



# Finance Act 2004

## 2004 CHAPTER 12

### PART 4

#### PENSION SCHEMES ETC

### CHAPTER 4

#### REGISTERED PENSION SCHEMES: TAX RELIEFS AND EXEMPTIONS

**Modifications etc. (not altering text)**

C9 Pt. 4 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 35 para. 18](#)

#### *Scheme investments*

### 186 Income

- (1) No liability to income tax arises in respect of—
  - (a) income derived from investments or deposits held for the purposes of a registered pension scheme, or
  - (b) underwriting commissions applied for the purposes of a registered pension scheme [<sup>F1</sup>which are not relevant foreign income and which would otherwise be chargeable to income tax under Chapter 8 of Part 5 of ITTOIA 2005 (income not otherwise charged).]
- (2) The exemption provided by subsection (1) does not apply to income derived from investments or deposits held as a member of a property investment LLP; and for this purpose “income” includes relevant stock lending fees, in relation to any investments, to which subsection (1) would apply by virtue of section 129B of ICTA (inclusion of relevant stock lending fees in income).

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

[<sup>F2</sup>(2A) The exemption provided by subsection (1) does not prevent the income from being charged to tax by virtue of section 185A.]

- (3) In this Part “investments”, in relation to a registered pension scheme, includes futures contracts and options contracts; and income derived from transactions relating to futures contracts or options contracts is to be treated as derived from the contracts.
- (4) For that purpose a contract is not prevented from being a futures contract or an options contract by the fact that a party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets) in full settlement of all obligations.

#### Textual Amendments

- F1** Words in s. 186(1)(b) substituted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 644, Sch. 2 para. 161](#) (with Sch. 2)
- F2** S. 186(2A) inserted (retrospective to 6.4.2006) by [Finance Act 2006 \(c. 25\), s. 158\(2\), Sch. 21 para. 7](#)

#### Modifications etc. (not altering text)

- C16** S. 186 applied (with modifications) (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\), regs. 1, 17](#)

#### Commencement Information

- I1** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 187 Chargeable gains

- (1) Section 271 of TCGA 1992 (exemptions) is amended as follows.
- (2) In paragraph (b) of subsection (1), for the words after “part of” substitute “ the Fund mentioned in section 613(4) of the Taxes Act (House of Commons Members' Fund); ”.
- (3) In subsection (1), omit—
  - (a) paragraph (d) (retirement annuity contracts),
  - (b) paragraph (g) (exempt approved schemes),
  - (c) paragraph (h) (approved personal pension schemes), and
  - (d) paragraph (j) (authorised unit trusts which are also approved personal pension schemes or exempt approved schemes),
 and the second sentence.
- (4) After that subsection insert—
 

“(1A) A gain accruing to a person on a disposal of investments held for the purposes of a registered pension scheme is not a chargeable gain.”
- (5) Omit subsection (2) (superannuation funds approved before 6th April 1980).
- (6) In subsection (10)—
  - (a) for “subsections (1)(g) and (h) and (2)” substitute “ subsection (1A) ”, and
  - (b) omit the words after “options contracts”.

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (7) In subsection (12), for “Subsection (1)(b), (c), (d), (g) and (h) and subsection (2)” substitute “ Subsections (1)(b) and (c) and (1A) ”.

#### Commencement Information

- I2** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *Members' contributions*

## **188 Relief for contributions**

- (1) An individual who is an active member of a registered pension scheme is entitled to relief under this section in respect of relievable pension contributions paid during a tax year if the individual is a relevant UK individual for that year.
- (2) In this Part “relievable pension contributions”, in relation to an individual and a pension scheme, means contributions by or on behalf of the individual under the pension scheme other than contributions to which subsection (3) [<sup>F3</sup>or (3A)] applies.
- (3) This subsection applies to—
- (a) any contributions paid after the individual has reached the age of 75,
  - [<sup>F4</sup>(aa) any contributions which are life assurance premium contributions (see section 195A),]
  - (b) any contributions paid by an employer of the individual (as to which see sections 196 to 201), <sup>F5</sup>...
  - <sup>F5</sup>(c) .....
- [<sup>F6</sup>(3A) This subsection applies to a contribution if the contribution results from the transfer of property or money, or the payment of a sum, towards the pension scheme pursuant to a relevant order in a case where—
- (a) section 266A (members' liability in respect of unauthorised member payments) applies, and
  - (b) relief is claimed under that section in respect of the liability mentioned in subsection (1)(a) of that section.
- (3B) In the case of a contribution which is greater than UMP (see section 266A(5)), subsection (3A) does not apply to the contribution so far as it is greater than UMP.
- (3C) In subsection (3A) “relevant order” means an order under any of the following—
- (a) section 16(1), 19(4) or 21(2)(a) of the Pensions Act 2004 (orders for money etc to be restored to pension schemes), or
  - (b) Article 12(1), 15(4) or 17(2)(a) of the Pensions (Northern Ireland) Order 2005 (corresponding provision for Northern Ireland).]
- (4) For the purposes of this Part a pension credit which increases the rights of the individual under the pension scheme is only to be treated as a contribution on behalf of the individual if it derives from a pension scheme that is not a registered pension scheme.
- (5) For the purposes of this Part—

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) any other transfer of any sum held for the purposes of, or representing accrued rights under, a pension scheme so as to become held for the purposes of, or to represent rights under, another pension scheme, <sup>F7</sup>...
- <sup>F7</sup>(b) .....  
is not to be treated as a contribution.
- <sup>F8</sup>(6) .....
- (7) References in the Income Tax Acts to relief in respect of life assurance premiums do not include relief under this section.
- (8) The following sections make further provision about relief under this section—  
section 189 (relevant UK individual),  
section 190 (annual limit for relief),  
sections 191 to 194 (methods of giving relief), and  
section 195 (transfer of certain shares to be treated as payment of contribution).

#### Textual Amendments

- F3** Words in s. 188(2) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 13\(2\)](#)
- F4** S. 188(3)(aa) inserted (19.7.2007) (with effect in accordance with Sch. 18 paras. 4-7 of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 18 para. 2](#)
- F5** S. 188(3)(c) and word omitted (6.4.2015) by virtue of [Finance Act 2013 \(c. 29\)](#), [s. 52\(2\)\(11\)](#)
- F6** S. 188(3A)-(3C) inserted (with effect in accordance with Sch. 7 para. 16 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 para. 13\(3\)](#)
- F7** S. 188(5)(b) and preceding word repealed (19.7.2007) (with effect in accordance with Sch. 19 para. 29(3) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 19 para. 7](#), [Sch. 27 Pt. 3\(1\)](#)
- F8** S. 188(6) omitted (retrospective to 6.4.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [s. 52\(3\)\(10\)](#)

#### Modifications etc. (not altering text)

- C17** [S. 188](#) modified (6.4.2023) by [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023 \(S.I. 2023/113\)](#), regs. 1(2), [3](#) (with reg. 1(3))

#### Commencement Information

- I3** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

## 189 Relevant UK individual

- (1) For the purposes of this Part an individual is a relevant UK individual for a tax year if—
- (a) the individual has relevant UK earnings chargeable to income tax for that year,
  - (b) the individual is resident in the United Kingdom at some time during that year,
  - (c) the individual was resident in the United Kingdom both at some time during the five tax years immediately before that year and when the individual became a member of the pension scheme, or
  - (d) the individual, or the individual's spouse [<sup>F9</sup>or civil partner], has for the tax year general earnings from overseas Crown employment subject to UK tax.
- (2) In this Part “relevant UK earnings” means—
- (a) employment income,

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (b) income which is chargeable under [<sup>F10</sup>Part 2 of ITTOIA 2005] and is immediately derived from the carrying on or exercise of a trade, profession or vocation (whether individually or as a partner acting personally in a partnership), <sup>F11</sup>...
  - [<sup>F12</sup>(ba) income which is chargeable under Part 3 of ITTOIA 2005 and is immediately derived from the carrying on of a UK furnished holiday lettings business (whether individually or as a partner acting personally in a partnership), <sup>F13</sup>...]
  - [<sup>F14</sup>(bb) income which is chargeable under Part 3 of ITTOIA 2005 and is immediately derived from the carrying on of an EEA furnished holiday lettings business (whether individually or as a partner acting personally in a partnership), and]
  - [<sup>F15</sup>(c) income to which subsection (2A) applies.]
- [<sup>F16</sup>(2A) This subsection applies to income if—
- (a) it is patent income, and
  - (b) the individual, alone or jointly, devised the invention for which the patent in question was granted.]
- [<sup>F17</sup>(2B) The income covered by subsection (2)(b) includes—
- (a) an amount treated as a profit under section 863J(2) of ITTOIA 2005, and
  - (b) income treated as received under section 863J(4) of that Act.]
- (3) For the purposes of this section and section 190 relevant UK earnings are to be treated as not being chargeable to income tax if, in accordance with arrangements having effect by [<sup>F18</sup>under section 2(1) of the Taxation (International and Other Provisions) Act 2010] (double taxation agreements), they are not taxable in the United Kingdom.
- (4) “General earnings from overseas Crown employment subject to UK tax” has the meaning given by section 28 of ITEPA 2003.
- [<sup>F19</sup>(5) “UK furnished holiday lettings business” means a UK property business so far as consisting of the commercial letting of furnished holiday accommodation (within the meaning of Chapter 6 of Part 3 of ITTOIA 2005).
- (6) If there is a letting of accommodation only part of which is holiday accommodation, just and reasonable apportionments are to be made for the purpose of determining what is comprised in a UK furnished holiday lettings business.
- [“EEA furnished holiday lettings business” means an overseas property business so far
- <sup>F20</sup>(6A) as consisting of the commercial letting of furnished holiday accommodation (within the meaning of Chapter 6 of Part 3 of ITTOIA 2005) in one or more EEA states.
- (6B) If there is a letting of accommodation only part of which is holiday accommodation, just and reasonable apportionments are to be made for the purpose of determining what is comprised in an EEA furnished holiday lettings business.]
- (7) “Patent income” means—
- (a) royalties or other sums paid in respect of the use of a patent charged to tax under section 579 of ITTOIA 2005,
  - (b) amounts on which tax is payable under section 587 or 593 of ITTOIA 2005, or
  - (c) amounts on which tax is payable under—
    - (i) section 472(5) of the Capital Allowances Act, or
    - (ii) paragraph 100 of Schedule 3 to that Act.]

