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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2010, Cross Heading: Restriction of deduction for rental rebate. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 5

#### LEASED ASSETS

##### *Restriction of deduction for rental rebate*

- 2 (1) In Chapter 4 of Part 2 of ITTOIA 2005 (trading income: rules restricting deductions), after section 55A insert—

##### *“Rental rebates*

#### **55B Rental rebates**

- (1) Where plant or machinery (“the asset”) is leased and a rental rebate is payable by the lessor, the amount of the deduction allowable in respect of the rebate is limited to—
- (a) the amount of the lessor's income from the lease, or
  - (b) in the case of a finance lease, that amount excluding the finance charge.
- (2) “Rental rebate” means any sum payable to the lessee that is calculated by reference to the termination value of the asset.
- (3) For this purpose—
- (a) the termination value of an asset is the value of the asset at or about the time when the lease terminates,
  - (b) calculation by reference to the termination value includes calculation by reference to any one or more of—
    - (i) the proceeds of sale, if the asset is sold,
    - (ii) any insurance proceeds, compensation or similar sums in respect of the asset,
    - (iii) an estimate of the market value of the asset, and
  - (c) calculation by reference to the termination value also includes—
    - (i) determination in a way which, or by reference to factors or criteria which, might reasonably be expected to produce a broadly similar result to calculation by reference to the termination value, or
    - (ii) any other form of calculation indirectly by reference to the termination value.
- (4) For the purposes of this section—
- (a) the income of the lessor from the lease is the total of all the amounts receivable in connection with the lease that have been brought into

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account in calculating the lessor's income for income tax purposes, excluding—

- (i) disposal receipts brought into account under Part 2 of CAA 2001 (see section 60(1) of that Act), and
  - (ii) so much of any amount as represents charges for services or qualifying UK or foreign tax (within the meaning of section 70YE of that Act) to be paid by the lessor, and
- (b) the finance charge, in relation to a finance lease, is—
- (i) if the lease is one that, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, so much of the rentals under the lease as fall (or would fall) to be treated as interest, or
  - (ii) in any other case, the amount that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment.
- (5) Where the asset is acquired by the lessor in a transaction in relation to which an election is made under section 266 of CAA 2001 (election where predecessor and successor are connected persons), this section applies as if the successor had been the lessor at all material times and everything done to or by the predecessor had been done to or by the successor.
- (6) Where the whole or part of a rental rebate is disallowed under this section as a deduction in computing profits—
- (a) the amount disallowed, or
  - (b) if less, the amount by which the rental rebate exceeds the amount of capital expenditure incurred by the lessor,
- may be treated for the purposes of capital gains tax as an allowable loss accruing to the lessor on the termination of the lease.
- That allowable loss is deductible only from chargeable gains accruing to the lessor on the disposal of the asset.
- (7) This section does not apply to a long funding finance lease (see section 148C).”
- (2) In Chapter 4 of Part 3 of CTA 2009 (trading income: rules restricting deductions), after section 60 insert—

**“60A Rental rebates**

- (1) Where plant or machinery (“the asset”) is leased and a rental rebate is payable by the lessor, the amount of the deduction allowable in respect of the rebate is limited to—
  - (a) the amount of the lessor's income from the lease, or
  - (b) in the case of a finance lease, that amount excluding the finance charge.
- (2) “Rental rebate” means any sum payable to the lessee that is calculated by reference to the termination value of the asset.
- (3) For this purpose—

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- (a) the termination value of an asset is the value of the asset at or about the time when the lease terminates,
  - (b) calculation by reference to the termination value includes calculation by reference to any one or more of—
    - (i) the proceeds of sale, if the asset is sold,
    - (ii) any insurance proceeds, compensation or similar sums in respect of the asset, and
    - (iii) an estimate of the market value of the asset, and
  - (c) calculation by reference to the termination value also includes—
    - (i) determination in a way which, or by reference to factors or criteria which, might reasonably be expected to produce a broadly similar result to calculation by reference to the termination value, or
    - (ii) any other form of calculation indirectly by reference to the termination value.
- (4) For the purposes of this section—
- (a) the income of the lessor from the lease is the total of all the amounts receivable in connection with the lease that have been brought into account in calculating the lessor's income for corporation tax purposes, excluding—
    - (i) disposal receipts brought into account under Part 2 of CAA 2001 (see section 60(1) of that Act), and
    - (ii) so much of any amount as represents charges for services or qualifying UK or foreign tax (within the meaning of section 70YE of that Act) to be paid by the lessor, and
  - (b) the finance charge, in relation to a finance lease, is—
    - (i) if the lease is one that, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, so much of the rentals under the lease as fall (or would fall) to be treated as interest, or
    - (ii) in any other case, the amount that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment.
- (5) Where the asset is acquired by the lessor in a transaction—
- (a) to which section 948 of CTA 2010 applies (modified application of CAA 2001 in case of transfer of trade without change of ownership), or
  - (b) in relation to which an election is made under section 266 of CAA 2001 (election where predecessor and successor are connected persons),
- this section applies as if the successor had been the lessor at all material times and everything done to or by the predecessor had been done to or by the successor.
- (6) Where the whole or part of a rental rebate is disallowed under this section as a deduction in computing profits—
- (a) the amount disallowed, or
  - (b) if less, the amount by which the rental rebate exceeds the amount of capital expenditure incurred by the lessor,

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may be treated for the purposes of corporation tax in respect of chargeable gains as an allowable loss accruing to the lessor on the termination of the lease.

That allowable loss is deductible only from chargeable gains accruing to the lessor on the disposal of the asset.

(7) This section does not apply to a long funding finance lease (see section 362 of CTA 2010).”

(3) The amendments made by this paragraph have effect in relation to rental rebates payable on or after 9 December 2009.

**Changes to legislation:**

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Restriction of deduction for rental rebate.