



Finance Act 2004

2004 CHAPTER 12

PART 4

PENSION SCHEMES ETC

CHAPTER 4

REGISTERED PENSION SCHEMES: TAX RELIEFS AND EXEMPTIONS

Employers' contributions

[^{F1}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.

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- (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.
- (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).

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- (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

- F1** 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](#)))

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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\(2\)](#)