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

### Textual Amendments

- F9** Words in s. 189(1)(d) inserted (with effect in accordance with reg. 1(7) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **176**
- F10** Words in s. 189(2)(b) substituted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 645\(2\)](#), [Sch. 2 para. 161](#) (with [Sch. 2](#))
- F11** Word in s. 189(2) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(2\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F12** S. 189(2)(ba) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(2\)\(b\)](#) (with [Sch. 2](#))
- F13** Word in s. 189(2)(ba) omitted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(2\)](#)
- F14** S. 189(2)(bb) inserted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(2\)](#)
- F15** S. 189(2)(c) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(2\)\(c\)](#) (with [Sch. 2](#))
- F16** S. 189(2) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(3\)](#) (with [Sch. 2](#))
- F17** S. 189(2B) inserted (with effect in accordance with Sch. 17 para. 21 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 17 para. 18](#)
- F18** Words in s. 189(3) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 63](#) (with [Sch. 9 paras. 1-9, 22](#))
- F19** S. 189(5)-(7) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 473\(4\)](#) (with [Sch. 2](#))
- F20** S. 189(6A)(6B) inserted (with effect in accordance with Sch. 14 para. 4 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 14 para. 1\(3\)](#)

### Commencement Information

- I4** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

## 190 Annual limit for relief

- (1) The maximum amount of relief to which an individual is entitled under section 188 (relief for contributions) for a tax year is (subject as follows) the amount of the individual's relevant UK earnings which are chargeable to income tax for the tax year.
- (2) If the amount of the individual's relevant UK earnings which are chargeable to income tax for the tax year is less than the basic amount, the maximum amount of relief to which the individual is entitled under section 188 for the tax year is increased by the difference between—
  - (a) the amount of the individual's relevant UK earnings which are so chargeable, and
  - (b) the basic amount,
 (so that, if the individual has no relevant UK earnings which are so chargeable, the maximum amount of such relief is the basic amount).
- (3) Subsection (2) is subject to section 191(7) (limit on methods of giving relief to which individual is entitled by virtue of subsection (2)).

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

(4) “The basic amount” is £3,600 or such greater amount as the Treasury may by order specify.

<sup>F21</sup>(5) .....

**Textual Amendments**

**F21** S. 190(5) omitted (retrospective to 6.4.2013) by virtue of [Finance Act 2013 \(c. 29\), s. 52\(4\)\(10\)](#)

**Commencement Information**

**I5** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

## 191 Methods of giving relief

- (1) Relief to which an individual is entitled under section 188 (relief for contributions) in respect of contributions is to be given as provided by this section.
- (2) Subject as follows, the relief is to be given in accordance with section 192 (relief at source).
- (3) Subject to subsection (7), relief in respect of contributions under a pension scheme made by a member of the pension scheme may (instead of being given in accordance with section 192) be given in accordance with section 193 (relief under net pay arrangements) if—
  - (a) the pension scheme is an occupational pension scheme,
  - (b) the member is an employee of a sponsoring employer, and
  - (c) relief in respect of contributions made under the pension scheme by all of the other members of the pension scheme who are employees of the sponsoring employer is given in accordance with that section.
- (4) Subject to subsection (7), relief in respect of contributions under a pension scheme made by a member of the pension scheme may (instead of being given in accordance with section 192) be given in accordance with section 193 if—
  - (a) the pension scheme is a public service pension scheme or marine pilots' benefits fund, and
  - (b) the member is an employee.
- (5) Subject to subsection (7), subsection (6) applies where—
  - (a) contributions are made under a public service pension scheme or marine pilots' benefit fund by a member who is not an employee, or
  - (b) contributions are made otherwise than by a member of the pension scheme under a net pay pension scheme.
- (6) Relief in respect of the contributions—
  - (a) may (but need not) be given in accordance with section 192, but
  - (b) where not so given, is to be given in accordance with section 194 (relief on making of claim).
- (7) Relief to which an individual is entitled by virtue of section 190(2)—
  - (a) may only be given in accordance with section 192, and

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (b) is not required to be given in respect of contributions under a net pay pension scheme.
- (8) In this section “marine pilots' benefits fund” means—
- (a) a fund established under section 15(1)(i) of the Pilotage Act 1983 (c. 21), or
  - (b) any scheme supplementing or replacing such a fund.
- (9) In this Part “net pay pension scheme” means a pension scheme in the case of which some or all of the members of the pension scheme are entitled to be given relief in accordance with section 193 in respect of the payment of contributions by them under the pension scheme.
- (10) Schedule 36 contains (in Part 4) transitional provision about relief in respect of contributions to pre-commencement retirement annuity contracts.

#### **Commencement Information**

**I6** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

## **192 Relief at source**

- (1) Where an individual is entitled to be given relief in accordance with this section in respect of the payment of a contribution under a pension scheme, the individual or other person by whom the contribution is paid is entitled, on making the payment, to deduct and retain out of it a sum equal to income tax on the contribution [<sup>F22</sup>at the relevant rate] .

[<sup>F23</sup>(1A) For the purposes of this section and sections 192A and 192B “the relevant rate” is—

- (a) if the Commissioners for Her Majesty’s Revenue and Customs so notify the scheme administrator, the Scottish basic rate for the tax year in which the payment is made;

[ if the Commissioners for Her Majesty’s Revenue and Customs so notify the

<sup>F24</sup>(aa) scheme administrator, the Welsh basic rate for the tax year in which the payment is made;] and

- (b) the basic rate for that tax year in all other cases.]

(2) If a sum is deducted from the payment of the contribution—

- (a) the scheme administrator must allow the deduction on receipt of the residue,
- (b) the individual or other person is acquitted and discharged of so much money as is represented by the deduction as if the sum had actually been paid, and
- (c) the sum deducted is to be treated as income tax paid by the scheme administrator.

(3) When the payment of the contribution is received—

- (a) the scheme administrator is entitled to recover from the Board of Inland Revenue the amount which is treated as income tax paid by the scheme administrator in relation to the contribution, and
- (b) any amount so recovered is to be treated for the purposes of the Tax Acts in the same manner as the payment of the contribution.



---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

<sup>F25</sup>(4) If (apart from this section) income tax at the higher rate [<sup>F26</sup>[<sup>F27</sup>or] the additional rate <sup>F28</sup>...] is chargeable in respect of any part of the individual's total income for the tax year, on the making of a claim the basic rate limit and the higher rate limit for the tax year in the individual's case are increased by the amount of the contribution.]

<sup>F29</sup>(4A) Where—

- (a) the individual is a Scottish taxpayer for the tax year,
- (b) (apart from this section) income tax is chargeable in respect of any part of that individual's total income for the tax year at a Scottish rate, and
- (c) that rate is higher than the Scottish basic rate for that year,

on the making of a claim, the Scottish basic rate limit, and any other Scottish rate limit for the tax year in the individual's case [<sup>F30</sup>that is above the Scottish basic rate limit], are increased by the amount of the contribution.]

<sup>F31</sup>(4B) Where—

- (a) the individual is a Welsh taxpayer for the tax year, and
- (b) (apart from this section) income tax is chargeable in respect of any part of that individual's total income for the tax year at the Welsh higher rate or Welsh additional rate,

on the making of a claim, the basic rate limit and the higher rate limit for the tax year in the individual's case, are increased by the amount of the contribution.]

<sup>F32</sup>(5) .....

(6) Subsections (1) and (2) have effect subject to such conditions as the Board of Inland Revenue may prescribe by regulations.

(7) The Board of Inland Revenue may by regulations make provision for carrying subsections (1) to (3) into effect, in particular by making provision—

- (a) about how a sum is to be recovered under subsection (3)(a) (including the manner in which a claim for the recovery of a sum is to be made),
- (b) for the giving of such information, in such form, as may be prescribed by or under the regulations,
- (c) for the inspection of documents by persons authorised by the Board of Inland Revenue, and
- (d) specifying the consequences of failure to comply with conditions prescribed by virtue of subsection (6).

(8) Regulations under this section may, in particular—

- (a) modify the operation of any provision of the Tax Acts, or
- (b) provide for the application of any provision of the Tax Acts (with or without modification).

(9) Where, after relief is given to an individual in accordance with this section for a tax year, an assessment, alteration of an assessment or other adjustment of the individual's liability to tax is made, any appropriate consequential adjustments are to be made in relief given to the individual in accordance with this section.

(10) Where relief is given to an individual in accordance with this section for a tax year in respect of a contribution, relief is not to be given—

- (a) in respect of the contribution under any other provision of the Income Tax Acts, or

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) (in the case of a contribution under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.

