—
 - (i) there is a change in the number of payments to be made from that determined under sub-paragraph (2),
 - (ii) there is a significant change in the amount of a payment to be made from that so determined, or
 - (iii) there is a significant change in the time at which a payment is to be made from that so determined,
 - (b) a payment determined under sub-paragraph (2) is not made,
 - (c) a payment determined under sub-paragraph (2) is made but its amount is significantly different from the amount so determined for the payment, or
 - (d) a payment determined under sub-paragraph (2) is made but is made at a time significantly different from the time so determined for the payment.

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- (4) In sub-paragraphs (2) and (3) references to payments are to payments of any type including drawings or distributions from a partnership, payments in respect of the security and other payments in respect of an asset (as read in accordance with section 776(4)(b) of CTA 2010).
- (5) For the purposes of sub-paragraph (3)(b) to (d) it does not matter if the event in question is authorised by a term of the asset-backed arrangement or any other arrangement or results from the occurrence or non-occurrence of another event which is so authorised.
- 8 (1) The events falling within this paragraph are those listed in sub-paragraph (2).
- But an event falls within this paragraph only if it occurs after the beginning of 21 March 2012.
- (2) The events are—
- (a) if E is a company within the charge to corporation tax when E's contribution is paid, E ceases to be within that charge;
 - (b) if E is a limited liability partnership in relation to which section 863(1) of ITTOIA 2005 or section 1273(1) of CTA 2009 applies when E's contribution is paid, that provision ceases to apply in relation to E;
 - (c) if E is a firm for the purposes of ITTOIA 2005 (see section 847) or CTA 2009 (see section 1257) (other than a limited liability partnership) when E's contribution is paid, the partnership ceases to carry on the trade, profession or business in question;
 - (d) in any case—
 - (i) if E is a company, E enters administration or the winding up of E starts;
 - (ii) if E is a partnership, the partnership is dissolved;
 - (iii) if E is an individual, E dies.
- (3) Sections 10(3) and 12(7) of CTA 2009 apply for the purposes of sub-paragraph (2)(d)(i).

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