



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 17

[^{F1}OTHER ANTI-AVOIDANCE]

[^{F1}Finance leaseback: parties' income and profits]

[^{F1}228J Plant or machinery subject to further operating lease

- (1) This section applies where—
 - (a) plant or machinery is the subject of—
 - (i) a sale and finance leaseback, or
 - (ii) a lease and finance leaseback, and
 - (b) some or all of the plant or machinery becomes, while the subject of the leaseback, also the subject of a lease in relation to which the following conditions are met—
 - (i) the term of the lease begins on or after 18 May 2004;
 - (ii) S, or a person connected with S, is the lessee under the lease;
 - (iii) the lease is not accounted for as a finance lease in the accounts of the lessee.
- (2) For the purpose of income tax or corporation tax, in calculating the lessee's income or profits for a period of account the amount deducted in respect of amounts payable under the operating lease shall not exceed the relevant amount.
- (3) Subsections (4) and (5) apply in relation to the calculation of the lessor's income or profits for a period of account for the purpose of income tax or corporation tax.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Section 228J. (See end of Document for details)

- (4) Where—
- (a) an amount receivable in respect of the lessor’s interest under the operating lease falls to be taken into account in that calculation, and
 - (b) that amount is reduced by an amount due to the lessee under the operating lease,
- that reduction shall be disregarded when taking the amount receivable into account.
- (5) The amounts receivable in respect of the lessor’s interest under the operating lease that fall to be taken into account in that calculation may be disregarded to the extent that they exceed the relevant amount (whether or not subsection (4) applies).
- (6) Where only some of the plant or machinery is the subject of the operating lease, subsections (2) to (5) shall apply subject to such apportionments as may be just and reasonable.
- (7) For the purposes of this section a lease is accounted for as a finance lease in a person’s accounts if—
- [^{F2}(a) the lease—
 - (i) falls, under generally accepted accounting practice, to be treated in that person's accounts as a finance lease or loan, or
 - (ii) if that person is a lessee under a right-of-use lease, would fall to be treated in that person's accounts as a finance lease were that person required under generally accepted accounting practice to determine whether the lease falls to be so treated,]
 - (b) in a case where the lease is comprised in other arrangements, those arrangements [^{F3}—
 - (i) fall, under generally accepted accounting practice, to be treated as a finance lease or loan, or
 - (ii) if that person is a lessee under a right-of-use lease, would fall to be treated in that person's accounts as a finance lease were that person required under generally accepted accounting practice to determine whether the arrangements fall to be so treated.]
- (8) In this section—
- “ lease and finance leaseback ” has the meaning given in [^{F4}section 228A];
- “ lessee ” means the lessee under the operating lease;
- “ lessor ” means the lessor under the operating lease;
- “ operating lease ” means the lease referred to in subsection (1)(b);
- “ relevant amount ” means an amount equal to the permitted maximum under section 228B as it applies in relation to the leaseback.]

Textual Amendments

- F1** Ss. 228A-228J and cross-heading inserted (with effect in accordance with s. 134(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 134](#)
- F2** [S. 228J\(7\)\(a\)](#) substituted (with effect in accordance with Sch. 14 para. 6(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 14 para. 1\(6\)\(a\)](#)
- F3** Words in [s. 228J\(7\)\(b\)](#) substituted (with effect in accordance with Sch. 14 para. 6(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 14 para. 1\(6\)\(b\)](#)

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F4 Words in s. 228J(8) substituted (with effect in accordance with Sch. 20 para. 12(12) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 20 para. 12\(10\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Capital Allowances Act 2001, Section 228J.