[<sup>F33</sup>(11) Subsection (10) does not apply to prevent the giving of relief in respect of the contribution in accordance with subsection 192A.]

#### Textual Amendments

- F22** Words in s. 192(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **3(2)**
- F23** S. 192(1A) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **3(3)**
- F24** S. 192(1A)(aa) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), **4(2)**
- F25** S. 192(4) substituted (with effect in accordance with Sch. 2 para. 25 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 2 para. 11**
- F26** Words in s. 192(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **3(4)**
- F27** Word in s. 192(4) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Scotland Act 2016 \(Income Tax Consequential Amendments\) Regulations 2017 \(S.I. 2017/468\)](#), regs. 1(1), **3(2)(a)**
- F28** Words in s. 192(4) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of [The Scotland Act 2016 \(Income Tax Consequential Amendments\) Regulations 2017 \(S.I. 2017/468\)](#), regs. 1(1), **3(2)(b)**
- F29** S. 192(4A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Scotland Act 2016 \(Income Tax Consequential Amendments\) Regulations 2017 \(S.I. 2017/468\)](#), regs. 1(1), **3(3)**
- F30** Words in s. 192(4A) inserted (6.4.2018) by [The Scottish Rates of Income Tax \(Consequential Amendments\) Order 2018 \(S.I. 2018/459\)](#), arts. 1(2), **3(2)**
- F31** S. 192(4B) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), **4(3)**
- F32** S. 192(5) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 474**, **Sch. 3 Pt. 1** (with Sch. 2)
- F33** S. 192(11) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **3(5)**

#### Commencement Information

- I7** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

#### [<sup>F34</sup>192A Relief at source: additional relief

- (1) An individual to whom relief is given in accordance with section 192 in respect of a contribution is entitled to a tax reduction for the tax year in which the payment of the contribution is made if the conditions in subsection (2) [<sup>F35</sup>, (3A)] or (4) are met.
- (2) The conditions are that—
- (a) the relevant rate [<sup>F36</sup>is not the Scottish basic rate] for the tax year in which the payment of the contribution is made,
  - (b) the individual is a Scottish taxpayer for that tax year, and
  - (c) the Scottish basic rate for that tax year is higher than [<sup>F37</sup>the relevant rate].

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (3) If the conditions in subsection (2) are met, the amount of the tax reduction is an amount equal to the difference between the amount of relief which would have been given if the relevant rate were the Scottish basic rate for the tax year in which the payment is made and the amount of relief given under section 192.

[ The conditions are that—

- <sup>F38</sup>(3A) (a) the relevant rate is not the Welsh basic rate for the tax year in which the payment of the contribution is made,  
(b) the individual is a Welsh taxpayer for that tax year, and  
(c) the Welsh basic rate for that tax year is higher than the relevant rate.

- (3B) If the conditions in subsection (3A) are met, the amount of the tax reduction is an amount equal to the difference between the amount of relief which would have been given if the relevant rate were the Welsh basic rate for the tax year in which the payment is made and the amount of relief given under section 192.]

[<sup>F39</sup>(4) The conditions are that—

- (a) the relevant rate is not the basic rate for the tax year in which the payment of the contribution is made,  
(b) the individual is neither a Scottish taxpayer nor a Welsh taxpayer for that tax year, and  
(c) the basic rate for that tax year is higher than the relevant rate.]

- (5) If the conditions in subsection (4) are met, the amount of the tax reduction is an amount equal to the difference between the amount of relief which would have been given if the relevant rate were the basic rate for the tax year in which the payment is made and the amount of relief given under section 192.

- (6) A tax reduction under this section is given effect at Step 6 of the calculation in section 23 of ITA 2007.

#### Textual Amendments

- F34** Ss. 192A, 192B inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), **4**
- F35** Word in s. 192A(1) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), **5(2)**
- F36** Words in s. 192A(2)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), **5(3)(a)**
- F37** Words in s. 192A(2)(c) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), **5(3)(b)**
- F38** S. 192A(3A)(3B) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), **5(4)**
- F39** S. 192A(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), **5(5)**

#### 192B. Relief at source: excessive relief given

- (1) If relief is given to an individual in accordance with section 192 in respect of a contribution and the conditions in subsection (2) [<sup>F40</sup>, (3A)] or (4) [<sup>F41</sup>are met], an

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

amount of excessive relief given is treated as an amount of tax for which the individual is liable for the tax year in which the payment of the contribution is made.

- (2) The conditions are that—
- (a) the relevant rate [<sup>F42</sup>is not the Scottish basic rate] for the tax year in which the payment of the contribution is made,
  - (b) the individual is a Scottish taxpayer for that tax year, and
  - (c) the Scottish basic rate for that tax year is lower than [<sup>F43</sup>the relevant rate].
- (3) If the conditions in subsection (2) [<sup>F44</sup>are met], the amount of excessive relief given is an amount equal to the difference between the amount of relief given and the amount of relief which would have been given if the relevant rate were the Scottish basic rate for the tax year in which the payment is made.

[ The conditions are that—

- <sup>F45</sup>(3A) (a) the relevant rate is not the Welsh basic rate for the tax year in which the payment of the contribution is made,
- (b) the individual is a Welsh taxpayer for that tax year, and
  - (c) the Welsh basic rate for that tax year is lower than the relevant rate.

(3B) If the conditions in subsection (3A) are met, the amount of excessive relief given is an amount equal to the difference between the amount of relief given and the amount of relief which would have been given if the relevant rate were the Welsh basic rate for the tax year in which the payment is made.]

[<sup>F46</sup>(4) The conditions are that—

- (a) the relevant rate is not the basic rate for the tax year in which the payment of the contribution is made, and
  - (b) the individual is neither a Scottish taxpayer nor a Welsh taxpayer for that tax year, and
  - (c) the basic rate for that tax year is lower than the relevant rate.]
- (5) If the conditions in subsection (4) [<sup>F47</sup>are met], the amount of excessive relief given is an amount equal to the difference between the amount of relief given and the amount of relief which would have been given if the relevant rate were the basic rate for the tax year in which the payment is made.

(6) An amount of excessive relief treated as an amount of tax under this section is added at Step 7 of the calculation in section 23 of ITA 2007.]

#### Textual Amendments

- F34** Ss. 192A, 192B inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\)](#), arts. 1(1), 4
- F40** Word in s. 192B(1) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), 6(2)
- F41** Words in s. 192B(1) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), 6(3)
- F42** Words in s. 192B(2)(a) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), 6(4)(a)

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F43** Words in s. 192B(2)(c) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), [6\(4\)\(b\)](#)
- F44** Words in s. 192B(3) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), [6\(3\)](#)
- F45** S. 192B(3A)(3B) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), [6\(5\)](#)
- F46** S. 192B(4) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), [6\(6\)](#)
- F47** Words in s. 192B(5) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), [6\(3\)](#)

### 193 Relief under net pay arrangements

- (1) This section applies where an individual is entitled to be given relief in accordance with this section in respect of the payment of a contribution under a pension scheme.
- (2) The amount of the contribution is to be allowed to be deducted by the sponsoring employer from the employment income from the individual's employment with the employer for the tax year in which the payment is made.
- (3) A deduction may be made only once in respect of the same contribution.
- (4) A claim for excess relief may be made if—
  - (a) the amount of the contributions paid by an individual under one or more relevant net pay pension schemes in a tax year exceeds the employment income from the individual's employment or employments with the sponsoring employer or employers for the tax year, or
  - (b) it is not possible for the sponsoring employer or employers for any other reason to deduct the whole amount of the contribution from the individual's employment income.
- (5) A net pay pension scheme is a relevant net pay pension scheme if the members of the pension scheme entitled to be given relief in accordance with this section in respect of the payment of contributions by them under the pension scheme include the individual.
- (6) On the making of the claim for excess relief the amount of the excess may be deducted [<sup>F48</sup>in calculating the net income] of the individual for the tax year [<sup>F49</sup>(see Step 2 of the calculation in section 23 of ITA 2007)].
- (7) Where, after relief is given to an individual in accordance with this section for a tax year, an assessment, alteration of an assessment or other adjustment of the individual's liability to tax is made, any appropriate consequential adjustments are to be made in relief given to the individual in accordance with this section.
- (8) Where relief is given to an individual in accordance with this section for a tax year in respect of a contribution, relief is not to be given in respect of it under any other provision of the Income Tax Acts.

#### Textual Amendments

- F48** Words in s. 193(6) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 475\(a\)](#) (with [Sch. 2](#))

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**F49** Words in s. 193(6) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 475\(b\)](#) (with Sch. 2)

**Modifications etc. (not altering text)**

**C18** S. 193 applied (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [19](#)

**Commencement Information**

**I8** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

**[<sup>F50</sup>193A] Net pay arrangements: relief where no income tax liability**

- (1) This section applies where—
- (a) an individual is entitled to be given relief in accordance with section 193 in respect of the payment of a contribution under a pension scheme,
  - (b) the individual is entitled to a personal allowance, in accordance with section 35(1) of ITA 2007 (personal allowance), for the tax year in which the payment is made (“the relevant tax year”), and
  - (c) the amount of the individual’s total income for the relevant tax year does not exceed the personal allowance specified in section 35(1) of ITA 2007 for the relevant tax year.
- (2) The Commissioners for His Majesty’s Revenue and Customs must make arrangements to secure that, so far as reasonably practicable and subject to provision made under subsection (5), they pay to the individual the appropriate amount in relation to the contribution.
- (3) The appropriate amount is—
- (a) where the individual’s total income for the relevant tax year plus the contribution does not exceed the personal allowance specified in section 35(1) of ITA 2007 for the relevant tax year, an amount equal to income tax at the relevant rate on the whole of the contribution, and
  - (b) where the individual’s total income for the relevant tax year plus the contribution does exceed the personal allowance specified in section 35(1) of ITA 2007 for the relevant tax year, an amount equal to income tax at the relevant rate on an amount calculated in accordance with this formula—
- CE
- where—
- C equals the whole of the contribution, and
- E equals the amount by which the personal allowance is exceeded by the individual’s total income for the relevant tax year plus the contribution.
- (4) The arrangements must secure that an amount which the Commissioners are required to pay in relation to a contribution is paid as soon as reasonably practicable after the tax year in which the contribution is paid.
- (5) The arrangements must include a procedure for the purposes of allowing an individual to whom an amount would otherwise have to be paid under subsection (2) to decline to receive that amount.



