

Changes to legislation: Finance Act 2008, SCHEDULE 20 is up to date with all changes known to be in force on or before 08 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

Section 55

LEASES OF PLANT OR MACHINERY

Capital received in respect of lease to be treated as income

F1 1

Textual Amendments

F1 Sch. 20 para. 1 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

2 (1) In ITA 2007, after section 809 insert—

“CHAPTER 6

AVOIDANCE INVOLVING LEASES OF PLANT AND MACHINERY

809ZA Plant and machinery leases: capital receipts to be treated as income

- (1) This section applies if—
 - (a) there is an unconditional obligation, under a lease of plant or machinery or a relevant arrangement, to make a relevant capital payment (at any time), or
 - (b) a relevant capital payment is made under such a lease or arrangement otherwise than in pursuance of such an obligation.
- (2) The lessor is treated for income tax purposes as receiving income attributable to the lease of an amount equal to the amount of the capital payment.
- (3) The income is treated—
 - (a) if subsection (1)(a) applies, as income for the period of account in which there is first an obligation of the kind mentioned there, and
 - (b) if subsection (1)(b) applies, as income for the period of account in which the payment is made.

809ZB Section 809ZA: interpretation

- (1) The expressions used in section 809ZA and this section are to be interpreted as follows.
- (2) “Capital payment” means any payment except one which, if made to the lessor—

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- (a) would fall to be included in a calculation of the lessor's income for income tax purposes, or
 - (b) would fall to be included in such a calculation but for section 148A of ITTOIA 2005 (rental earnings under long funding finance lease).
- (3) “Lease” includes—
- (a) a licence, and
 - (b) the letting of a ship or aircraft on charter or the letting of any other asset on hire,
- and “lessor” and “lessee” are to be read accordingly.
- (4) “Lease of plant or machinery” includes a lease of plant or machinery and other property but does not include—
- (a) a lease where the income attributable to the lease received by the lessor (if any) would be chargeable to tax under Part 3 of ITTOIA 2005 (property income), or
 - (b) a lease of plant or machinery where the lessor has incurred what would (but for section 34A of CAA 2001) be qualifying expenditure (within the meaning of Part 2 of that Act) on the plant or machinery.
- (5) “Relevant arrangement” means any agreement or arrangement relating to a lease of plant or machinery, including one made before the lease is entered into or after it has ended (and, accordingly, “lessor” and “lessee” include prospective and former lessors and lessees).
- (6) A capital payment, in relation to a lease or relevant arrangement, is “relevant” if condition A or B is met (but this is subject to subsection (9)).
- (7) Condition A is that the capital payment is payable (or paid), directly or indirectly, by (or on behalf of) the lessee to (or on behalf of) the lessor in connection with—
- (a) the grant, assignment, novation or termination of the lease, or
 - (b) any provision of the lease or relevant arrangement (including the variation or waiver of any such provision).
- (8) Condition B is that rentals payable under the lease are less than (or payable later than) they might reasonably be expected to be if there were no obligation to make the capital payment (and the capital payment were not made).
- (9) A capital payment is not “relevant” if or to the extent that—
- (a) the capital payment reduces (or would but for section 536 of CAA 2001 reduce) the amount of expenditure incurred by the lessor for the purposes of CAA 2001 in respect of the plant or machinery in question,
 - (b) the capital payment is compensation for loss resulting from damage to, or damage caused by, the plant or machinery in question, or
 - (c) the capital payment would fall (or falls) to be brought into account by the lessor as a disposal receipt within the meaning of Part 2 of CAA 2001 (see section 60(1) of that Act).
- (10) References to payment include the provision of value by any means other than the making of a payment, and accordingly—

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- (a) references to the making of a payment include the passing of value (by any other means), and
- (b) references to the amount of the payment include the value passed.

