SCHEDULES

SCHEDULE 10

SALE ETC OF LESSOR COMPANIES ETC

PART 2

LEASING BUSINESS CARRIED ON BY A COMPANY ALONE

Income and matching expense in different accounting periods

3 (1) This paragraph applies for corporation tax purposes if—

(a) on any day ("the relevant day") a company carries on a business of leasing plant or machinery otherwise than in partnership (see paragraphs 6 to 8),

(b) the company is within the charge to corporation tax in respect of the business, and

(c) there is a qualifying change of ownership in relation to the company on the relevant day (see paragraphs 10 to 13).

(2) On the relevant day—

(a) the company is treated as receiving an amount of income, and

(b) the accounting period of the company ends.

(3) The income—

(a) is treated as a receipt of the business, and

(b) is brought into account in calculating for corporation tax purposes the profits of the business for that accounting period.

(4) On the day following the relevant day—

(a) the company is treated as incurring an expense, and

(b) a new accounting period of the company begins.

(5) The expense—

(a) is treated as an expense of the business, and

(b) is allowed as a deduction in calculating for corporation tax purposes the profits of the business for that new accounting period.

(6) This paragraph is supplemented by paragraphs 4 and 5.

Amount of income and expense

4 (1) The amount of the income is calculated in accordance with paragraphs 16 to 21.

(2) The amount of the expense is the same as the amount of the income.

No carry back of the expense

5 (1) This paragraph applies if the business carried on by the company is a trade the profits of which are chargeable to corporation tax under Case I of Schedule D.

(2) No relief is to be given by virtue of section 393A(1)(b) of ICTA (set off of trading losses against profits of earlier accounting periods) in respect of so much of any loss as derives from the expense.

(3) For the purpose of determining how much of a loss derives from the expense, the loss is to be calculated on the basis that the expense is the final amount to be deducted.

Meaning of "business of leasing plant or machinery"

6 (1) This paragraph determines for the purposes of this Part of this Schedule whether, on any day ("the relevant day"), a company ("the relevant company") carries on a business of leasing plant or machinery.

(2) A business carried on by the relevant company is a business of leasing plant or machinery on the relevant day if condition A or B is met.

(3) Condition A is that at least half of the accounting value of the plant or machinery owned by the relevant company on the relevant day relates to qualifying leased plant or machinery.

(4) Condition B is that at least half of the relevant company's income in the period of 12 months ending with the relevant day derives from qualifying leased plant or machinery.

(5) For the purposes of this Part of this Schedule, plant or machinery is "qualifying leased plant or machinery", in relation to any company, if—

(a) expenditure is incurred (or treated as incurred) by the company on the provision of the plant or machinery wholly or partly for the purposes of the business,

(b) the company is (or has at any time been) entitled, on the relevant assumptions, to an allowance under Part 2 of CAA 2001 in respect of that expenditure, and

(c) at any time in the period of 12 months ending with the relevant day the plant or machinery has been subject to a plant or machinery lease which is not an excluded lease of background plant or machinery for a building (see paragraph 41).

(6) "The relevant assumptions" are—

(a) that sections 34A and 70A of CAA 2001 (lessees, and not lessors, under long funding leases to be entitled to capital allowances) are ignored, and

(b) that any claim that could be made for an allowance under Part 2 of that Act is made.

Provision for the purposes of condition A in paragraph 6

7 (1) This paragraph applies for the purposes of condition A in paragraph 6.

(2) The accounting value of the plant or machinery owned by the relevant company on the relevant day is taken to be the amount found by adding together the following amounts.

(3) The amounts are—
(a) the amounts (if any) shown in the appropriate balance sheet of the relevant company in respect of plant or machinery which it owns at the start of the relevant day, and
(b) the amounts (if any) shown in the appropriate balance sheet of each associated company in respect of plant or machinery which it transfers to the relevant company on the relevant day,

and the reference here to an associated company is to a company which is an associated company of the relevant company on the relevant day (as to which, see paragraph 9).

