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STATUTORY INSTRUMENTS

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**2012 No. 3111**

**The Tax Treatment of Financing Costs and Income (Correction of Mismatches: Partnerships and Pensions) Regulations 2012**

**Amendment to the Tax Treatment of Financing Costs and Income (Correction of Mismatches) Regulations 2010**

**3.**—(1) The Tax Treatment of Financing Costs and Income (Correction of Mismatches) Regulations 2010(1) are amended as follows.

(2) After regulation 16 insert—

**“Employer asset-backed pension contribution mismatches**

**16A.**—(1) This regulation applies in relation to a finance charge if the conditions in regulation 16B are satisfied.

(2) In the period of account in which the finance charge is brought into account by the relevant group company, an amount equal to that finance charge shall be included in the available amount to the extent that it is not included in the available amount for that period of account by virtue of any other enactment.

**Conditions for the application of regulation 16A**

**16B.**—(1) The first condition is that the finance charge is treated as interest payable under a transaction or a loan relationship under any of the following provisions of the Corporation Tax Act 2010(2)—

- (a) section 761(3) (deemed loan relationship if borrower is a company),
- (b) section 762(3) (deemed loan relationship if borrower is a partnership with corporate member),
- (c) section 766(3) (deemed loan relationship), or
- (d) section 769(3) (deemed loan relationship).

(2) The second condition is that the finance charge is a financing expense of the company.

(3) The third condition is that the finance charge must arise in relation to—

- (a) an acceptable structured finance arrangement in connection with a contribution paid by an employer under a registered pension scheme in respect of which the employer is entitled to relief under Chapter 4 of Part 4 of the Finance Act 2004(3) (registered pension schemes: tax reliefs and exemptions), or
- (b) a finance arrangement which would be an acceptable structured finance arrangement in connection with a contribution paid by an employer under a registered pension scheme if the contribution was paid on or after 22 February 2012 and in respect of

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(1) S.I. 2010/3025.

(2) 2010 c. 4.

(3) 2004 c. 12.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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which the employer is entitled to relief under Chapter 4 of Part 4 of the Finance Act 2004.

(4) In paragraph (3), “acceptable structured finance arrangement” has the meaning given in section 196C (employer asset-backed contributions: “acceptable structured finance arrangement” (1)), section 196E (employer asset-backed contributions: “acceptable structured finance arrangement” (2)) or section 196G (employer asset-backed contributions: “acceptable structured finance arrangement” (3)) of the Finance Act 2004<sup>(4)</sup>, as the case may be.”

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(4) 2004 c. 12. Sections 196C, 196E and 196G were inserted by paragraph 15 of Schedule 13 to the Finance Act 2012 (c. 14).