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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, Paragraph 6. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 8

#### LONG FUNDING LEASES OF PLANT OR MACHINERY

##### PART 1

##### CAPITAL ALLOWANCES

*Lessee under long funding lease: capital allowances, disposal events and disposal values*

- 6 In Chapter 6 of Part 2 (hire-purchase etc and plant or machinery provided by lessee) after section 70 insert—

*“Lessees under long funding leases*

##### **70A Entitlement to capital allowances**

- (1) This section applies if a person carrying on a qualifying activity incurs expenditure (whether or not of a capital nature) on the provision of plant or machinery for the purposes of the qualifying activity under a long funding lease.
- (2) In the application of this Part in the case of that person, the plant or machinery is to be treated as owned by him at any time when he is the lessee under the long funding lease.  
  
That is so whether or not the lease also falls to be regarded as a long funding lease in the application of this Part in the case of the lessor.
- (3) The person is to be treated for the purposes of this Part as having incurred capital expenditure on the provision of the plant or machinery as follows.
- (4) The capital expenditure is to be treated as incurred at the commencement of the term of the long funding lease.
- (5) The amount of the capital expenditure varies, according to whether the long funding lease is—
  - (a) a long funding operating lease (subsection (6)), or
  - (b) a long funding finance lease (subsection (7)).
- (6) If the long funding lease is a long funding operating lease, the amount of the capital expenditure is to be found in accordance with section 70B.
- (7) If the long funding lease is a long funding finance lease, the amount of the capital expenditure is to be found in accordance with section 70C.
- (8) See Chapter 6A for interpretation of this section.

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### **70B Long funding operating lease: amount of capital expenditure**

- (1) This section applies by virtue of section 70A(6).
- (2) If the long funding lease is a long funding operating lease, the amount of the capital expenditure is the market value of the plant or machinery at the later of—
  - (a) the commencement of the term of the lease;
  - (b) the date on which the plant or machinery is first brought into use for the purposes of the qualifying activity.
- (3) This section is to be construed as one with section 70A.

### **70C Long funding finance lease: amount of capital expenditure**

- (1) This section has effect by virtue of section 70A(7) for the purpose of determining the amount of the capital expenditure in the case of a long funding finance lease.
- (2) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, this section applies as if the lease were one which, under generally accepted accounting practice, fell to be treated as a finance lease.
- (3) The amount of the capital expenditure is the total of—
  - (a) commencement PVMLP (see subsection (4)), and
  - (b) if subsection (6) applies, the unrelievable pre-commencement rentals (“UPR”),but subject, in a case falling within subsection (7), to the restriction imposed by subsection (8).
- (4) Commencement PVMLP is the amount that would fall to be recognised as the present value, at the appropriate date, of the minimum lease payments (see section 70YE) if appropriate accounts were prepared by the person.
- (5) For the purposes of subsection (4)—

“appropriate accounts” are accounts prepared in accordance with generally accepted accounting practice on the date on which that amount is first recognised in the books or other financial records of the person;

“the appropriate date” is the later of—

  - (a) the commencement of the term of the lease;
  - (b) the date on which the plant or machinery is first brought into use for the purposes of the qualifying activity.
- (6) This subsection applies if—
  - (a) the person has paid rentals under the lease before the commencement of the term of the lease, and
  - (b) in the case of some or all of those rentals, relief otherwise than by virtue of this subsection—
    - (i) is not available, and

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- (ii) if the case is one where the plant or machinery was not used for the purposes of a qualifying activity in the period before the commencement of the term of the lease, would not have been available had the plant or machinery been used in that period for the purposes of a qualifying activity,  
and in any such case UPR is the amount of the rentals for which relief is not, and (in a case falling within paragraph (b)(ii)) would not have been, so available.
- (7) Subsection (8) applies if the main purpose, or one of the main purposes, of entering into—
- (a) the lease,
  - (b) a series of transactions of which the lease is one, or
  - (c) any of the transactions in such a series,
- is to obtain allowances under this Part in respect of an amount of capital expenditure that materially exceeds the market value of the leased asset at the commencement of the term of the lease.
- (8) In any such case, the amount of the capital expenditure described in subsection (3) is to be restricted to an amount equal to the market value of the asset at the commencement of the term of the lease.
- (9) In this section “relief” means relief by way of—
- (a) an allowance under this Act,
  - (b) a deduction in computing profits for the purposes of income tax or corporation tax,
  - (c) a deduction from total profits or total income for the purposes of either of those taxes.
- (10) This section is to be construed as one with section 70A.