(4) For this purpose the amounts shown in the appropriate balance sheet of any company in respect of any plant or machinery are—
(a) the amounts shown in that balance sheet as the net book value (or carrying amount) in respect of the plant or machinery, and
(b) the amounts shown in that balance sheet as the net investment in respect of finance leases of the plant or machinery.

(5) If—
(a) any of the plant or machinery is a fixture in any land, and
(b) the amount which falls (or would fall) to be shown in an appropriate balance sheet as the net book value (or carrying amount) of the land includes (or would include) an amount in respect of the fixture,

the amount of the net book value (or carrying amount) in respect of the fixture is determined on a just and reasonable basis.

(6) If—
(a) any of the plant or machinery is subject to a finance lease, and
(b) any land or other asset which is not plant or machinery is subject to that lease,

the amount of the net investment in respect of the finance lease of that plant or machinery is determined on a just and reasonable basis.

(7) In this paragraph any reference to any amount shown in the appropriate balance sheet of a company is to the amount which, on the following assumptions, falls (or would fall) to be shown in a balance sheet of the company.

(8) The assumptions are—
(a) that the balance sheet is drawn up as at the start of the relevant day in accordance with generally accepted accounting practice, and
(b) that, if the company acquires any plant or machinery directly or indirectly from a person who is connected with the company, the plant or machinery had been acquired for an amount equal to its market value as at the relevant day.

(9) Sub-paragraph (8)(b) does not apply if the relevant day falls before 22nd March 2006.

Provision for the purposes of condition B in paragraph 6

8 (1) This paragraph applies for the purposes of condition B in paragraph 6.

(2) The reference to the relevant company's income is to its income as calculated for corporation tax purposes.

(3) Any apportionment necessary to determine the amount of the relevant company's income attributable to the period of 12 months ending with the relevant day is to be made on a time basis.

(4) But—

(a) that basis does not apply if it would work in an unjust or unreasonable manner in relation to any person, and

(b) in that case the apportionment is to be made instead on a just and reasonable basis.

(5) The proportion of the income that derives from qualifying leased plant or machinery is to be determined on a just and reasonable basis.

Meaning of "associated company"

9 (1) A company is an "associated company" of another company on any day if, at the start of that day,—

(a) one of the two has control of the other, or

(b) both are under the control of the same person or persons,

and for this purpose "control" is to be read in accordance with section 416 of ICTA.

(2) If, at the start of any day, a company ("the consortium company") is owned by a consortium or is a qualifying 90% subsidiary of a company owned by a consortium, references to an associated company of the consortium company on that day include—

(a) any relevant member of the consortium on that day, and

(b) any company which is an associated company of any relevant member of the consortium on that day.

(3) For this purpose a member of the consortium is a "relevant" member on any day if—

(a) it is a member of the consortium at the start of the day,

(b) one or more qualifying changes of ownership occur in relation to the consortium company on that day, and

(c) any of those changes occur in a case where the member of the consortium is regarded as "company E" for the purposes of paragraph 12 (consortium relationships).

(4) This paragraph applies for the purposes of this Part of this Schedule.

Meaning of "a qualifying change of ownership" in relation to a company

10 (1) For the purposes of this Schedule, there is a qualifying change of ownership in relation to a company ("company A") on any day if there is a relevant change in the relationship on that day between—

(a) company A, and

(b) a principal company of company A,

but see paragraph 13 for an exception (no qualifying change of ownership in the case of certain intra-group reorganisations).

(2) For the purposes of this Schedule, there is a relevant change in the relationship between company A and a principal company of company A on any day in any of the

circumstances in paragraphs 11 and 12 (qualifying 75% subsidiaries and consortium relationships).

Qualifying 75% subsidiaries

11 (1) A company ("company B") is a principal company of company A if—

(a) company A is a qualifying 75% subsidiary of company B, and

(b) company B is not a qualifying 75% subsidiary of another company.

(2) There is a relevant change in the relationship between company A and company B (as a principal company) on any day if company A ceases to be a qualifying 75% subsidiary of company B on that day.