*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) For the purposes of income tax, apart from determining whether this section applies or calculating the appropriate amount in accordance with [subsection \(3\)](#), an amount paid to an individual in accordance with the arrangements is to be treated as if it were earnings within Chapter 1 of Part 3 of ITEPA 2003—
- (a) from an employment in the relevant tax year, and
  - (b) in respect of duties performed in the United Kingdom.
- (7) In [subsection \(3\)](#), “the relevant rate” is—
- (a) where the individual is a Scottish taxpayer for the relevant tax year, the Scottish basic rate for that year,
  - (b) where the individual is a Welsh taxpayer for the relevant tax year, the Welsh basic rate for that year, and
  - (c) in all other cases, the basic rate for that tax year.
- (8) In this section, “total income” has the meaning given by section 23 of ITA 2007 (the calculation of income tax liability).
- (9) The Treasury may by regulations amend or otherwise modify this section.
- (10) Regulations under [subsection \(9\)](#) may make different provision for different purposes.]

#### Textual Amendments

**F50** S. 193A inserted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\), s. 25](#)

## 194 Relief on making of claim

- (1) Where an individual is entitled to be given relief in accordance with this section in respect of the payment of a contribution, on the making of a claim the amount of the contribution may be deducted [<sup>F51</sup>in calculating the net income] of the individual for the tax year in which the payment is made [<sup>F52</sup>(see Step 2 of the calculation in section 23 of ITA 2007)].
- (2) Where, after relief is given to an individual in accordance with this section for a tax year, an assessment, alteration of an assessment or other adjustment of the individual’s liability to tax is made, any appropriate consequential adjustments are to be made in relief given to the individual in accordance with this section.
- (3) Where relief is given to an individual in accordance with this section for a tax year in respect of a contribution, relief is not to be given—
- (a) in respect of the contribution under any other provision of the Income Tax Acts, or
  - (b) (in the case of a contribution under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract.

#### Textual Amendments

**F51** Words in s. 194(1) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 476\(a\)](#) (with [Sch. 2](#))

**F52** Words in s. 194(1) inserted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 476\(b\)](#) (with [Sch. 2](#))

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

#### Commencement Information

- I9** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### 195 Transfer of certain shares to be treated as payment of contribution

- (1) For the purposes of sections 188 to 194 (relief for contributions) references to contributions paid by an individual include contributions made in the form of the transfer by the individual of eligible shares in a company within the permitted period.
- (2) For the purposes of those sections the amount of a contribution made by way of a transfer of shares is the market value of the shares at the date of the transfer.
- (3) “Eligible shares”, in relation to a contribution made by an individual, means shares—
  - (a) which the individual has exercised a right to acquire in accordance with the provisions of an SAYE option scheme, or
  - (b) which have been appropriated to the individual in accordance with the provisions of a share incentive plan.
- (4) “The permitted period”—
  - (a) in relation to shares which the individual has exercised a right to acquire in accordance with the provisions of an SAYE option scheme, is the period of 90 days following the exercise of that right, and
  - (b) in relation to shares which have been appropriated to the individual in accordance with the provisions of a share incentive plan, is the period of 90 days following the date when the individual directed the trustees of the share incentive plan to transfer the ownership of the shares to the individual.
- (5) In this section—
 

“SAYE option scheme” has the same meaning as in the SAYE code (see section 516 of ITEPA 2003 (<sup>F53</sup>... SAYE option schemes)), and

“share incentive plan” has the same meaning as in the SIP code (see section 488 of ITEPA 2003 (<sup>F54</sup>... share incentive plans)).

#### Textual Amendments

- F53** Word in s. 195(5) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 139, 146](#) (with [Sch. 8 paras. 147-157](#))
- F54** Word in s. 195(5) omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 52, 89](#) (with [Sch. 8 paras. 90-96](#))

#### Commencement Information

- I10** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see [s. 284](#)

### [<sup>F55</sup>195A] Life assurance premium contributions

- (1) Contributions paid by or on behalf of an individual under a registered pension scheme are life assurance premium contributions for the purposes of section 188(3)(aa) if—
  - (a) rights under a non-group life policy (see subsection (2)) are (or later become) held for the purposes of the pension scheme, and



---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (b) the contributions are treated by this section as paid in respect of premiums under the non-group life policy (see subsections (3) to (5)).
- (2) For the purposes of this section a “non-group life policy” is a policy of insurance under which the only benefits which may become payable are benefits payable in consequence, or in anticipation, of—
- (a) the death of the individual or one of a group of individuals which includes the individual, or
  - (b) the deaths of more than one of a group of individuals—
    - (i) which includes the individual, and
    - (ii) the other members of which are connected with the individual.
- (3) Contributions paid by or on behalf of the individual under the pension scheme are treated as paid in respect of premiums under the non-group life policy if—
- (a) the payment of the contributions constitutes the payment of premiums under the policy, or
  - (b) the person by whom the contributions are paid intends the contributions (or an amount equivalent to them) to be applied towards paying premiums under the policy.
- (4) Where the amount of the premiums under the policy in a tax year exceeds the amount of any contributions treated as paid in respect of the premiums by subsection (3), other contributions paid by or on behalf of the individual under the pension scheme in the tax year are treated as paid in respect of premiums under the policy to the extent that their amount does not exceed the difference between the amount of the premiums and the amount of any contributions treated as paid in respect of the premiums by subsection (3).
- (5) But where—
- (a) the benefits under the policy relate to the death of one or more of a group of individuals, and
  - (b) contributions are also paid under the pension scheme in the tax year by or on behalf of another member or other members of the group,
- the amount of the contributions paid by or on behalf of the individual which are treated as paid in respect of premiums under the policy by subsection (4) does not exceed what is just and reasonable having regard to the operation of section 188(3)(aa) in relation to the contributions paid by or on behalf of another member or other members of the group.
- (6) The Commissioners for Her Majesty's Revenue and Customs may by regulations amend subsections (2) to (5).
- (7) Regulations under subsection (6) which limit—
- (a) the policies of insurance which are non-group life assurance policies for the purposes of this section, or
  - (b) the contributions which are treated by this section as paid in respect of premiums under such policies,
- may be made so as to have effect in relation to times before they are made.
- (8) For the purposes of this section an individual (“A”) is connected with another individual (“B”) if—
- (a) A is B's spouse or civil partner,

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) A is a relative of B,
  - (c) A is the spouse or civil partner of a relative of B,
  - (d) A is a relative of B's spouse or civil partner, or
  - (e) A is the spouse or civil partner of a relative of B's spouse or civil partner;
- and for the purposes of this subsection “relative” means brother, sister, ancestor or lineal descendant.]

#### Textual Amendments

**F55** S. 195A inserted (19.7.2007) (with effect in accordance with Sch. 18 paras. 4-7 of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 18 para. 3](#)

### *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 [<sup>F56</sup>Part 2 of ITTOIA 2005][<sup>F57</sup>or Part 3 of CTA 2009 (trading income)] —
  - (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 [<sup>F58</sup>Chapter 2 of Part 16 of CTA 2009] (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 [<sup>F59</sup>section 76 of FA 2012] (expenses of insurance companies), the contributions—
  - (a) are to be [<sup>F60</sup>treated as meeting the conditions in section 77(2)(a) and (c) of that Act to the extent that they would otherwise not meet them], and
  - (b) are referable to the accounting period in which they are paid.
- <sup>F61</sup>(5) . . . . .
- (6) This section is subject to sections 197 and 198 (spreading of relief) (and to transitional provision contained in Part 4 of Schedule 36).