#### **70D Long funding finance lease: additional expenditure: allowances for lessee**

- (1) This section applies where the following conditions are met—
- (a) a person is the lessee of plant or machinery under a long funding finance lease,
  - (b) as a result of section 70A, the person falls to be regarded as having incurred qualifying expenditure on the provision of the plant or machinery, and
  - (c) the lessor incurs expenditure in relation to the plant or machinery,
  - (d) as a result of the lessor incurring the expenditure, there is in the case of the lessee an increase (the “relevant increase”) in the present value of the minimum lease payments.
- (2) If the lease is one which, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, this section applies as if the lease were one which, under generally accepted accounting practice, fell to be treated as a finance lease.
- (3) The person is to be treated for the purposes of this Part as having incurred further capital expenditure on the provision of the plant or machinery as follows.

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- (4) The person is to be treated as having incurred the expenditure on the date of first recognition.
- (5) The amount of the expenditure is the amount that would fall to be recognised as the amount of the relevant increase if appropriate accounts were prepared by the person.
- (6) For that purpose, “appropriate accounts” are accounts prepared in accordance with generally accepted accounting practice on the date of first recognition.
- (7) For the purposes of this section, the “date of first recognition” is the date on which the relevant increase is first recognised in the books or other financial records of the person.
- (8) This section is to be construed as one with section 70A.

### **70E Disposal events and disposal values**

- (1) This section applies where—
  - (a) a person is the lessee of plant or machinery under a long funding lease,
  - (b) as a result of section 70A, the person falls to be regarded as having incurred qualifying expenditure on the provision of the plant or machinery, and
  - (c) the lease terminates.
- (2) In the case of that person—
  - (a) the termination of the lease is a disposal event, and
  - (b) the person is required to bring into account a disposal value for the chargeable period in which that disposal event occurs.
- (3) The amount of the disposal value varies according to whether the lease is—
  - (a) a long funding operating lease (see subsections (4) to (6)), or
  - (b) a long funding finance lease (see subsections (7) and (8)).
- (4) If the lease is a long funding operating lease, the disposal value is the sum of—
  - (a) element A (see subsection (5)), and
  - (b) element B (see subsection (6)).
- (5) Element A is the amount (if any) by which—
  - (a) the market value of the plant or machinery at the later of—
    - (i) the commencement of the term of the lease,
    - (ii) the date on which the plant or machinery is first brought into use for the purposes of the qualifying activity,
exceeds
  - (b) the aggregate amount of the reductions that fell to be made under section 502K of ICTA or 148I of ITTOIA 2005 for periods of account in which the person was the lessee.
- (6) Element B is the sum of any amounts payable to the person which are calculated by reference to the termination value.

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- (7) If, in the case of the person, the lease is a long funding finance lease, the amount of the disposal value is found by first finding the sum of—
- (a) any amounts payable to the person which are calculated by reference to the termination value, and
  - (b) if the lease terminates before the end of the term, the amount that would fall to be recognised as the present value, immediately before the termination, of the balance of the minimum lease payments (see subsection (8)) if appropriate accounts were prepared by the person, and then reducing that sum (but not below nil) by subtracting from it any amount payable by the person to the lessor for or in consequence of the termination.
- (8) For the purposes of subsection (7)(b)—
- (a) the balance of the minimum lease payments is the amount by which MLP exceeds TMLP, where—
    - MLP is the amount of the minimum lease payments, and
    - TMLP is the amount that would have been the minimum lease payments if the term of the lease had been such as to expire on the day of the termination, and
  - (b) “appropriate accounts” are accounts prepared in accordance with generally accepted accounting practice immediately before the termination of the lease.
- (9) If the termination of the lease gives rise to a disposal event in the case of the person apart from this section, that disposal event is to be ignored.
- (10) This section is to be construed as one with section 70A.”.

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