(3) A company ("company C") is a principal company of company A if—

(a) company A is a qualifying 75% subsidiary of company B,

(b) company B is a qualifying 75% subsidiary of company C, and

(c) company C is not a qualifying 75% subsidiary of another company.

(4) There is a relevant change in the relationship between company A and company C (as a principal company) on any day if—

(a) company A ceases to be a qualifying 75% subsidiary of company B on that day, or

(b) company B ceases to be a qualifying 75% subsidiary of company C on that day.

(5) If company C is a qualifying 75% subsidiary of another company ("company D"), company D is a principal company of company A unless company D is a qualifying 75% subsidiary of another company, and so on.

(6) Accordingly, there is a relevant change in the relationship between company A and a principal company of company A on any day if—

(a) in determining which company is a principal company, regard is had to any company which is a qualifying 75% subsidiary of another, and

(b) that company ceases to be a qualifying 75% subsidiary of the other on that day.

(7) This paragraph is supplemented by paragraph 15 (meaning of a qualifying 75% subsidiary).

Consortium relationships

12 (1) A company ("company E") is a principal company of company A if—

(a) company A is owned by a consortium of which company E is a member, or

(b) company A is a qualifying 90% subsidiary of a company owned by a consortium of which company E is a member,

and company E is not a qualifying 75% subsidiary of another company.

(2) There is a relevant change in the relationship between company A and company E (as a principal company) on any day if the relevant fraction at the end of the day is less than the relevant fraction at the start of the day.

(3) In this paragraph "the relevant fraction" is whichever is the lowest of the following percentages—

(a) the percentage of the ordinary share capital of company A that is beneficially owned by company E,

(b) the percentage to which company E is beneficially entitled of any profits available for distribution to equity holders of company A,

(c) the percentage to which company E would be beneficially entitled of any assets of company A available for distribution to its equity holders on a winding-up.

(4) In any case where company A is a qualifying 90% subsidiary of a company, sub-paragraph (3) is to be read as if for references to company A there were substituted references to that company.

(5) A company ("company F") is a principal company of company A if—

(a) company A is owned by a consortium of which company E is a member, or

(b) company A is a qualifying 90% subsidiary of a company owned by a consortium of which company E is a member,

and company E is a qualifying 75% subsidiary of company F, but company F is not a qualifying 75% subsidiary of another company.

(6) There is a relevant change in the relationship between company A and company F (as a principal company) on any day if—

(a) the relevant fraction at the end of the day is less than the relevant fraction at the start of the day, or

(b) company E ceases to be a qualifying 75% subsidiary of company F on that day.

(7) If company F is a qualifying 75% subsidiary of another company ("company G"), company G is a principal company of company A unless company G is a qualifying 75% subsidiary of another company, and so on.

(8) Accordingly, there is a relevant change in the relationship between company A and a principal company of company A on any day if—

(a) in determining which company is a principal company, regard is had to any company which is a qualifying 75% subsidiary of another, and

(b) that company ceases to be a qualifying 75% subsidiary of the other on that day,

(as well as if the relevant fraction at the end of the day is less than the relevant fraction at the start of the day).

(9) This paragraph is supplemented by—

(a) paragraph 14 (meaning of consortium member etc), and

(b) paragraph 15 (meaning of a qualifying 75% or 90% subsidiary).

No qualifying change of ownership in the case of certain intra-group reorganisations

13 (1) This paragraph applies if—

(a) a relevant change in the relationship between a company ("company A") and a principal company of company A occurs on any day,

(b) that change occurs by reference to company A or any other company ceasing to be a qualifying 75% subsidiary on that day, and

(c) company A, and every company by reference to which that change occurs, are qualifying 75% subsidiaries of the principal company concerned at the start and end of that day.

(2) For the purposes of this Schedule, there is no qualifying change of ownership in relation to company A on that day as a result of that change in the relationship.

Meaning of "company owned by a consortium" etc

14 (1) A company is owned by a consortium if—

(a) it is not a qualifying 75% subsidiary of any company,

(b) 75% or more of its ordinary share capital is beneficially owned between them by other companies, and

(c) none of those other companies owns less than 5% of that capital.

(2) Those other companies are the members of the consortium.