809ZC Section 809ZA: lease of plant and machinery and other property

- (1) This section applies if section 809ZA applies in relation to a lease of plant or machinery and other property (see section 809ZB(4)).
- (2) The relevant capital payment is to be apportioned, on a just and reasonable basis, between—
 - (a) the plant and machinery, and
 - (b) the other property.
- (3) If the income (if any) received by the lessor that is attributable to any of the plant or machinery is chargeable to tax under Part 3 of ITTOIA 2005 (property income), treat that plant or machinery as falling within subsection (2)(b) (and not subsection (2)(a)).
- (4) Section 809ZA(2) has effect as if the reference to the amount of the capital payment were to such amount as is apportioned under subsection (2) in respect of the plant or machinery within subsection (2)(a).

809ZD Section 809ZA: expectation that relevant capital payment will not be paid

- (1) This section applies for income tax purposes if—
 - (a) section 809ZA applies by virtue of subsection (1)(a) of that section, and
 - (b) at any time, the lessor reasonably expects that the relevant capital payment will not be paid (or will not be paid in full).
 - (2) For the purposes of calculating the profits of the lessor, a deduction is allowed for the period of account which includes that time.
 - (3) The amount of the deduction is equal to the amount reasonably expected not to be paid.
 - (4) No other deduction is allowed in respect of the matters mentioned in subsection (1).”
- (2) The amendment made by sub-paragraph (1) has effect in relation to—
 - (a) cases where there is first an obligation of the kind mentioned in subsection (1)(a) of section 809ZA of ITA 2007 on or after 13 December 2007, and
 - (b) capital payments within subsection (1)(b) of that section made on or after that date.
 - (3) In relation to a case where the condition in paragraph (a) or (b) of section 809ZA(1) of ITA 2007 was met before 12 March 2008, sections 809ZA [F2] to 809ZF] of that Act have effect as if—
 - (a) for [F3]section 809ZF(3) to (5)] there were substituted—
 - [F4]“(3) “Lease of plant or machinery”—

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- (a) includes an equipment lease within the meaning of Chapter 14 of Part 2 of CAA 2001, but
 - (b) subject to that, does not include a lease of plant or machinery and other property.”, and
- (b) section 809ZC were omitted.

Textual Amendments

F2 Words in [Sch. 20 para. 2\(3\)](#) substituted (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. 581\(2\)\(a\)](#) (with [Sch. 2](#))

F3 Words in [Sch. 20 para. 2\(3\)\(a\)](#) substituted (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. 581\(2\)\(b\)\(i\)](#) (with [Sch. 2](#))

F4 Words in [Sch. 20 para. 2\(3\)\(a\)](#) substituted (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. 581\(2\)\(b\)\(ii\)](#) (with [Sch. 2](#))

3 In section 785A of ICTA (rent factoring of leases of plant or machinery), after subsection (5A) insert—

“(5B) This section does not apply in relation to a relevant capital payment to which section 785B below or section 809ZA of ITA 2007 applies; and “relevant capital payment” here has the same meaning as in that section.”

Disposal events: grant of long funding lease

^{F54}

Textual Amendments

F5 [Sch. 20 para. 4](#) omitted (with effect in accordance with [Sch. 32 para. 5\(1\)](#) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 32 para. 2](#)

Deemed disposals: plant or machinery used under long funding lease

^{F65}

Textual Amendments

F6 [Sch. 20 para. 5](#) omitted (with effect in accordance with [Sch. 32 para. 5\(2\)](#) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 32 para. 4](#)

Plant or machinery subject to a sale and finance leaseback or lease and finance leaseback

- 6 (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.
- (2) In section 13(5) (use for qualifying activity of plant or machinery provided for other purposes), omit “or 224”.
 - (3) In section 52(5) (first-year allowances), omit “, 223”.
 - (4) In section 57(3) (available qualifying expenditure), omit “224(1)”.

