



Corporation Tax Act 2010

2010 CHAPTER 4

PART 19

SALE AND LEASE-BACK ETC

CHAPTER 3

LEASED TRADING ASSETS

Introduction

863 Overview of Chapter

This Chapter provides that, in certain circumstances where a payment is made under a lease of a trading asset, corporation tax relief for the payment is restricted.

Application of the Chapter

864 Leased trading assets

- (1) Section 865 has effect if—
 - (a) condition A is met, and
 - (b) condition B or C is met.
- (2) Condition A is that—
 - (a) a payment is made by a company under a lease of a relevant asset, and
 - (b) a deduction is allowed for the payment in calculating the profits of a trade for corporation tax purposes.
- (3) Condition B is that—
 - (a) at a time before the lease's creation the asset was used for the purposes of the trade, and

Changes to legislation: There are currently no known outstanding effects for the Corporation Tax Act 2010, Chapter 3. (See end of Document for details)

- (b) when it was so used it was owned by the person then carrying on the trade.
- (4) Condition C is that—
 - (a) at a time before the lease's creation the asset was used for the purposes of another trade, or for the purposes of a profession or vocation,
 - (b) when it was so used it was owned by the person then carrying on the other trade, or the profession or vocation, and
 - (c) when it was so used, or later, that person was carrying on the trade mentioned in subsection (2).
- (5) The reference in subsection (2)(a) to a lease does not include a lease created on or before 14 April 1964.
- (6) In this section references to a person carrying on a trade, profession or vocation are to the person carrying on the trade, profession or vocation for the time being.

Relief: restriction and carrying forward

865 Tax deduction not to exceed commercial rent

- (1) The rules in subsection (3) apply to the calculation of the deduction by way of relevant corporation tax relief allowed in an accounting period—
 - (a) for the non-excluded element of the payment within section 864(2), or
 - (b) if there are two or more such payments, for the non-excluded elements of those payments.
- (2) For the purposes of this section the non-excluded element of a payment is the element not excluded under section 866 (long funding finance leases).
- (3) The rules are—
 - Rule 1 — meaning of amount E* For any accounting period, amount E (which may be nil) is the expense or total expenses to be brought, in accordance with generally accepted accounting practice, into account in the period in respect of—
 - (a) the non-excluded element of the payment, or
 - (b) the non-excluded elements of the payments.
 - Rule 2 — calculation of amount E* For every accounting period—
 - (a) calculate the total of amount E for the period and amount E for every preceding accounting period ending on or after the date of the creation of the lease mentioned in section 864(2)(a),
 - (b) calculate the total of the deductions by way of relevant corporation tax relief for every previous accounting period ending on or after that date, and
 - (c) subtract the total at (b) from the total at (a) to give the cumulative unrelieved expenses for the period.
 - Rule 3 — meaning of post-spread period* An accounting period is a post-spread period if for that accounting period, and every later accounting period, there are no payments within section 864(2).
 - Rule 4 — the deduction allowed in an accounting period* If an accounting period is not a post-spread period, the deduction allowed for the period is equal to the cumulative unrelieved expenses for the period, but is the commercial rent for the period if that is less (see section 867).

Changes to legislation: There are currently no known outstanding effects for the Corporation Tax Act 2010, Chapter 3. (See end of Document for details)

Rule 5 — accounting periods in which no deduction allowed If an accounting period is a post-spread period, no deduction is allowed for the period.

866 Long funding finance leases

- (1) This section applies for the purposes of section 865.
- (2) A payment must be excluded so far as, in the case of the lessee, it is to be regarded in accordance with Chapter 6A of Part 2 of CAA 2001 as a payment under a lease which is a long funding finance lease for the purposes of that Part.

867 Commercial rent

- (1) Subsection (3) applies for the purpose of making a comparison under rule 4 of section 865(3).
- (2) In this section “the actual lease” means the lease mentioned in section 864(2)(a).
- (3) The commercial rent is the rent which might at the relevant time be expected to be paid under a lease of the asset if—
 - (a) the lease were for the rest of the asset's expected normal working life,
 - (b) the rent were payable at uniform intervals and at a uniform rate, and
 - (c) the rent gave a reasonable return for the asset's market value at the relevant time, taking account of the actual lease's terms and conditions.
- (4) The relevant time is the time when the actual lease was created.
- (5) An asset's expected normal working life is the period which might be expected, when it is first put into use, to pass before it is finally put out of use as being unfit for further use.
- (6) In applying subsection (5) it must be assumed that the asset will be used in the normal way, and to the normal extent, throughout the period.
- (7) If the asset is used at the same time partly for the purposes of the trade mentioned in section 864(2)(b) and partly for other purposes, the commercial rent as defined in subsection (3) is to be determined by reference to what would be paid for such partial use.

Interpretation

868 Lease

- (1) This section applies for the purposes of this Chapter.
- (2) A lease is (in relation to an asset) an agreement or arrangement under which payments are made for the use of or otherwise in respect of the asset.
- (3) In particular it includes an agreement or arrangement under which the payments (or any of them) represent instalments of a purchase price or payments towards it.

Changes to legislation: There are currently no known outstanding effects for the Corporation Tax Act 2010, Chapter 3. (See end of Document for details)

869 Relevant asset

For the purposes of this Chapter a relevant asset is any description of property or rights other than land or an interest in land.

Changes to legislation:

There are currently no known outstanding effects for the Corporation Tax Act 2010, Chapter 3.