(3) This paragraph applies for the purposes of this Schedule.

Meaning of qualifying 75% or 90% subsidiary etc

15 (1) In this Schedule a company ("the subsidiary company") is a qualifying 75% subsidiary of another company ("the parent company") if—

(a) the subsidiary company is a 75% subsidiary of the parent company within the meaning of section 838 of ICTA (if the subsidiary company has ordinary share capital), or

(b) the parent company has control of the subsidiary company within the meaning of section 840 of ICTA (if the subsidiary company does not have ordinary share capital),

and the parent company is beneficially entitled to the appropriate proportion of profits and assets.

(2) The parent company is beneficially entitled to the appropriate proportion of profits and assets if (and only if) it—

(a) is beneficially entitled to at least 75% of any profits available for distribution to equity holders of the subsidiary company, and

(b) would be beneficially entitled to at least 75% of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.

(3) In this Schedule references to a qualifying 90% subsidiary are to be read in the same way as references to a qualifying 75% subsidiary, but as if the references to 75% were to 90%.

(4) A company ("company A") cannot be a qualifying 90% subsidiary of another company for the purposes of this Schedule if company A is a qualifying 75% subsidiary of a third company.

(5) Schedule 18 to ICTA (equity holders and profits or assets etc) applies for the purposes of any provision of this Part of this Schedule as it applies for the purposes of any corresponding provision of Chapter 4 of Part 10 of that Act (group relief).

(6) But, in a case where the subsidiary company does not have ordinary share capital, that Schedule applies for those purposes as if the members of that company were equity holders of that company for the purposes of that Schedule.

The amount of the income: the basic amount

16 (1) This paragraph determines the amount of the income under paragraph 3 when a qualifying change of ownership in relation to a company ("the relevant company") carrying on a business of leasing plant or machinery occurs on any day ("the relevant day").

(2) The amount of the income is found by—

(a) applying the following formula to give the basic amount, and

(b) making any adjustment in accordance with any of paragraphs 19 to 21 to the basic amount.

(3) The formula is—

$$PM \quad TWDV$$

(4) For this purpose—

"PM" has the meaning given by paragraph 17, and

"TWDV" has the meaning given by paragraph 18.

Meaning of "PM" in paragraph 16

17 (1) For the purposes of this paragraph references to plant or machinery, in the case of any company, do not include any plant or machinery—

(a) on the provision of which the company has incurred expenditure which is not, as a result of section 34A of CAA 2001 (expenditure for long funding leasing), qualifying expenditure for the purposes of Part 2 of that Act, or

(b) which is, as a result of section 67 of that Act (hire-purchase and similar contracts), treated for the purposes of that Part as owned by a person other than the company,

but, apart from that, include all other plant or machinery, whether or not subject to a lease.

(2) For the purposes of paragraph 16, "PM" means the amount found by adding together—

(a) the amounts (if any) shown in the appropriate balance sheet of the relevant company in respect of plant or machinery which it owns at the start of the relevant day, and

(b) the amounts (if any) shown in the appropriate balance sheet of each associated company in respect of plant or machinery which it transfers to the relevant company on the relevant day,

and the reference here to an associated company is to a company which is an associated company of the relevant company on the relevant day.

(3) For this purpose the amounts shown in the appropriate balance sheet of any company in respect of any plant or machinery are—

(a) the amounts shown in that balance sheet as the net book value (or carrying amount) in respect of the plant or machinery, and

(b) the amounts shown in that balance sheet as the net investment in respect of finance leases of the plant or machinery.

(4) If—

(a) any of the plant or machinery is a fixture in any land, and

(b) the amount which falls (or would fall) to be shown in an appropriate balance sheet as the net book value (or carrying amount) of the land includes (or would include) an amount in respect of the fixture,

the amount of the net book value (or carrying amount) in respect of the fixture is determined on a just and reasonable basis.

(5) If—

(a) any of the plant or machinery is subject to a finance lease, and

(b) any land or asset which is not plant or machinery is subject to that lease,

the amount of the net investment in respect of the finance lease of that plant or machinery is determined on a just and reasonable basis.

