



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 21

#### LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

### CHAPTER 2

#### FINANCE LEASES WITH RETURN IN CAPITAL FORM

#### *Leases to which this Chapter applies*

#### **901 Application of this Chapter**

- (1) This Chapter applies if—
  - (a) a lease of an asset is or has been granted, and
  - (b) the conditions in section 902 are or have been met in relation to the lease at some time in a period of account of the current lessor.
- (2) But this Chapter does not apply so far as, in relation to the current lessor, the lease falls to be regarded as a long funding lease for the purposes of Part 2 of CAA 2001 (plant and machinery allowances) in accordance with Chapter 6A of that Part (interpretation of provisions about long funding leases) (see section 70G of that Act).
- (3) If the conditions in section 902 have been met at some time in a period of account of the person who was at that time the lessor, they are taken to continue to be met for the purposes of this Chapter unless and until one of the conditions in subsection (4) is met.
- (4) The conditions are that—
  - (a) the asset ceases to be leased under the lease, or
  - (b) the lessor's interest under the lease is assigned to a person who is not connected with any of the persons specified in subsection (5).
- (5) Those persons are—

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- (a) the assignor,
  - (b) any person who was the lessor at some time before the assignment, and
  - (c) any person who at some time after the assignment becomes the lessor pursuant to arrangements made by a person who was the lessor, or was connected with the lessor, at some time before the assignment.
- (6) If at any time the person who was the lessor at that time was a person within the charge to income tax, the reference in subsection (3) to the conditions in section 902 having been met at that time includes a reference to the conditions in section 614BC of ITA 2007 having been so met.
- (7) Nothing in subsection (3) prevents this Chapter from applying again in relation to the lease where the lessor's interest is assigned if the conditions for its application are met after the assignment.

## **902 The conditions referred to in section 901(1)**

- (1) This section sets out the conditions required by section 901(1) to be met for this Chapter to apply (conditions A to E).
- (2) Condition A is that at the relevant time—
- (a) the leasing arrangements fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as a finance lease or a loan, and
  - (b) subsection (3) or (4) applies.
- (3) This subsection applies if the lessor (“L”), or a person connected with L, falls for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the finance lessor in relation to the finance lease or loan.
- (4) This subsection applies if the finance lease or loan falls for accounting purposes to be treated, in accordance with generally accepted accounting practice, as subsisting for the purposes of consolidated group accounts of a group of companies of which L is a member.
- (5) Condition B is that, under the leasing arrangements, there is or may be payable to L, or to a person connected with L, a sum (a “major lump sum”) that is not rent but falls for accounting purposes to be treated, in accordance with generally accepted accounting practice—
- (a) as to part, as repayment of some or all of the investment in respect of a finance lease or loan, and
  - (b) as to part, as a return on investment in respect of a finance lease or loan.
- (6) Condition C is that not all of that part of the sum that falls within subsection (5)(b) would, apart from this Chapter, fall to be brought into account for corporation tax purposes in accounting periods of L ending with the relevant accounting period as the normal rent from the lease for periods of account of L.
- (7) Condition D is that, in relation to L at the relevant time—
- (a) the period of account of L in which the relevant time falls, or
  - (b) an earlier period of account of L during which L was the lessor,
- is a period of account for which the accountancy rental earnings in respect of the lease exceed the normal rent for the period.

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- (8) Condition E is that at the relevant time—
  - (a) arrangements within section 904(1) exist, or
  - (b) paragraph (a) does not apply and circumstances within section 904(3) exist.
- (9) Section 903 supplements this section.

### **903 Provisions supplementing section 902**

- (1) In section 902—
  - “the relevant accounting period”, in relation to a major lump sum, means—
    - (a) the accounting period of the lessor (“L”) which is related to L’s period of account in which the major lump sum is or may be payable in accordance with the leasing arrangements, or
    - (b) if there are two or more such accounting periods, the latest of them, and
  - “the relevant time” means the time as at which it must be determined for the purposes of section 901(1) or (3) whether the conditions in section 902 are or, as the case may be, were met.
- (2) For the meaning of an accounting period being related to a period of account, see section 932(4).
- (3) Subsection (4) applies for determining the normal rent for a period of account for the purpose of determining whether condition D in section 902 is met as respects L unless subsection (5) applies.
- (4) Rent that falls to be brought into account for corporation tax purposes as it falls due is treated—
  - (a) as accruing evenly throughout the period to which, in accordance with the terms of the lease, each payment falling due relates, and
  - (b) as falling due as it so accrues.
- (5) This subsection applies if any such payment as is mentioned in subsection (4)(a) falls due more than 12 months after the time at which any of the rent to which that payment relates is treated as accruing under subsection (4)(a).

### **904 The arrangements and circumstances referred to in section 902(8)**

- (1) The arrangements referred to in section 902(8)(a) are arrangements under which—
  - (a) the lessee or a person connected with the lessee may acquire, whether directly or indirectly, the leased asset or an asset representing the leased asset from the lessor or a person connected with the lessor, and
  - (b) in connection with that acquisition, the lessor or a person connected with the lessor may receive, whether directly or indirectly, a qualifying lump sum from the lessee or a person connected with the lessee.
- (2) In this section “qualifying lump sum” means any sum that is not rent but at least part of which would fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as a return on investment in respect of a finance lease or loan.
- (3) The circumstances referred to in section 902(8)(b) are circumstances which make it more likely—

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- (a) that the events described in subsection (4) will occur, than
  - (b) that the event described in subsection (5) will occur.
- (4) The events mentioned in subsection (3)(a) are—
- (a) that the lessee or a person connected with the lessee will acquire, whether directly or indirectly, the leased asset or an asset representing the leased asset from the lessor or a person connected with the lessor, and
  - (b) that, in connection with that acquisition, the lessor or a person connected with the lessor will receive, whether directly or indirectly, a qualifying lump sum from the lessee or a person connected with the lessee.
- (5) The event mentioned in subsection (3)(b) is that, before any such acquisition as is mentioned in subsection (4) takes place, the leased asset or, as the case may be, the asset representing the leased asset, will have been acquired, in a sale on the open market, by an independent third party.
- (6) In subsection (5) “independent third party” means a person who—
- (a) is not the lessor or the lessee, and
  - (b) is not connected with either of them.
- (7) For the meaning of an asset representing the leased asset, see section 934.

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