

SCHEDULES

SCHEDULE 31

Section 63

SALE OF LESSOR COMPANIES ETC: ANTI-AVOIDANCE

Introduction

1 Schedule 10 to FA 2006 (sale etc of lessor companies etc) is amended as follows.

Paragraph 6

2 In paragraph 6(3) (meaning of “business of leasing plant or machinery”: condition A), for “accounting value of the plant or machinery owned by the relevant company on the relevant day” substitute “relevant plant or machinery value”.

Paragraph 7

3 (1) Paragraph 7 (provision for purposes of condition A) is amended as follows.

(2) For sub-paragraphs (2) and (3) substitute—

“(2) The relevant plant or machinery value is the aggregate of the amounts in sub-paragraph (3), but subject to paragraph 7A.

(3) The amounts are—

- (a) the amounts (if any) which would be shown in respect of plant or machinery in the appropriate balance sheet of the relevant company drawn up as at the start of the relevant day, and
- (b) the amounts (if any) which would be shown in the appropriate balance sheet of the relevant company drawn up as at the end of the relevant day in respect of relevant transferred plant or machinery.

(3A) For the purposes of sub-paragraph (3)(b) plant or machinery is “relevant transferred plant or machinery” if an amount in respect of it would be shown in the appropriate balance sheet of an associated company drawn up as at the start of the relevant day.”

(3) In sub-paragraph (4), for “this purpose” substitute “the purposes of this paragraph”.

(4) In sub-paragraph (8)(a), omit “as at the start of the relevant day”.

(5) Insert at the end—

“(10) References in this Part of this Schedule to an associated company are to a company which is an associated company of the relevant company on the relevant day (as to which, see paragraph 9).”

Status: This is the original version (as it was originally enacted).

Paragraph 7A

4 After paragraph 7 insert—

- “7A (1) Where this paragraph applies in relation to any plant or machinery—
- (a) any amount included in the aggregate mentioned in paragraph 7(2) in respect of the plant or machinery is to be deducted from that aggregate, and
 - (b) the market value of the plant or machinery as at the relevant day is to be added to that aggregate (or, if that aggregate is nil, is to constitute the relevant plant or machinery value).
- (2) This paragraph applies in relation to plant or machinery if condition A or B is met.
- (3) Condition A is that—
- (a) the plant or machinery falls within sub-paragraph (4) at the start of the relevant day, or
 - (b) the plant or machinery falls within that sub-paragraph at the end of the relevant day, having been acquired by the relevant company from an associated company on that day.
- (4) Plant or machinery falls within this sub-paragraph if the relevant company—
- (a) is the lessee of the plant or machinery under a long funding finance lease, or
 - (b) is treated as the owner of the plant or machinery under section 67 of CAA 2001 (hire purchase and similar contracts).
- (5) Condition B is that—
- (a) the relevant company is the lessee of the plant or machinery under a long funding operating lease at the start of the relevant day, or
 - (b) the relevant company is the lessee of the plant or machinery under such a lease at the end of the relevant day and the plant or machinery was acquired by the relevant company from an associated company on that day.”

Paragraph 17

5 (1) Paragraph 17 (meaning of “PM” in paragraph 16) is amended as follows.

(2) In sub-paragraph (1)—

- (a) after “paragraph” insert “and paragraph 17A”, and
- (b) for paragraph (a) substitute—
 - “(a) on the provision of which the company has not incurred qualifying expenditure for the purposes of Part 2 of CAA 2001,
 - (aa) of which the company is the lessor under a long funding lease, or”.

(3) For sub-paragraph (2) substitute—

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“(2) For the purposes of paragraph 16 “PM” is the aggregate of the amounts in sub-paragraph (2A), but subject to paragraph 17A.

(2A) The amounts are—

- (a) the amounts (if any) which would be shown in respect of plant or machinery in the appropriate balance sheet of the relevant company drawn up as at the start of the relevant day, and
- (b) the amounts (if any) which would be shown in the appropriate balance sheet of the relevant company drawn up as at the end of the relevant day in respect of relevant transferred plant or machinery.

(2B) For the purposes of sub-paragraph (2A)(b) plant or machinery is “relevant transferred plant or machinery” if an amount in respect of it would be shown in the appropriate balance sheet of an associated company drawn up as at the start of the relevant day.”

(4) In sub-paragraph (3), for “this purpose” substitute “the purposes of this paragraph”.

(5) In sub-paragraph (7)(a), omit “as at the start of the relevant day”.

Paragraph 17A

6 After paragraph 17 insert—

“17A (1) Where this paragraph applies in relation to any plant or machinery—

- (a) any amount included in the aggregate mentioned in paragraph 17(2) in respect of the plant or machinery is to be deducted from that aggregate, and
- (b) the market value of the plant or machinery as at the relevant day is to be added to that aggregate (or, if that aggregate is nil, is to constitute PM).

(2) This paragraph applies in relation to plant or machinery if condition A or B is met.

(3) Condition A is that—

- (a) the plant or machinery falls within sub-paragraph (4) at the start of the relevant day, or
- (b) the plant or machinery falls within that sub-paragraph at the end of the relevant day, having been acquired by the relevant company from an associated company on that day.

(4) Plant or machinery falls within this sub-paragraph if the relevant company—

- (a) is the lessee of the plant or machinery under a long funding finance lease, or
- (b) is treated as the owner of the plant or machinery under section 67 of CAA 2001 (hire purchase and similar contracts).

(5) Condition B is that—

- (a) the relevant company is the lessee of the plant or machinery under a long funding operating lease at the start of the relevant day, or

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- (b) the relevant company is the lessee of the plant or machinery under such a lease at the end of the relevant day and the plant or machinery was acquired by the relevant company from an associated company on that day.”

Paragraph 22

- 7 In paragraph 22(2) (migration), for “owned by the company” substitute “in respect of which an amount would be shown in a balance sheet of the company drawn up immediately before the relevant day in accordance with generally accepted accounting practice”.

Paragraph 40

- 8 Omit paragraph 40 (relationship of Schedule with section 228K of CAA 2001).

Paragraph 41

- 9 In paragraph 41 (definitions), after sub-paragraph (5) insert—
 “(5A) “Long funding finance lease”, “long funding lease” and “long funding operating lease” have the same meaning as in Part 2 of CAA 2001 (see section 70YI of that Act).”

Paragraph 42

- 10 In paragraph 42 (index), in the table, after the entry relating to “fixture” insert—

“long funding finance lease	paragraph 41
long funding lease	paragraph 41
long funding operating lease	paragraph 41”.

Consequential repeal

- 11 In FA 2007, in Schedule 6, omit paragraph 2(3).

Commencement

- 12 The amendments made by this Schedule have effect where the relevant day is on or after 13 November 2008.