

Status: Point in time view as at 17/07/2012.

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

SCHEDULES

SCHEDULE 13

EMPLOYER ASSET-BACKED PENSION CONTRIBUTIONS ETC

PART 4

TRANSITIONAL PROVISION RELATING TO PART 3

Adjustments

- 29 (1) For the purposes of paragraphs 30 and 31—
- (a) amount A is the total amount of relief given in respect of E's contribution,
 - (b) amount B is the total of the following amounts—
 - (i) any amounts of income which are charged to tax by virtue of a relevant provision,
 - (ii) any amounts brought into account in calculating income for tax purposes by virtue of a relevant provision (so far as not reflected in sub-paragraph (i)), and
 - (iii) any amounts stopped from being the subject of an income deduction by virtue of a relevant provision (so far as not reflected in sub-paragraph (i) or (ii)), and
 - (c) subject to sub-paragraph (9), amount C is the amount of the payment mentioned in sub-paragraph (6) or (8) (as the case may be) so far as the payment—
 - (i) is made under the asset-backed arrangement on the completion day,
 - (ii) is not reflected in amount B,
 - (iii) is not the subject of an income deduction, and
 - (iv) is not a contribution paid by E under the relevant scheme but nevertheless becomes (directly or indirectly) part of the sums held for the purposes of the relevant scheme.
- (2) In sub-paragraph (1)(b) “relevant provision” means—
- (a) paragraph 23, 24 or 25 above (as the case may be);
 - (b) a relevant charging provision (as defined in paragraph 26 above) as applied in relation to the asset-backed arrangement for amounts arising on or before the completion day;
 - (c) paragraph 27 above (if applicable).
- (3) No amount is to be included in amount B by virtue of sub-paragraph (2)(c) so far as it is reflected in an amount included in amount B by virtue of sub-paragraph (2) (a) or (b).
- (4) In sub-paragraph (1) “income deduction” means a deduction to which any person is entitled—

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- (a) in calculating income for tax purposes, or
 - (b) from total income or total profits.
- (5) Sub-paragraph (6) applies if the section which would have applied as mentioned in paragraph 18(1)(d) above is section 196B of FA 2004.
- (6) The payment referred to in sub-paragraph (1)(c) is the payment (if any) which the borrower, or a person connected with the borrower, makes to the lender, or a person connected with the lender, in order to acquire—
- (a) the security, or
 - (b) any asset substituted for the security under the asset-backed arrangement.
- (7) Sub-paragraph (8) applies if the section which would have applied as mentioned in paragraph 18(1)(d) above is section 196D or 196F of FA 2004.
- (8) The payment referred to in sub-paragraph (1)(c) is the payment (if any) which E, or a person connected with E, makes to the lender, or a person connected with the lender, in order to reverse the relevant change in relation to the partnership.
- (9) Amount C is to be taken to be nil if—
- (a) on or before the completion day, a commitment (whether or not legally enforceable and whether or not subject to any conditions) is given (directly or indirectly) to a relevant person, and
 - (b) the commitment—
 - (i) is a commitment to secure that a person receives money or another asset, and
 - (ii) is linked (directly or indirectly) to the making of the payment covered by amount C.
- (10) In sub-paragraph (9)(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.
- (11) But “relevant person” does not include—
- (a) the persons who from time to time are the trustees of the relevant scheme, or
 - (b) the persons who from time to time are the persons controlling the management of the relevant scheme,
- in their capacity as such.
- 30 (1) This paragraph applies if amount A exceeds the sum of amounts B and C.
- (2) The amount of the excess is treated as follows as relevant—
- (a) for corporation tax purposes, the 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 beginning of the completion day falls, or

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- (b) for income tax purposes, the 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 beginning of the completion day falls.

31 If the sum of amounts B and C exceeds amount A—

- (a) E is to be treated as having paid a contribution under the relevant scheme in respect of any individual of an amount equal to the excess,
- (b) the contribution is to be treated as having been paid at the beginning of the completion day, and
- (c) E is to be given relief as provided for by section 196 of FA 2004 accordingly.

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