#### Textual Amendments

**F56** Words in s. 196(2) inserted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 646](#), [Sch. 2 para. 161](#) (with [Sch. 2](#))

**F57** Words in s. 196(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 573\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F58** Words in s. 196(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 573\(3\)](#) (with Sch. 2 Pts. 1, 2)
- F59** Words in s. 196(4) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 113\(a\)](#)
- F60** Words in s. 196(4)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 113\(b\)](#)
- F61** S. 196(5) omitted (retrospective to 6.4.2013) by virtue of [Finance Act 2013 \(c. 29\), s. 52\(5\)\(10\)](#)

#### Commencement Information

- I11** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### [<sup>F62</sup>196A Power to restrict relief

- (1) The Board of Inland Revenue may make regulations for restricting the extent to which contributions paid by an employer under a registered pension scheme in respect of an individual are subject to relief in circumstances in which subsection (2) or (3) applies (or both do).
- (2) This subsection applies where any of the benefits which will or may be payable to or in respect of the individual under the registered pension scheme will be payable only if relevant benefits expected to be so paid under an employer-financed retirement benefits scheme are not so paid.
- (3) This subsection applies where, because relevant benefits are or may be payable to or in respect of the individual under an employer-financed retirement benefits scheme, the aggregate of the amount of any sums and the market value of any assets—
  - (a) held for the purposes of, or
  - (b) representing accrued rights under,the registered pension scheme which may be transferred by way of a recognised transfer in respect of the individual will or may be less than it otherwise would be.
- (4) The reference in subsection (1) to contributions paid by an employer being subject to relief is to—
  - (a) their being deductible in computing the amount of the profits of the employer for the purposes of Part 2 of ITTOIA 2005 [<sup>F63</sup>or Part 3 of CTA 2009 (trading income)],
  - (b) their being expenses of management of the employer for the purposes of [<sup>F64</sup>section 1219 of CTA 2009] (expenses of management: companies with investment business), or
  - (c) their being [<sup>F65</sup>ordinary BLAGAB management expenses of the employer for an accounting period for the purposes of section 76 of FA 2012],(depending on which is appropriate in relation to the employer).
- (5) In this section—
  - “employer-financed retirement benefits scheme”, and
  - “relevant benefits”,have the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act).]

#### Textual Amendments

- F62** S. 196A inserted (6.4.2006) by [Finance Act 2005 \(c. 7\), Sch. 10 paras. 39, 64\(1\)](#)

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- F63** Words in s. 196A(4)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 574(a)** (with Sch. 2 Pts. 1, 2)
- F64** Words in s. 196A(4)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 574(b)** (with Sch. 2 Pts. 1, 2)
- F65** Words in s. 196A(4)(c) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 16 para. 114**

### [<sup>F66</sup>196B Employer asset-backed contributions: denial of relief (1)]

- (1) An employer (“E”) is not to be given relief in respect of a contribution (“E’s contribution”) paid by E under a registered pension scheme if conditions A, B and C are met.
- (2) Condition A is that—
  - (a) under an arrangement (“the asset-backed arrangement”)—
    - (i) a person (“the borrower”) receives money or another asset (“the advance”) from another person (“the lender”),
    - (ii) the borrower, or a person connected with the borrower, makes a disposal of an asset (“the security”) to or for the benefit of the lender or a person connected with the lender, and
    - (iii) the lender, or a person connected with the lender, is entitled to payments in respect of the security,
  - (b) the borrower is E or a person connected with E, and
  - (c) the advance is (wholly or partly) paid or provided by the lender out of E’s contribution (directly or indirectly),
 and the case is not one in relation to which either condition A in section 196D or condition A in section 196F is met.
- (3) For the purposes of subsection (2)(a)(iii) it does not matter if an entitlement of the lender, or a person connected with the lender, is subject to any condition.
- (4) Condition B is that the asset-backed arrangement is not an acceptable structured finance arrangement (see section 196C).
- (5) Condition C is that it is reasonable to suppose that the amount of one or more of the payments mentioned in subsection (2)(a)(iii) has been, or is to be, determined (wholly or partly) on the basis that, in essence, the whole or a part of the advance represents a loan which is (wholly or partly) to be repaid by way of one or more of those payments.
- (6) For the purposes of subsection (5) it does not matter—
  - (a) that the repayment of the loan might be subject to any condition, or
  - (b) that the accounts of any person do not record a financial liability in respect of the whole or a part of the advance or that the whole or a part of the advance is not otherwise treated as representing a loan for the purposes of the accounts of any person,
 but, subject to that, all relevant circumstances are to be taken into account in order to get to the essence of the matter.
- (7) For the purposes of this section—
  - (a) the borrower and the lender are not connected with one another if that would otherwise be the case,

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (b) if the borrower is not E, references to a person connected with the borrower include a person connected with E who would not otherwise be connected with the borrower, and
- (c) “loan” includes any advance of money.

#### Textual Amendments

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### 196C Employer asset-backed contributions: “acceptable structured finance arrangement” (1)

- (1) For the purposes of section 196B the asset-backed arrangement is an “acceptable structured finance arrangement” if conditions M to Q are met.
- (2) Condition M is that—
  - (a) in accordance with generally accepted accounting practice, the borrower's accounts for the period in which the advance is received record a financial liability (“the recorded financial liability”) in respect of the advance, and
  - (b) the asset-backed arrangement is a type 1 finance arrangement for the purposes of Chapter 5B of Part 13 of ITA 2007 or Chapter 2 of Part 16 of CTA 2010 (finance arrangements).
- (3) Condition N is that—
  - (a) the lender is a responsible authority,
  - (b) the advance is money which is paid by the lender directly to the borrower wholly and directly out of E's contribution, and
  - (c) the advance and the recorded financial liability (as originally recorded) are both of an amount equal to the amount of E's contribution.
- (4) Condition O is that, as at the time the advance is paid, the position of the lender is as follows—
  - (a) it is the lender (and not any person connected with the lender) who is entitled to the payments mentioned in section 196B(2)(a)(iii),
  - (b) those payments are to arise at times which have been fixed and fall at intervals of no more than one year (but allowing for payments otherwise due to arise on a non-working day to arise on the next working day),
  - (c) the lender is to receive each payment no later than 3 months after the day on which the payment arises (but allowing for payments otherwise due to be received on a non-working day to be received on the next working day),
  - (d) on receipt by the lender, each payment is directly to become part of the sums held for the purposes of the registered pension scheme,
  - (e) the payments are all to be of the same amount,
  - (f) the total amount of the payments is not to be less than the amount of E's contribution, and

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (g) all the payments are to be received by the lender within a period (“the payment period”) ending no later than the end of the period of 25 years beginning with the day on which E's contribution is paid.
- (5) For the purposes of subsection (4)(b) the first payment is to arise no later than one year after the day on which the advance is paid.
- (6) For the purposes of subsection (4)(e) the following are to be ignored—
- (a) negligible differences in the amounts of payments;
  - (b) differences in the amounts of payments which would be caused by a term of the asset-backed arrangement that requires the amounts of all outstanding payments to be increased periodically by a percentage which cannot be higher than the highest of the following—
    - (i) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the term of the asset-backed arrangement in question;
    - (ii) the percentage increase in the retail prices index for the reference period;
    - (iii) the percentage for the reference period which corresponds to 5% per annum.
- (7) For the purposes of subsection (4), in determining the lender's position, regard must be had (in particular) to any arrangements connected (directly or indirectly) to the asset-backed arrangement.
- (8) Condition P is that, as at the time the advance is paid, in accordance with generally accepted accounting practice the recorded financial liability is to be reduced to nil by the end of the payment period by (and only by) the payments mentioned in section 196B(2)(a)(iii).
- (9) Condition Q is that, as at the time the advance is paid, no commitment to which subsection (10) applies has been given.
- (10) This subsection applies to a commitment (whether or not legally enforceable and whether or not subject to any conditions) if—
- (a) it is given (directly or indirectly) to a relevant person,
  - (b) it is a commitment to secure that a person receives money or another asset, and
  - (c) it is linked (directly or indirectly) to the receipt by the lender of a payment mentioned in section 196B(2)(a)(iii).
- (11) In subsection (10)(a) “relevant person” means—
- (a) E;
  - (b) a person connected with E;
  - (c) a person acting (directly or indirectly) at the direction or request, or with the agreement, of E or a person connected with E;
  - (d) a person chosen (directly or indirectly) by E or a person connected with E;
  - (e) a person within a class of person chosen (directly or indirectly) by E or a person connected with E;
  - (f) a partnership;
- but does not include a responsible authority.
- (12) In this section “responsible authority” means—

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) the persons who from time to time are the trustees of the registered pension scheme, or
  - (b) the persons who from time to time are the persons controlling the management of the registered pension scheme,
- in their capacity as such.

#### Textual Amendments

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### 196D Employer asset-backed contributions: denial of relief (2)

- (1) An employer (“E”) is not to be given relief in respect of a contribution (“E’s contribution”) paid by E under a registered pension scheme if conditions A and B are met.
- (2) Condition A is that—
  - (a) under an arrangement (“the asset-backed arrangement”) a person (“the transferor”) makes a disposal of an asset (“the security”) to a partnership,
  - (b) the transferor is E or a person connected with E,
  - (c) the transferor, or a person connected with the transferor, is a member of the partnership immediately after the disposal (whether or not a member immediately before it),
  - (d) under the asset-backed arrangement the partnership receives money or another asset (“the advance”) from a person (“the lender”) other than the transferor,
  - (e) the advance is (wholly or partly) paid or provided by the lender out of E’s contribution (directly or indirectly),
  - (f) there is a relevant change in relation to the partnership (see section 196H), and
  - (g) under the asset-backed arrangement the share in the partnership’s profits of the person involved in the relevant change (see section 196H) is determined by reference (wholly or partly) to payments in respect of the security.
- (3) If the transferor is not E, for the purposes of this section references to a person connected with the transferor include a person connected with E who would not otherwise be connected with the transferor.
- (4) For the purposes of subsection (2)(g) it does not matter if any determination of the share in the partnership’s profits of the person involved in the relevant change as mentioned is subject to any condition.
- (5) Condition B is that the asset-backed arrangement is not an acceptable structured finance arrangement (see section 196E).

