
Changes to legislation: Finance Act 2008, Cross Heading: Plant and machinery allowances: anti-avoidance is up to date with all changes known to be in force on or before 07 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

SCHEDULES

SCHEDULE 20

LEASES OF PLANT OR MACHINERY

Plant and machinery allowances: anti-avoidance

12 (1) Chapter 17 of Part 2 of CAA 2001 (plant and machinery allowances: anti-avoidance) is amended as follows.

(2) For section 228A substitute—

“228A Application of sections 228B and 228C

(1) Sections 228B and 228C apply where plant or machinery is the subject of a lease and finance leaseback.

(2) Plant or machinery is the subject of a lease and finance leaseback if—

- (a) a person (“S”) leases the plant or machinery to another (“B”),
- (b) after the date of that transaction, the use of the plant or machinery falls within sub-paragraph (i), (ii) or (iii) of section 221(1)(b), and
- (c) it is directly as a consequence of having been leased under a finance lease that the plant or machinery is available to be so used after that date.

(3) For the purposes of subsection (2), S leases the plant or machinery to B only if—

- (a) S grants B rights over the plant or machinery,
- (b) consideration is given for that grant, and
- (c) S is not required to bring all of that consideration into account under this Part.”

(3) In section 228B (lessee's income or profits: deductions)—

- (a) in subsection (1), for “the lessee's” substitute “ S's ”,
- (b) in subsection (2), for the words from “the total” to the end substitute “ the amount of the finance charges shown in the accounts. ”,
- (c) in subsection (4), in the definition of “Original Consideration”, for “entering into the relevant transaction” substitute “ granting B rights over the plant or machinery ”, and
- (d) the heading accordingly becomes “ **S's income or profits: deductions** ”.

(4) In section 228C (lessee's income or profits: termination of leaseback)—

- (a) in subsection (2), for “the lessee” substitute “ S ”,
- (b) in subsection (3), in the formula, for “Net” substitute “ Original ” and for the definition of “Net Consideration” substitute—

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- ““Original Consideration” means the consideration payable to S for granting B rights over the plant or machinery,”
- (c) in subsection (6), for “the lessee’s” substitute “ S’s ” and for “the lessor” substitute “ B (or, where appropriate, an assignee of B) ”, and
- (d) the heading accordingly becomes “ **S’s income or profits: termination of leaseback** ”.
- (5) Omit—
- (a) section 228D (lessor's income or profits),
- (b) section 228E (lessor's income or profits: termination of leaseback), and
- (c) section 228F (lease and finance leaseback).
- (6) In section 228G (leaseback not accounted for as finance lease in accounts of lessee)—
- (a) in subsection (1), for “the lessee” substitute “ S ”,
- (b) in subsection (2), for “the lessee” (in both places) substitute “ S ”,
- (c) in subsection (3), for “the lessee's” substitute “ S's ”,
- (d) in subsection (4), for “the lessee” substitute “ S ”,
- (e) in subsection (6), for “the lessee” substitute “ S ” and for the words from “increased by—” to the end substitute “ increased by the consideration payable to S for granting B rights over the plant or machinery. ”, and
- (f) the heading accordingly becomes “ **Leaseback not accounted for as finance lease in S's accounts** ”.
- (7) Section 228H (sections 228A to 228G: supplementary) is amended as follows.
- (8) In subsection (1)—
- (a) insert (as the first defined term)—
- ““consideration” does not include rentals;”,
- (b) omit the definition of “lessee”,
- (c) in the definition of “net book value”, for “the lessee's” substitute “ S's ”,
- (d) omit the definition of “restricted disposal value”,
- (e) before the definition of “termination” insert—
- ““S” does not include an assignee of S;”, and
- (f) in the definition of “termination”, omit “(except in section 228E)”, for “the lessee's” (in both places) substitute “ S's ” and for “the lessee” substitute “ S ”.
- (9) After that subsection insert—
- “(1A) For the purposes of sections 228A to 228G, references to consideration given (or payable to S) for the grant to B of rights over the plant or machinery do not include—
- (a) rentals payable under that grant, or
- (b) any relevant capital payment (within the meaning of section 785B of ICTA or section 809ZA of ITA 2007) to which either of those sections applies.
- (1B) In relation to a case where some but not all of the consideration mentioned in subsection (1A) falls within paragraph (b) of that subsection, sections 228B

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to 228G or section 228J have effect subject to such modifications as are just and reasonable.”

- (10) In section 228J(8) (plant or machinery subject to further operating lease), in the definition of “lease and finance leaseback”, for “section 228F” substitute “section 228A”.
 - (11) In section 774E(5)(b) of ICTA (structured finance arrangements: exceptions), omit “with the modifications contained in section 228F of that Act”.
 - (12) The amendments made by this paragraph have effect in relation to transactions referred to in section 228A(2)(a) of CAA 2001 (as substituted by this paragraph) entered into on or after 9 October 2007.
- 13 (1) Section 228B of CAA 2001 (S's income or profits: deductions) is amended as follows.
- (2) After subsection (4) insert—

“(5) If the use mentioned in section 228A(2)(b) includes use by a person (other than B) who is connected with S, this section applies in relation to that person as it applies in relation to S.”
 - (3) Accordingly, in the heading, after “**profits**” insert “**etc**”.
 - (4) The amendments made by this paragraph have effect in relation to transactions referred to in section 228A(2)(a) of CAA 2001 entered into on or after 12 March 2008.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)