



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

[^{F1}CHAPTER 6A

INTERPRETATION OF PROVISIONS ABOUT LONG FUNDING LEASES

Leases excluded by right of lessor etc to claim capital allowances

[^{F1}70Q Leases excluded by right of lessor etc to claim capital allowances

- (1) A lease is not a long funding lease in the case of the lessee if it is excluded by virtue of subsection (2) (but see also subsection (5)).
- (2) A lease is excluded if the lessor, or any superior lessor (see subsections (7) to (9)),—
 - (a) is entitled, at the commencement of the term of the lease, to claim a relevant allowance (see subsection (6)),
 - (b) would have been so entitled at that time, but for section 70V (tax avoidance involving international leasing),
 - (c) has at any earlier time been entitled to claim such an allowance, but has not been required to bring a disposal value into account in accordance with section 61(1)(ee), or
 - (d) would fall within any one or more of paragraphs (a) to (c), if he had been within the charge to income tax or corporation tax at the inception of the lease and any earlier times.
- (3) Where for any period the lessor, or any superior lessor, is a person—
 - (a) who is not within the charge to income tax or corporation tax by reason of not being resident in the United Kingdom, and

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

- (b) who does not prepare accounts in accordance with international accounting standards or UK generally accepted accounting practice, subsection (4) applies.
- (4) In determining whether the condition in subsection (2)(d) is met in any such case, any question relating to generally accepted accounting practice in relation to that person and that period is to be determined by reference to generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards.
- (5) A lease is not excluded by virtue of subsection (2) if—
- (a) the inception of the lease is before 28th June 2006, and
 - (b) by virtue only of section 70J(6), the lease is not a funding lease in the case of the lessor.
- (6) A “relevant allowance” is an allowance under this Act in respect of the leased plant or machinery.
- (7) There is a “superior lessor” only if the leased plant or machinery is the subject of a chain of superior leases.
- (8) Leased plant or machinery is the subject of a chain of superior leases if—
- (a) the lessor has his interest in relation to the plant or machinery under or by virtue of a lease from a third person (P), or
 - (b) the circumstances are as in paragraph (a), but P has his interest in relation to the plant or machinery under or by virtue of a lease from a fourth person (Q), or
 - (c) the circumstances are as in paragraph (b), but Q has his interest in relation to the plant or machinery under or by virtue of a lease from a fifth person (R), and so on, where there is more than a fifth person involved.
- (9) Where any leased plant or machinery is the subject of a chain of superior leases, the superior lessors are the persons described in subsection (8) as P, Q, R, and so on.
- (10) Subsections (6) to (9) have effect for the interpretation of this section.]

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](#)

Changes to legislation:

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