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- (5) In section 66 (provisions referred to in section 60(1)(b)), omit the entry relating to section 222.
- (6) In section 70I (meaning of “short lease”), after subsection (9) insert—
- “(10) Where plant or machinery is the subject of a sale and finance leaseback (as defined in section 221), any finance lease of a kind mentioned in section 221(1)(c) is not a short lease (if it otherwise would be).
- (11) But, if the conditions set out in section 227(2) are met, B and S (within the meaning of section 221) may make an election the effect of which is that—
- (a) subsection (10) above does not apply,
- (b) section 228(2) and (3) apply in relation to B (but this does not prevent section 225 from applying), and
- (c) section 228(5) applies in relation to S.
- (12) Subsections (4) to (6) of section 227 apply in relation to elections under this section as they apply in relation to elections under that section.”
- (7) In section 89(3)(b) (disposal to connected person), for “sections 222 to” substitute “section ”.
- (8) In section 217 (no first-year allowance for B's expenditure), for subsection (3) substitute—
- “(3) This section does not apply if plant or machinery is the subject of a sale and finance leaseback (as defined in section 221).”
- (9) In section 218 (restriction on B's qualifying expenditure), for subsection (4) substitute—
- “(4) This section does not apply if plant or machinery is the subject of a sale and finance leaseback (as defined in section 221), but see section 225.”
- (10) In section 219(1) (meaning of “finance lease”), omit “and which are not a long funding lease in the case of the lessor”.
- (11) In section 221(1) (meaning of “sale and finance leaseback”), for “sections 222 to 228” substitute “section 225 ”.
- (12) Omit—
- (a) section 222 (disposal value restricted),
- (b) section 223 (no first-year allowance for B's expenditure),
- (c) section 224 (restriction on B's qualifying expenditure), and
- (d) section 226 (qualifying expenditure limited in subsequent transactions).
- (13) In section 227 (circumstances in which election may be made)—
- (a) in subsection (1)(b), omit sub-paragraph (ii) (and the “or” before it), and
- (b) in subsection (2)(c), for “217, 218, 223 or 224” substitute “ 217 or 218 ”, and the heading before that section accordingly becomes “ Sale and leaseback: election for special treatment ”.
- (14) In section 228 (effect of election: relaxation of restriction on B's qualifying expenditure, etc)—
- (a) in subsection (1), omit “or 224”, and

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- (b) omit subsection (4).
- (15) In section 230(2) (exception for manufacturers and suppliers), for “sections 222 to” substitute “ section ”.
- (16) In section 241(1)(b) (no first-year allowance in respect of additional VAT liability), omit “or 223(1)”.
- (17) Omit section 243 (restriction on B's qualifying expenditure: sale and finance leaseback).
- (18) In section 774E(6) of ICTA (structured finance arrangements: exceptions), omit the second sentence.
- (19) The amendments made by this paragraph have effect in the case of plant or machinery which is the subject of a sale and finance leaseback (as defined in section 221 of CAA 2001) where the date of the transaction (within the meaning of that section) is on or after 9 October 2007.
- (20) In the case of plant or machinery which is the subject of a sale and finance leaseback (as defined in section 221 of CAA 2001) where the date of the transaction (within the meaning of that section) is before 12 March 2008, section 70I(10) of CAA 2001 has effect as if for “any finance lease of a kind” there were substituted “ the finance lease ”.
- 7 (1) In section 70I of CAA 2001 (meaning of “short lease”), after subsection (9) insert—
- “(9A) Where plant or machinery is the subject of a lease and finance leaseback (as defined in section 228A)—
- (a) the finance lease mentioned in section 228A(2)(c), and
- (b) any other finance lease forming part of the arrangements for the lease and finance leaseback (except the lease referred to in section 228A(2)(a)),
- is not a short lease (if it otherwise would be).”
- (2) The amendment made by sub-paragraph (1) has effect in the case of plant or machinery which is the subject of a lease and finance leaseback (as defined in section 228A of CAA 2001) where the date of the transaction mentioned in subsection (2)(a) of that section is on or after 12 March 2008.

Restriction on lessee's right to elect that rules for non-long funding leases apply

- 8 (1) In section 70H of CAA 2001 (lessee: requirement for tax return treating lease as long funding lease), after subsection (1) insert—
- “(1A) Subsection (1) does not apply in respect of a lease of plant or machinery (“lease A”) 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).”

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- (2) The amendment made by sub-paragraph (1) has effect in relation to leases entered into on or after 13 December 2007.

Lessors under long funding leases of plant or machinery

F79

Textual Amendments

- F7 Sch. 20 para. 9 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

- 10 (1) Chapter 10A of Part 2 of ITTOIA 2005 (corresponding income tax rules) is amended as follows.