#### Textual Amendments

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#))

## **196E Employer asset-backed contributions: “acceptable structured finance arrangement” (2)**

- (1) For the purposes of section 196D the asset-backed arrangement is an “acceptable structured finance arrangement” if conditions M to Q are met.
- (2) Condition M is that—
  - (a) in accordance with generally accepted accounting practice, the partnership's accounts for the period in which the advance is received record a financial liability (“the recorded financial liability”) in respect of the advance, and
  - (b) the asset-backed arrangement is a type 2 finance arrangement for the purposes of Chapter 5B of Part 13 of ITA 2007 or Chapter 2 of Part 16 of CTA 2010 (finance arrangements).
- (3) Condition N is that—
  - (a) the lender is a responsible authority,
  - (b) the advance is money which is paid by the lender directly to the partnership wholly and directly out of E's contribution, and
  - (c) the advance and the recorded financial liability (as originally recorded) are both of an amount equal to the amount of E's contribution.
- (4) Condition O is that, as at the time the advance is paid, the position of the lender is as follows—
  - (a) it is the lender (and not any person connected with the lender) who is or is to be the person involved in the relevant change in relation to the partnership,
  - (b) the lender's share in the partnership's profits is to be determined wholly by reference to the payments mentioned in section 196D(2)(g),
  - (c) determinations of the lender's share in the partnership's profits are to be made at times which have been fixed and fall at intervals of no more than one year (but allowing for determinations otherwise due to be made on a non-working day to be made on the next working day),
  - (d) no later than 3 months after the day on which a determination of the lender's share in the partnership's profits is made, the lender is to make a drawing from the partnership on account of its determined share (but allowing for drawings otherwise due to be made on a non-working day to be made on the next working day),
  - (e) on its making, each drawing is directly to become part of the sums held for the purposes of the registered pension scheme,
  - (f) the drawings are all to be of the same amount,
  - (g) the total amount of the drawings is not to be less than the amount of E's contribution, and
  - (h) all of the lender's share in the partnership's profits is to be drawn by the lender from the partnership within a period (“the drawing period”) ending no later than the end of the period of 25 years beginning with the day on which E's contribution is paid.
- (5) For the purposes of subsection (4)(c) the first determination is to be made no later than one year after the day on which the advance is paid.



---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (6) For the purposes of subsection (4)(f) the following are to be ignored—
- (a) negligible differences in the amounts of drawings;
  - (b) differences in the amounts of drawings which would be caused by a term of the asset-backed arrangement that requires the amounts of all outstanding drawings to be increased periodically by a percentage which cannot be higher than the highest of the following—
    - (i) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the term of the asset-backed arrangement in question;
    - (ii) the percentage increase in the retail prices index for the reference period;
    - (iii) the percentage for the reference period which corresponds to 5% per annum.
- (7) In determining the lender's position for the purposes of subsection (4), regard must be had (in particular) to any arrangements connected (directly or indirectly) to the asset-backed arrangement.
- (8) Condition P is that, as at the time the advance is paid, in accordance with generally accepted accounting practice the recorded financial liability is to be reduced to nil by the end of the drawing period by (and only by) the payments mentioned in section 196D(2)(g).
- (9) Condition Q is that, as at the time the advance is paid, no commitment to which subsection (10) applies has been given.
- (10) This subsection applies to a commitment (whether or not legally enforceable and whether or not subject to any conditions) if—
- (a) it is given (directly or indirectly) to a relevant person,
  - (b) it is a commitment to secure that a person receives money or another asset, and
  - (c) it is linked (directly or indirectly) to any determination of the lender's share in the partnership's profits or any drawing from the partnership on account of that share.
- (11) In subsection (10)(a) “relevant person” means—
- (a) E;
  - (b) a person connected with E;
  - (c) a person acting (directly or indirectly) at the direction or request, or with the agreement, of E or a person connected with E;
  - (d) a person chosen (directly or indirectly) by E or a person connected with E;
  - (e) a person within a class of person chosen (directly or indirectly) by E or a person connected with E;
  - (f) a partnership;
- but does not include a responsible authority.
- (12) In this section—
- (a) “responsible authority” means—
    - (i) the persons who from time to time are the trustees of the registered pension scheme, or
    - (ii) the persons who from time to time are the persons controlling the management of the registered pension scheme,

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- in their capacity as such, and
- (b) references to the making of drawings from the partnership include references to the receiving of distributions from the partnership.

#### Textual Amendments

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### 196F Employer asset-backed contributions: denial of relief (3)

- (1) An employer (“E”) is not to be given relief in respect of a contribution (“E’s contribution”) paid by E under a registered pension scheme if conditions A and B are met.
- (2) Condition A is that—
- (a) a partnership holds an asset (“the security”) at any time before an arrangement (“the asset-backed arrangement”) is made,
  - (b) under the asset-backed arrangement the partnership receives money or another asset (“the advance”) from another person (“the lender”),
  - (c) the advance is (wholly or partly) paid or provided by the lender out of E’s contribution (directly or indirectly),
  - (d) there is a relevant change in relation to the partnership (see section 196H), and
  - (e) under the asset-backed arrangement the share in the partnership’s profits of the person involved in the relevant change (see section 196H) is determined by reference (wholly or partly) to payments in respect of the security.
- (3) For the purposes of subsection (2)(e) it does not matter if any determination of the share in the partnership’s profits of the person involved in the relevant change as mentioned is subject to any condition.
- (4) Condition B is that the asset-backed arrangement is not an acceptable structured finance arrangement (see section 196G).

#### Textual Amendments

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### 196G Employer asset-backed contributions: “acceptable structured finance arrangement” (3)

- (1) For the purposes of section 196F the asset-backed arrangement is an “acceptable structured finance arrangement” if conditions M to Q are met.
- (2) Condition M is that—

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (a) in accordance with generally accepted accounting practice, the partnership's accounts for the period in which the advance is received record a financial liability (“the recorded financial liability”) in respect of the advance, and
  - (b) the asset-backed arrangement is a type 3 finance arrangement for the purposes of Chapter 5B of Part 13 of ITA 2007 or Chapter 2 of Part 16 of CTA 2010 (finance arrangements).
- (3) Condition N is that—
- (a) the lender is a responsible authority,
  - (b) the advance is money which is paid by the lender directly to the partnership wholly and directly out of E's contribution, and
  - (c) the advance and the recorded financial liability (as originally recorded) are both of an amount equal to the amount of E's contribution.
- (4) Condition O is that, as at the time the advance is paid, the position of the lender is as follows—
- (a) it is the lender (and not any person connected with the lender) who is or is to be the person involved in the relevant change in relation to the partnership,
  - (b) the lender's share in the partnership's profits is to be determined wholly by reference to the payments mentioned in section 196F(2)(e),
  - (c) determinations of the lender's share in the partnership's profits are to be made at times which have been fixed and fall at intervals of no more than one year (but allowing for determinations otherwise due to be made on a non-working day to be made on the next working day),
  - (d) no later than 3 months after the day on which a determination of the lender's share in the partnership's profits is made, the lender is to make a drawing from the partnership on account of its determined share (but allowing for drawings otherwise due to be made on a non-working day to be made on the next working day),
  - (e) on its making, each drawing is directly to become part of the sums held for the purposes of the registered pension scheme,
  - (f) the drawings are all to be of the same amount,
  - (g) the total amount of the drawings is not to be less than the amount of E's contribution, and
  - (h) all of the lender's share in the partnership's profits is to be drawn by the lender from the partnership within a period (“the drawing period”) ending no later than the end of the period of 25 years beginning with the day on which E's contribution is paid.
- (5) For the purposes of subsection (4)(c) the first determination is to be made no later than one year after the day on which the advance is paid.
- (6) For the purposes of subsection (4)(f) the following are to be ignored—
- (a) negligible differences in the amounts of drawings;
  - (b) differences in the amounts of drawings which would be caused by a term of the asset-backed arrangement that requires the amounts of all outstanding drawings to be increased periodically by a percentage which cannot be higher than the highest of the following—
    - (i) the percentage increase in the consumer prices index for the reference period, being a period determined, in relation to each periodic increase, under the term of the asset-backed arrangement in question;

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (ii) the percentage increase in the retail prices index for the reference period;
  - (iii) the percentage for the reference period which corresponds to 5% per annum.
- (7) In determining the lender's position for the purposes of subsection (4), regard must be had (in particular) to any arrangements connected (directly or indirectly) to the asset-backed arrangement.
- (8) Condition P is that, as at the time the advance is paid, in accordance with generally accepted accounting practice the recorded financial liability is to be reduced to nil by the end of the drawing period by (and only by) the payments mentioned in section 196F(2)(e).
- (9) Condition Q is that, as at the time the advance is paid, no commitment to which subsection (10) applies has been given.
- (10) This subsection applies to a commitment (whether or not legally enforceable and whether or not subject to any conditions) if—
- (a) it is given (directly or indirectly) to a relevant person,
  - (b) it is a commitment to secure that a person receives money or another asset, and
  - (c) it is linked (directly or indirectly) to any determination of the lender's share in the partnership's profits or any drawing from the partnership on account of that share.
- (11) In subsection (10)(a) “relevant person” means—
- (a) E;
  - (b) a person connected with E;
  - (c) a person acting (directly or indirectly) at the direction or request, or with the agreement, of E or a person connected with E;
  - (d) a person chosen (directly or indirectly) by E or a person connected with E;
  - (e) a person within a class of person chosen (directly or indirectly) by E or a person connected with E;
  - (f) a partnership;
- but does not include a responsible authority.
- (12) In this section—
- (a) “responsible authority” means—
    - (i) the persons who from time to time are the trustees of the registered pension scheme, or
    - (ii) the persons who from time to time are the persons controlling the management of the registered pension scheme,
 in their capacity as such, and
  - (b) references to the making of drawings from the partnership include references to the receiving of distributions from the partnership.

