



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

[^{F1}CHAPTER 6A

INTERPRETATION OF PROVISIONS ABOUT LONG FUNDING LEASES

Meaning of “long funding lease” etc

[^{F1}70H Lessee: requirement for tax return treating lease as long funding lease

(1) A lease is not a long funding lease in the case of the lessee unless he makes a tax return for the initial period on the basis that he falls to be taxed in respect of the lease in accordance with the provisions of—

- ^{F2}(a)
- (b) Chapter 10A of Part 2 of ITTOIA 2005 (long funding leases: income tax) [^{F3}or
- (c) Chapter 2 of Part 9 of CTA 2010 (long funding leases of plant or machinery)].

[Subsection (1) does not apply in respect of a lease of plant or machinery (“lease A”) ^{F4}(1A) if, at any time in the relevant period—

- (a) the lessee is the lessor of a lease of any of that plant or machinery (“lease B”), and
- (b) lease B is a long funding lease.

(1B) In subsection (1A) “the relevant period” means the period—

- (a) beginning with the inception of lease A, and
- (b) ending with the making of the tax return for the initial period (or, if that return is amended, the making of the last amendment).]

*Changes to legislation: There are currently no known outstanding effects for the
 Capital Allowances Act 2001, Section 70H. (See end of Document for details)*

[In a case in which paragraphs (a) and (b) of subsection (1) of section 70DA (leaseback^{F5}(1C) of plant or machinery) are satisfied, subsection (1) of this section does not apply to the lease referred to in section 70DA(1)(b).]

- (2) Where, in the case of a lease, a person has made a tax return for the initial period—
- (a) on the basis that he falls to be taxed in respect of the lease in accordance with those provisions, or
 - (b) on the basis that he does not fall to be so taxed,

he may not make a claim [^{F6}under the recovery provisions for relief in respect of an amount paid or liable to be paid that is excessive by reason of] the tax return having been made on that basis.

- (3) In this section—

[^{F7}“the recovery provisions”] means—

- (a) [^{F8}Schedule 1AB to] the Taxes Management Act 1970; or
- (b) paragraph 51 of Schedule 18 to [^{F9}FA] 1998;

“the initial period” is the first accounting period or, as the case may be, tax year in which there is a difference in the amount of the profits or losses falling to be shown in the return, according to whether the lease is a long funding lease or not;

“tax return” means—

- (a) a company tax return under paragraph 3 of Schedule 18 to [^{F9}FA] 1998, or
- (b) a return under section 8 of the Taxes Management Act 1970 (income tax: personal return).]

Textual Amendments

- F1** Pt. 2 Ch. 6A inserted (with effect in accordance with Sch. 8 para. 15 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 8 para. 7](#)
- F2** S. 70H(1)(a) repealed (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 330\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F3** S. 70H(1)(c) and preceding word inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 330\(b\)](#) (with [Sch. 2](#))
- F4** S. 70H(1A)(1B) inserted (with effect in accordance with Sch. 20 para. 8(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 20 para. 8\(1\)](#)
- F5** S. 70H(1C) inserted (with effect in accordance with Sch. 32 para. 17 to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 32 para. 16](#)
- F6** Words in s. 70H(2) substituted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 52 para. 9\(2\)](#)
- F7** Words in s. 70H(3) substituted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 52 para. 9\(3\)\(a\)](#)
- F8** Words in s. 70H(3) substituted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 52 para. 9\(3\)\(b\)](#)
- F9** Word in s. 70H(3) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), s. [126\(5\)\(a\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Capital Allowances Act 2001, Section 70H.