- (2) After section 148F insert—

“Lessors under long funding finance or operating leases: avoidance etc

148FA Cases where ss. 148A to 148F do not apply: plant or machinery held as trading stock

- (1) Sections 148A to 148F do not apply in the case of a person carrying on a trade who is or has been the lessor of any plant or machinery under a long funding lease if the following condition is met.
- (2) The condition is that any part of the expenditure incurred by the person on the acquisition of the plant or machinery for leasing under the lease—
- (a) is (apart from those sections) allowable as a deduction in calculating the profits or losses of the trade, and
 - (b) is so allowable as a result of the plant or machinery forming part of the trading stock of the trade.
- (3) For the purposes of this section the cases in which expenditure incurred by a person carrying on a trade on the acquisition of any plant or machinery for leasing under a lease is allowable as such a deduction include any case where—
- (a) the person becomes entitled to the deduction at any time after the expenditure is incurred, and
 - (b) the deduction arises as a result of the plant or machinery forming part of the trading stock of the trade at that time.
- (4) If—
- (a) at any time any of sections 148A to 148F has applied for determining the amounts to be taken into account in calculating the profits or losses of the trade, and
 - (b) the condition in subsection (2) is met at any subsequent time,
- those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.

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(5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (4).”

(3) After section 148FA insert—

“148FB Cases where ss. 148A to 148F do not apply: lessor also lessee under non-long funding lease

(1) This section applies if—

- (a) a person is the lessee of any plant or machinery under a lease (“lease A”) that is not a long funding lease,
- (b) the person enters into a lease (“lease B”) of any of that plant or machinery (as lessor), and
- (c) lease B is a long funding lease.

(2) Sections 148A to 148F do not apply in relation to lease B.

(3) If by virtue of section 70H of CAA 2001 (tax return by lessee treating lease as long funding lease) lease A becomes a long funding lease (and does not cease to be such a lease), treat this section as never having applied in relation to lease B.”

(4) After section 148FB insert—

“148FC Cases where ss. 148A to 148F do not apply: other avoidance

(1) Sections 148A to 148F do not apply in the case of a person carrying on a trade who is or has been the lessor of any plant or machinery under a long funding lease if conditions A to C are met.

(2) Condition A is that the long funding lease forms part of any arrangement entered into by the person which includes one or more other transactions (whether the arrangement is entered into before or after or at the inception of the lease).

(3) Condition B is that the main purpose, or one of the main purposes, of the arrangement is to secure that, over the relevant period, there would be a substantial difference between—

- (a) the total amount of the amounts under the arrangement which are, in accordance with generally accepted accounting practice, recognised in determining the profit or loss of the trade for any period or taken into account in calculating the amounts which are so recognised, and
- (b) the total amount of the amounts under the arrangement which are taken into account in calculating the profits or losses of the trade.

(4) For the purposes of condition B “the relevant period” means the period which begins with the inception of the lease and ends with the end of the term of the lease.

(5) Condition C is that the difference would be attributable (wholly or partly) to the application of any of sections 148A to 148F in relation to the person by reference to the plant or machinery under the lease.

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- (6) The reference in this section to an amount being recognised in determining the profit or loss of a trade for a period is to an amount being recognised for accounting purposes—
- (a) in the profit and loss account or income statement relating to the trade,
 - (b) in the statement of recognised gains and losses or statement of changes in equity relating to the trade, or
 - (c) in any other statement of items brought into account in calculating the profits and losses of the trade for that period.
- (7) For the purposes of this section it does not matter whether the parties to any transaction which forms part of the arrangement differ from the parties to any of the other transactions.
- (8) For the purposes of this section the cases in which two or more transactions are to be taken as forming part of an arrangement include any case in which it would be reasonable to assume that one or more of them—
- (a) would not have been entered into independently of the other or others, or
 - (b) if entered into independently of the other or others, would not have taken the same form or been on the same terms.
- (9) If—
- (a) at any time any of sections 148A to 148F has applied for determining the amounts to be taken into account in calculating the profits or losses of the trade, and
 - (b) conditions A to C are met at any subsequent time,
- those amounts, and any other amounts which (as a result of this section) are to be so taken into account, are subject to such adjustments as are just and reasonable.
- (10) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (9).”
- (5) The amendment made by sub-paragraph (2) has effect where—
- (a) expenditure is incurred on or after 9 October 2007, or
 - (b) a person carrying on a trade becomes entitled to a deduction in calculating the profits or losses of the trade as a result of any plant or machinery forming part of the trading stock of the trade on or after that date.
- (6) The amendment made by sub-paragraph (3) has effect where the lease mentioned in section 148FB(1)(b) of ITTOIA 2005 is entered into on or after 13 December 2007.
- (7) The amendment made by sub-paragraph (4) has effect in relation to arrangements entered into on or after 9 October 2007.
- 11 (1) If, at the beginning of 13 December 2007 (“the relevant date”)—
- (a) a company or a person carrying on a trade is the lessee of any plant or machinery under a lease that is not a long funding lease (“lease A”), and
 - (b) the company or person is the lessor of any of that plant or machinery under a lease that is a long funding finance lease (“lease B”),
- sub-paragraphs (2) to (10) apply in respect of lease B.