---

#### **Textual Amendments**

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

## **196H Employer asset-backed contributions: “relevant change in relation to the partnership” and “person involved in the relevant change”**

- (1) For the purposes of sections 196D and 196F there is a relevant change in relation to the partnership if condition X or Y is met.
- (2) Condition X is that, in connection with the asset-backed arrangement, the lender or a person connected with the lender becomes a member of the partnership at any time.
- (3) Condition Y is that—
  - (a) in connection with the asset-backed arrangement, there is at any time a change in a member's share in the partnership's profits, and
  - (b) the member is the lender or a person connected with the lender or a person who in connection with the asset-backed arrangement becomes at any time connected with the lender.
- (4) For the purposes of subsections (2) and (3) an event occurs in connection with the asset-backed arrangement if it occurs directly or indirectly in consequence of it or otherwise in connection with it.
- (5) For the purposes of sections 196D to 196G references to the person involved in the relevant change in relation to the partnership are—
  - (a) if it is condition X that is met, to the lender or the person connected with the lender (as the case may be), and
  - (b) if it is condition Y that is met, to the member of the partnership in whose share in the partnership's profits there is a change.

### **Textual Amendments**

- F66** Ss. 196B-196L inserted (with effect in accordance with [Sch. 13 para. 17](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

## **196I Employer asset-backed contributions: change in lender's original position under acceptable structured finance arrangement etc**

- (1) This section applies if—
  - (a) an employer (“E”) pays a contribution (“E's contribution”) under a registered pension scheme,
  - (b) conditions A and C in section 196B are met or condition A in section 196D or 196F is met,
  - (c) the asset-backed arrangement is an acceptable structured finance arrangement for the purposes of section 196B, 196D or 196F (as the case may be) and, accordingly, condition B in that section is not met, and
  - (d) at any time (“the relevant time”) after the advance is paid—

---

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (i) the lender's position changes from the lender's original position in any respect (whether as a result of a term of the asset-backed arrangement or another arrangement or otherwise),
  - (ii) an event occurs or does not occur and the occurrence or non-occurrence of the event does not accord with the lender's original position in any respect,
  - (iii) in accordance with generally accepted accounting practice, the recorded financial liability is reduced to nil other than by a payment mentioned in section 196B(2)(a)(iii), 196D(2)(g) or section 196F(2)(e) (as the case may be),
  - (iv) a commitment to which section 196C(10), 196E(10) or 196G(10) (as the case may be) applies is given, or
  - (v) an event falling within section 196J occurs.
- (2) This section also applies if—
- (a) the requirements of subsection (1)(a) to (c) are met, and
  - (b) at any time (“the relevant time”) after the advance is paid, in accordance with generally accepted accounting practice, the recorded financial liability is reduced in part other than by a payment mentioned in section 196B(2)(a)(iii), 196D(2)(g) or section 196F(2)(e) (as the case may be).
- (3) Subject to subsection (4), the relevant amount is treated as follows as relevant—
- (a) for corporation tax purposes, the relevant amount is treated as if it were a profit which E has in respect of E's loan relationships chargeable to corporation tax under section 299 of CTA 2009 for E's accounting period in which the relevant time falls, or
  - (b) for income tax purposes, the relevant amount is treated as if it were an amount of income of E chargeable to income tax under Chapter 8 of Part 5 of ITTOIA 2005 for the tax year in which the relevant time falls.
- (4) The amount treated as profit or income by subsection (3)(a) or (b), together with any amounts so treated on any previous applications of this section in relation to the asset-backed arrangement, is not to exceed the total amount of relief given in respect of E's contribution.
- (5) If this section applies by virtue of subsection (1), from the relevant time Chapter 5B of Part 13 of ITA 2007 or Chapter 2 of Part 16 of CTA 2010 (as relevant) is no longer to apply in relation to the asset-backed arrangement.
- (6) But no person is, by virtue of subsection (5), to be placed in a position which is more advantageous than the position in which the person would have been had this section never applied; and, in order to give effect to this principle, such assessments to tax or adjustments to any assessment to tax as are just and reasonable are to be made.
- (7) Subsection (1)(d)(i) and (ii) does not cover—
- (a) cases in which the lender's change in position, or the occurrence or non-occurrence of the event, is the direct result of a mere administrative error, so long as the consequences of the error are remedied promptly, or
  - (b) mere changes in the persons who are the trustees of the registered pension scheme or in the persons who control the management of the registered pension scheme.

---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (8) For the purposes of subsection (1)(d)(ii) it does not matter if the occurrence or non-occurrence of the event is authorised by a term of the asset-backed arrangement or results from the occurrence or non-occurrence of another event which is so authorised.
- (9) If this section applies by virtue of subsection (1)(d)(v), in subsection (3) references to the relevant time are to be read as references to the time immediately before the relevant time.
- (10) In this section—
- “the advance” and “the asset-backed arrangement” have the same meaning as in section 196B, 196D or 196F (as the case may be),
  - “the lender's original position” means the lender's position as at the time the advance is paid set out in the paragraphs of section 196C(4), 196E(4) or 196G(4) (as the case may be),
  - “the recorded financial liability” has the same meaning as in section 196C, 196E or 196G (as the case may be), and
  - “the relevant amount” means—
    - (a) if this section applies by virtue of subsection (1), the outstanding amount of the recorded financial liability immediately before the relevant time determined in accordance with generally accepted accounting practice, or
    - (b) if this section applies by virtue of subsection (2), the amount of the reduction of the recorded financial liability.

#### Textual Amendments

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### **196J Employer asset-backed contributions: further events which cause section 196I to apply**

- (1) The events falling within this section are those listed in subsection (2).
- (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;

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(iii) if E is an individual, E dies.

(3) Sections 10(3) and 12(7) of CTA 2009 apply for the purposes of subsection (2)(d)(i).

#### Textual Amendments

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### **196K Employer asset-backed contributions: “advances” under acceptable structured finance arrangements**

- (1) This section applies if—
- (a) an employer pays a contribution under a registered pension scheme,
  - (b) condition A in section 196B, 196D or 196F is met,
  - (c) the asset-backed arrangement is an acceptable structured finance arrangement for the purposes of section 196B, 196D or 196F (as the case may be) and, accordingly, condition B in that section is not met, and
  - (d) the advance gives rise to a loan within the meaning of Chapter 3 (see section 162).
- (2) Section 180(4) does not prevent the advance from being a scheme administration employer payment (if it would otherwise do so).
- (3) In this section “the advance” and “the asset-backed arrangement” have the same meaning as in section 196B, 196D or 196F (as the case may be).

#### Textual Amendments

**F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))

### **196L Employer asset-backed contributions: supplementary**

- (1) This section applies for the purposes of sections 196B to 196K.
- (2) References to relief being given in respect of a contribution paid by an employer under a registered pension scheme are references to relief being given by way of—
- (a) the contribution being deducted in computing the amount of the employer's profits for the purposes of Part 2 of ITTOIA 2005 or Part 3 of CTA 2009 (trading income),
  - (b) the contribution being treated as an expense of management of the employer for the purposes of Chapter 2 of Part 16 of CTA 2009 (expenses of management: companies with investment business), or
  - <sup>F67</sup>(c) [ the contribution being ordinary BLAGAB management expenses of the employer for an accounting period for the purposes of section 76 of FA 2012.]



---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

- (3) Whether a person is connected with another person is determined in accordance with section 1122 of CTA 2010.
- (4) Sections 774, 775 and 776(2) and (4) of CTA 2010 apply as they apply for the purposes of Chapter 2 of Part 16 of that Act.
- (5) A reference to a disposal of an asset includes—
  - (a) anything constituting a disposal of an asset for the purposes of TCGA 1992, and
  - (b) so far as not covered by paragraph (a), the taking of any step by virtue of which a person receives an asset.
- (6) Section 776(2) of CTA 2010 applies for the purposes of subsection (5)(b).
- (7) “Non-working day” means—
  - (a) a Saturday or Sunday,
  - (b) a Christmas Eve, Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom,
 and “working day” is to be read accordingly.]

#### Textual Amendments

- F66** Ss. 196B-196L inserted (with effect in accordance with Sch. 13 para. 17 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 para. 15](#) (with [Sch. 13 Pt. 4](#)) (and see also, as to denial of relief for contributions paid during the period 29.11.2011 to 21.2.2012, the ss. 196B-196J inserted by [Finance Act 2012 \(c. 14\)](#), [Sch. 13 paras. 1, 3](#) (with [Sch. 13 Pt. 2](#)))
- F67** S. 196L(2)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 115](#)

## 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 [<sup>F68</sup>the relieving provisions] 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 [<sup>F69</sup>the relieving provisions] as if it had been paid in the chargeable period, or in each of the two or three chargeable periods, immediately after

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

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.

<b>AMOUNT OF THE RELEVANT EXCESS CONTRIBUTIONS</b>	<b>FRACTION AND CHARGEABLE PERIOD OR PERIODS</b>
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
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

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

DPCP is the number of days in the previous chargeable period.

[<sup>F70</sup>(9A) In this section “the relieving provisions” means the provisions mentioned in subsections (2) to (4) of section 196 (relief for employers in respect of contributions paid), as they have effect under that section.]