(6) In this paragraph any reference to any amount shown in the appropriate balance sheet of a company is to the amount which, on the following assumptions, falls (or would fall) to be shown in a balance sheet of the company.

(7) The assumptions are—

(a) that the balance sheet is drawn up as at the start of the relevant day in accordance with generally accepted accounting practice, and

(b) that, if the company acquires any plant or machinery directly or indirectly from a person who is connected with the company, the plant or machinery had been acquired for an amount equal to its market value as at the relevant day.

(8) Sub-paragraph (7)(b) does not apply if the relevant day falls before 22nd March 2006.

Meaning of "TWDV" in paragraph 16

18 (1) For the purposes of paragraph 16, "TWDV" means the amount found by adding together—

(a) the total amount of unrelieved qualifying expenditure in single asset pools for the new chargeable period that is carried forward in the pools from the previous chargeable period under section 59 of CAA 2001,

(b) the total amount of unrelieved qualifying expenditure in class pools for the new chargeable period that is carried forward in the pools from the previous chargeable period under that section, and

(c) the amount of unrelieved qualifying expenditure in the main pool for the new chargeable period that is carried forward in the pool from the previous chargeable period under that section.

(2) For the purposes of "TWDV"—

(a) "the new chargeable period" means the accounting period of the relevant company that begins on the day following the relevant day (see paragraph 3(4)), and

(b) expenditure incurred by the relevant company in acquiring plant or machinery on the relevant day is to be left out of account unless it is acquired from an associated company,

and the reference here to an associated company is to a company which is an associated company of the relevant company on the relevant day.

Amount to be nil if basic amount negative

19 If the basic amount given by the formula is a negative amount, the amount is taken instead to be nil.

Adjustment to basic amount: qualifying 75% subsidiaries

20 (1) This paragraph applies if—

(a) the qualifying change of ownership occurs on any day as a result of paragraph 11, and

(b) the change occurs by reference to a company ("company A") ceasing to be a qualifying 75% subsidiary of another company ("company B") on that day.

(2) There is no adjustment to the basic amount unless, on that day, company A—

(a) becomes owned by a consortium of which company B is a member, or

(b) becomes a qualifying 90% subsidiary of a company owned by a consortium of which company B is a member.

(3) In that case, the amount of the income is limited to the appropriate percentage of the basic amount.

(4) The appropriate percentage is found by subtracting the relevant fraction at the end of the day from 100%.

(5) For this purpose "the relevant fraction" is whichever is the lowest of the following percentages—

(a) the percentage of the ordinary share capital of company A that is beneficially owned by company B,

(b) the percentage to which company B is beneficially entitled of any profits available for distribution to equity holders of company A,

(c) the percentage to which company B would be beneficially entitled of any assets of company A available for distribution to its equity holders on a winding-up.

(6) In any case where company A becomes a qualifying 90% subsidiary of a company, sub-paragraph (5) is to be read as if for references to company A there were substituted references to that company.

Adjustment to the basic amount: consortium relationships

21 (1) This paragraph applies if the qualifying change of ownership occurs on any day as a result of paragraph 12.

(2) In a case where that change arises only because the relevant fraction at the end of the day is less than the relevant fraction at the start of the day, the amount of the income is limited to the appropriate percentage of the basic amount.

(3) The appropriate percentage is found by subtracting the relevant fraction at the end of the day from the relevant fraction at the start of the day.

(4) In any other case, the amount of the income is limited to the relevant fraction at the start of that day of the basic amount.

(5) In this paragraph "the relevant fraction" has the same meaning as in paragraph 12.

Migration

22 (1) This paragraph applies if—

(a) on any day ("the relevant day") a company begins to be within the charge to corporation tax in respect of a business of leasing plant or machinery which it carries on otherwise than in partnership, and

(b) there is a qualifying change of ownership in relation to the company which occurs on the relevant day.

(2) For the purposes of this Part of this Schedule, any plant or machinery owned by the company immediately before the relevant day is to be ignored in calculating the amount of the income treated as received on that day.