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- (2) ^{F8} ... Section 148A of ITTOIA 2005 (rental earnings) does not apply in relation to a period of account within sub-paragraph (3).
- (3) A period of account is within this sub-paragraph if—
- (a) it begins on or after the relevant date, and
 - (b) no rentals which were due under lease B before the relevant date are (wholly or in part) in respect of any part of the period of account.
- (4) For the purpose of calculating the profits of the lessor under lease B for a period of account ending on or after the relevant date that is not within sub-paragraph (3), treat the lessor as receiving for that period of account income attributable to lease B of an amount equal to the relevant amount.
- (5) The “relevant amount” is an amount equal to so much of the rentals that—
- (a) become due on or after the relevant date, and
 - (b) are wholly or partly in respect of the period of account,
- as would not reasonably be regarded as reflected in the rental earnings for that period of account.
- “Rental earnings” here has the same meaning as in ^{F9}... section 148A of ITTOIA 2005.
- (6) If any rental is paid for a period (“the rental period”) which begins before the relevant date or is not wholly within the period of account, for the purposes of sub-paragraph (5) treat the amount of that rent as equal to the amount apportioned (on a time basis) in respect of so much of the rental period as falls on or after the relevant date and within the period of account.
- (7) The income treated as received by virtue of sub-paragraph (4) is in addition to any amount brought into account under ^{F10}... section 148A(2) of ITTOIA 2005.
- (8) ^{F11}... Section 148B of ITTOIA 2005 (exceptional items) does not apply in relation to any profit or loss arising on or after the relevant date.
- (9) If ^{F12}... section 148C of ITTOIA 2005 (lessor making termination payment) applies in respect of the termination of lease B on or after the relevant date, a deduction is allowed (in calculating the profits of the lessor) in respect of the sum paid to the lessee.
- (10) The amount of that deduction is (if it would otherwise exceed that amount) limited to the total amount brought into account in respect of the lease by virtue of sub-paragraph (2) or (4).
- (11) If lease A becomes a long funding lease by virtue of section 70H of CAA 2001 (and does not cease to be such a lease), treat this paragraph as never having applied in relation to lease B.
- (12) Chapter 6A of Part 2 of CAA 2001 (interpretation of provisions about long funding leases) applies in relation to this paragraph.

Textual Amendments

- F8** Words in [Sch. 20 para. 11\(2\)](#) repealed (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. 581\(3\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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- F9** Words in Sch. 20 para. 11(5) repealed (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. 581(3)(b), Sch. 3 Pt. 1 (with Sch. 2)
- F10** Words in Sch. 20 para. 11(7) repealed (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. 581(3)(c), Sch. 3 Pt. 1 (with Sch. 2)
- F11** Words in Sch. 20 para. 11(8) repealed (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. 581(3)(d), Sch. 3 Pt. 1 (with Sch. 2)
- F12** Words in Sch. 20 para. 11(9) repealed (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. 581(3)(e), Sch. 3 Pt. 1 (with Sch. 2)

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—

““Original Consideration” means the consideration payable to S for granting B rights over the plant or machinery,”

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

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- (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.

Changes to legislation:

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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\(2\)](#)