

EXPLANATORY NOTE

CLAUSE 48 SCHEDULE 13: EMPLOYER ASSET-BACKED PENSION CONTRIBUTIONS

SUMMARY

1. There are three groups of amendments to Part 2 of draft Schedule 13 to the Finance Bill and they apply to those asset-backed contribution arrangements where the contribution was paid before 29 November 2011.
2. The first amendment clarifies that these arrangements are completed when the registered pension scheme concerned is no longer entitled to any payments in connection with the arrangement, in line with the core reform principle that the tax relief given to the employer under such an arrangement accurately reflects, but does not exceed, payments made to the pension scheme.
3. The second group of changes restricts the circumstances where a completion event can occur by clarifying that only changes to payments to be made to the pension scheme in connection with these arrangements will be taken into account.
4. The last group stipulates expressly that any payment to be made by the employer to buy back the pension scheme's interest in any partnership involved in any of these arrangements is to be included in the calculations for making a tax adjustment at the end of the arrangement.
5. There are also minor amendments to Part 4 of the Schedule, which applies to any arrangement where the contribution was paid before 22 February 2012. This is to ensure consistency of wording as a result of the Part 2 changes concerning completion events.

DETAILS OF THE AMENDMENTS

6. Amendments are proposed for paragraphs 6, 7 and 12 in Part 2 of Schedule 13 and paragraph 21 in Part 4. Part 2 applies to any asset-backed pension contributions arrangement where the contribution was paid before 29 November 2011 whilst Part 4 covers all arrangements where the contribution was paid before 22 February 2012.
7. Paragraph 6(5) in Part 2 is amended to make clear that an arrangement is completed when the "responsible authority" ceases to be entitled to payments in connection with the arrangement and if this

is earlier than a completion event covered by the existing subparagraph. “Responsible authority” is defined under new paragraph 6(7) to mean those persons who from time to time are either the trustees of the relevant pension scheme or the persons controlling its management.

8. New paragraphs 6(6) and 6(8) clarify respectively that payments referred to under the amended paragraph 6(5) include drawings or distributions from a partnership and the circumstances where a responsible authority is entitled to any such payment.
9. Paragraph 7 is amended to ensure that only changes to payments made to the pension scheme in connection with an arrangement will be taken into account in a completion event. It also clarifies that a completion event can still occur even if it is authorised by a term of the arrangement or any other arrangement associated with it.
10. Paragraph 12(6) is amended to include any payment made by the employer to the pension scheme to buy back its interest in any partnership involved in an arrangement for the purposes of making a tax adjustment at the end of the arrangement.
11. A few minor amendments are made to paragraph 21 in Part 4 concerning completion events in order to ensure consistency of the language used in Parts 2 and 4. These tidying-up changes apply to all arrangements where the contribution was made before 22 February 2012.

BACKGROUND NOTE

12. The new legislation on employer asset-backed pension contributions ensures that employers making these contributions can no longer benefit from unintended, excess tax relief.
13. It has come to HMRC’s attention that some pre-existing arrangements where the contribution was paid before 29 November 2011, may be affected in unintended ways by the transitional provisions in Part 2 to draft Schedule 13. These amendments remove the unintended consequences to ensure that the relief given to the employer under such an arrangement accurately reflects, but does not exceed, payments made to the registered pension scheme.
14. There are also some tidying-up amendments to bring Part 4 of the Schedule in line with the wording being proposed for Part 2 in relation to completion events. The amendments cover any arrangement where the contribution was paid before 22 February 2012.



House of Commons
Draft 1 June 2012
PUBLIC BILL COMMITTEE

FINANCE BILL

David Gauke

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Schedule 13, page 322, line 39, leave out from ‘is’ to end of line 43 and insert
“‘completed’—

- (a) when the share in the partnership’s profits of the person involved in the relevant change is no longer to be determined under the asset-backed arrangement (conditionally or unconditionally) by reference (wholly or partly) to payments in respect of the security, or
 - (b) if earlier, when no responsible authority is any longer entitled (conditionally or unconditionally) to any payments in connection with the asset-backed arrangement.
- (6) In sub-paragraph (5)(b) the reference to payments are to payments of any type including drawings or distributions from a partnership, payments in respect of the security and other payments in respect of an asset (as read in accordance with section 776(4)(b) of CTA 2010).
- (7) “Responsible authority” means—
- (a) the persons who from time to time are the trustees of the relevant scheme, or
 - (b) the persons who from time to time are the persons controlling the management of the relevant scheme,
- in their capacity as such.
- (8) A responsible authority is entitled to a payment “in connection with” the asset-backed arrangement if it is entitled to the payment directly or indirectly in consequence of the arrangement or otherwise in connection with the arrangement.’.

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Schedule 13, page 323, line 7, leave out ‘(2)’ and insert ‘(3)’.

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Schedule 13, page 323, line 11, leave out sub-paragraph (2).

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Schedule 13, page 323, line 17, leave out from ‘which’ to ‘the’ in line 18 and insert
‘a responsible authority is entitled in connection with’.

Finance Bill, *continued*

- David Gauke **5**
Schedule 13, page 323, line 38, leave out sub-paragraphs (5) to (7).
- David Gauke **6**
Schedule 13, page 324, line 25, leave out ‘and (6) and (7)’.
- David Gauke **7**
Schedule 13, page 324, line 26, leave out from ‘including’ to end of line 27 and insert ‘drawings or distributions from a partnership, payments in respect of the security and other payments in respect of an asset (as read in accordance with section 776(4)(b) of CTA 2010).’.
- David Gauke **8**
Schedule 13, page 324, line 28, leave out sub-paragraph (9).
- David Gauke **9**
Schedule 13, page 324, line 31, leave out ‘sub-paragraphs (4)(b) to (d) and (7)(b) to (d)’ and insert ‘sub-paragraph (4)(b) to (d)’.
- David Gauke **10**
Schedule 13, page 324, line 33, after ‘arrangement’ insert ‘or any other arrangement’.
- David Gauke **11**
Schedule 13, page 328, line 2, leave out from second ‘E,’ to end of line 4 and insert ‘makes—
(a) to the lender, or a person connected with the lender, in order to reverse the relevant change in relation to the partnership, or
(b) otherwise to a responsible authority in order to buy out the authority’s interest in any partnership involved in the asset-backed arrangement.’.
- David Gauke **12**
Schedule 13, page 328, line 25, leave out from ‘not’ to end of line 30 and insert ‘include a responsible authority.’.
- David Gauke **13**
Schedule 13, page 343, line 12, leave out ‘under’ and insert ‘in connection with’.
- David Gauke **14**
Schedule 13, page 343, line 45, leave out ‘under’ and insert ‘in connection with’.
- David Gauke **15**
Schedule 13, page 344, line 21, leave out from ‘including’ to end of line 22 and insert ‘drawings or distributions from a partnership, payments in respect of the security and other payments in respect of an asset (as read in accordance with section 776(4)(b) of CTA 2010).’.

Finance Bill, *continued*

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Schedule 13, page 344, line 25, at end insert—

‘(9A) For the purposes of sub-paragraphs (3)(a) and (6)(b) a person is entitled to a payment “in connection with” the asset-backed arrangement if the person is entitled to the payment directly or indirectly in consequence of the arrangement or otherwise in connection with the arrangement.’.

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Schedule 13, page 344, line 28, after ‘arrangement’ insert ‘or any other arrangement’.