(10) In this section “chargeable period” means—

- (a) in a case where the contributions are deducted in computing profits to be charged under [<sup>F71</sup>Part 2 of ITTOIA 2005][<sup>F72</sup>or Part 3 of CTA 2009 (trading income),] a period of account, and
- (b) in a case where relief in respect of the contributions is given under [<sup>F73</sup>[<sup>F74</sup>section 76 of FA 2012] (expenses of insurance companies) or Chapter 2 of Part 16 of CTA 2009 (expenses of management: companies with investment business), an accounting period.]

#### Textual Amendments

- F68** Words in s. 197(2) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 14\(2\)\(a\)](#)
- F69** Words in s. 197(4) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 14\(2\)\(b\)](#)
- F70** S. 197(9A) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 14\(2\)\(c\)](#)
- F71** Words in s. 197(10)(a) inserted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 647](#), [Sch. 2 para. 161](#) (with [Sch. 2](#))
- F72** Words in s. 197(10)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 575\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F73** Words in s. 197(10)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 575\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F74** Words in s. 197(10)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 116](#)

#### Modifications etc. (not altering text)

- C19** S. 197 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [20](#)

#### Commencement Information

- I12** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 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.

(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

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (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.

**Modifications etc. (not altering text)**

**C20** S. 198 excluded (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, 20

**Commencement Information**

**I13** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**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 [F75]the relieving provisions (within the meaning of section 197) and sections 197 and 198] 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

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) as if it had been made on the last day on which the trade, profession, vocation or business was carried on.

[<sup>F76</sup>(5) And, for the purposes of section 76 of FA 2012, it is to be treated as meeting the conditions in section 77(2)(a) and (c) of that Act to the extent that it would otherwise not meet them.]

#### Textual Amendments

**F75** Words in s. 199(2) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), [Sch. 29 para. 14\(3\)](#)

**F76** S. 199(5) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 117](#)

#### Modifications etc. (not altering text)

**C21** S. 199 applied (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\)](#), regs. 1, [21](#)

**C22** S. 199 applied (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\)](#), regs. [1\(1\)](#), [3\(2\)](#)

#### Commencement Information

**I14** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

#### [<sup>F77</sup>199A Indirect contributions

- (1) This section applies where an employer (“E”)—
- pays contributions under a registered pension scheme (“the original scheme”) in a chargeable period, and
  - would (apart from subsection (4)) be entitled in the next chargeable period to an amount of relief in respect of a payment within subsection (2),
- and the avoidance condition is met.
- (2) A payment is within this subsection if all or part of the payment is intended to facilitate the payment of pension contributions under the original scheme or a substitute scheme by a person other than E.
- (3) The avoidance condition is that—
- section 197 would apply if, in the chargeable period mentioned in subsection (1)(b), E paid pension contributions under the original scheme of the amount of the relevant relief, and
  - the purpose, or one of the purposes, of facilitating the payment of pension contributions by a person other than E is to enable pension contributions to be paid without that section applying.
- (4) For the purposes of the spreading provisions, the amount of the relevant relief is to be treated as the amount of a pension contribution paid by E under the original scheme in the chargeable period mentioned in subsection (1)(b).
- (5) The “relevant relief” is the relief to which the employer would (apart from subsection (4)) be entitled in that chargeable period in respect of—
- the payment within subsection (2), or
  - where only part of the payment is intended to facilitate the payment of pension contributions as mentioned in that subsection, that part of the payment.

---

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

- (6) A “substitute scheme” is any registered pension scheme—
- (a) to which there is a relevant transfer in the period of 2 years ending with the day on which the payment within subsection (2) is made, or
  - (b) to which it is envisaged that a relevant transfer will or may be made after that day.
- (7) A relevant transfer is a recognised transfer from the original scheme of more than 30% of the aggregate of—
- (a) in a case within subsection (6)(a), the amount of the sums and the market value of the assets held for the purposes of, or representing accrued rights under, the original scheme immediately before the transfer, and
  - (b) in a case within subsection (6)(b), the amount of those sums and the market value of those assets on the day on which the payment is made.
- (8) If there is a transfer from a substitute scheme to another registered pension scheme which would have been a relevant transfer had it been a transfer from the original scheme at the time the relevant transfer was made, that other scheme is also a substitute scheme.
- (9) In subsection (1)(b) the reference to relief in respect of a payment within subsection (2) includes relief for a liability in respect of the making of the payment by a person other than E.
- (10) In this section references to E being entitled to an amount of relief are to an amount—
- (a) being deductible in computing the amount of the profits of E for the purposes of Part 2 of ITTOIA 2005 [<sup>F78</sup>or Part 3 of CTA 2009 (trading income)],
  - (b) being expenses of management of E for the purposes of [<sup>F79</sup>Chapter 2 of Part 16 of CTA 2009] (expenses of management: companies with investment business), or
  - (c) being [<sup>F80</sup>ordinary BLAGAB management expenses of E for an accounting period for the purposes of section 76 of FA 2012].
- (11) In this section—
- “the spreading provisions” means sections 197 and 198 and this section, and
- “chargeable period” has the meaning given by section 197.]

#### Textual Amendments

**F77** S. 199A inserted (21.7.2008) (with effect in accordance with s. 90(2) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 90\(1\)](#)

**F78** Words in s. 199A(10)(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 576\(a\)](#) (with [Sch. 2 Pts. 1, 2](#))

**F79** Words in s. 199A(10)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 576\(b\)](#) (with [Sch. 2 Pts. 1, 2](#))

**F80** Words in s. 199A(10)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 118](#)

## 200 No other relief for employers in connection with contributions

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

*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) are deductible in computing the amount of the profits of the employer for the purposes of [<sup>F81</sup>Part 2 of ITTOIA 2005][<sup>F82</sup>or Part 3 of CTA 2009 (trading income)],
- (b) are expenses of management for the purposes of [<sup>F83</sup>Chapter 2 of Part 16 of CTA 2009] (expenses of management: companies with investment business), or
- [<sup>F84</sup>(c) are to count as ordinary BLAGAB management expenses of the employer for an accounting period for the purposes of section 76 of FA 2012,]  
in connection with the cost of providing benefits under the pension scheme.

#### Textual Amendments

- F81** Words in s. 200(a) inserted (6.4.2006) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), Sch. 1 para. 649, Sch. 2 para. 161](#) (with Sch. 2)
- F82** Words in s. 200(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 577\(a\)](#) (with Sch. 2 Pts. 1, 2)
- F83** Words in s. 200(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 577\(b\)](#) (with Sch. 2 Pts. 1, 2)
- F84** S. 200(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 119](#)

#### Modifications etc. (not altering text)

- C23** S. 200 applied (1.5.2010) by [The Financial Assistance Scheme \(Tax\) Regulations 2010 \(S.I. 2010/1187\), regs. 1\(1\), 3\(3\)](#)

#### Commencement Information

- I15** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

## 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.”

#### Commencement Information

- I16** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284



---

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

### *Inland Revenue contributions*

#### **202 Minimum contributions under pensions legislation**

- <sup>F85</sup>(1) .....
- <sup>F85</sup>(2) .....
- <sup>F85</sup>(3) .....
- <sup>F85</sup>(4) .....
- (5) The Board of Inland Revenue may by regulations—
- (a) prescribe circumstances in which this section does not apply, or
  - (b) make provision supplementing this section.
- <sup>F85</sup>(6) .....

#### **Textual Amendments**

**F85** S. 202 omitted (6.4.2016 except for s. 202(5)) by virtue of [Finance Act 2013 \(c. 29\), s. 52\(6\)\(12\)](#)

#### **Commencement Information**

**I17** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

### *Inheritance tax exemptions*

#### **203 Inheritance tax exemptions**

- (1) The Inheritance Tax Act 1984 (c. 51) is amended as follows.
- (2) In section 12 (dispositions that are not transfers of value)—
  - (a) in subsection (2), for the words following “if” substitute “ it is a contribution under a registered pension scheme or section 615(3) scheme in respect of an employee of the person making the disposition. ”, and
  - (b) omit subsections (3) and (4).
- (3) In section 58(1) (settled property in which no qualifying interest in possession subsists but which is not “relevant property”), for paragraph (d) substitute—
  - “(d) property which is held for the purposes of a registered pension scheme or section 615(3) scheme;”.
- (4) In section 151 (treatment of pension rights etc.)—
  - (a) omit subsections (1) and (1A),
  - (b) in subsections (2), (4) and (5), for “fund or scheme to which this section applies” substitute “ registered pension scheme or section 615(3) scheme ”, and
  - (c) in subsection (2)(b), for the “fund or scheme” (in both places) substitute “ scheme ”.
- (5) In section 152 (cash options), for the words from the beginning to “or scheme” substitute “ Where on a person’s death an annuity becomes payable under a registered



---

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

pension scheme or section 615(3) scheme to a widow, widower<sup>F86</sup>, surviving civil partner] or dependant of that person and under the terms of the scheme ”.

(6) In section 272 (general interpretation), insert at the appropriate places—

““registered pension scheme” has the same meaning as in Part 4 of the Finance Act 2004;”, and

““section 615(3) scheme” means a superannuation fund to which section 615(3) of the Taxes Act 1988 applies;”.

---

#### **Textual Amendments**

**F86** Words in s. 203(5) inserted (with effect in accordance with reg. 1(7) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **178**

---

#### **Commencement Information**

**I18** Ss. 160-274, 281, Schs. 30-35 in force at 6.4.2006 but any power to make an order or regulations under those provisions may be exercised at any time after Royal Assent, see s. 284

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)