



Corporation Tax Act 2010

2010 CHAPTER 4

PART 9

LEASING PLANT OR MACHINERY

CHAPTER 2

LONG FUNDING LEASES OF PLANT OR MACHINERY

Cases where sections 360 to 369 do not apply

370 Plant or machinery held as trading stock

- (1) Sections 360 to 369 do not apply in relation to a long funding lease in the case of a company which is or has been the lessor of any plant or machinery under the lease if the condition in subsection (2) is met.
- (2) The condition is that any part of the expenditure incurred by the company on the acquisition of the plant or machinery for leasing under the lease—
 - (a) is allowable as a deduction (apart from sections 360 to 369) in calculating its profits or losses for corporation tax purposes, and
 - (b) is so allowable as a result of the plant or machinery forming part of its trading stock.
- (3) For the purposes of this section the cases in which expenditure incurred by a company 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 company 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 its trading stock at that time.

Status: This is the original version (as it was originally enacted).

371 Adjustments where sections 360 to 369 subsequently disapplied by section 370

- (1) This section applies if—
 - (a) at any time any of sections 360 to 369 has applied for determining the amounts to be taken into account in calculating the profits or losses of a company for corporation tax purposes, and
 - (b) subsequently the condition in section 370(2) is met.
- (2) If this section applies—
 - (a) the amounts mentioned in subsection (1)(a), and
 - (b) any other amounts which, as a result of section 370, are to be taken into account in calculating the profits or losses of the company for corporation tax purposes,are subject to such adjustments as are just and reasonable.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this section.

372 Lessor also lessee under non-long funding lease

- (1) This section applies if—
 - (a) a company is the lessee of any plant or machinery under a lease (“lease A”),
 - (b) lease A is not a long funding lease,
 - (c) the company enters into a lease (“lease B”) of any of that plant or machinery (as lessor), and
 - (d) lease B is a long funding lease.
- (2) Sections 360 to 369 do not apply in relation to lease B.
- (3) This section must be treated as never having applied in relation to lease B if lease A—
 - (a) becomes a long funding lease as a result of section 70H of CAA 2001 (tax return by lessee treating lease as long funding lease), and
 - (b) has not ceased to be such a lease.

373 Other avoidance

- (1) Sections 360 to 369 do not apply in relation to a long funding lease in the case of a company which is or has been the lessor of any plant or machinery under the lease if conditions A, B and C are met.
- (2) Condition A is that the lease forms part of any arrangement entered into by the company which includes one or more other transactions.
- (3) Condition B is that the main purpose, or one of the main purposes, of the arrangement is to secure that, over the lease period, there would be a substantial difference between the GAAP total and the tax total.
- (4) “The GAAP total” means the sum of the amounts under the arrangement which are, in accordance with generally accepted accounting practice—
 - (a) recognised in determining the company’s profit or loss for any period, or
 - (b) taken into account in calculating the amounts which are so recognised.

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- (5) “The tax total” means the sum of the amounts under the arrangement which would (apart from this section) be taken into account in calculating the profits or losses of the company for corporation tax purposes.
- (6) Condition C is that the difference referred to in subsection (3) would be attributable (wholly or partly) to the application of any of sections 360 to 369 in relation to the company by reference to the plant or machinery under the lease.
- (7) This section is supplemented by sections 374 and 375.

374 Provision supplementing section 373

- (1) It does not matter whether the arrangement referred to in condition A in section 373(2) is entered into before, after or at the inception of the long funding lease.
- (2) It does not matter whether the parties to any transaction which forms part of that arrangement differ from the parties to any of the other transactions.
- (3) The cases in which two or more transactions are to be taken as forming part of an arrangement for the purposes of section 373 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.
- (4) For the purposes of condition B in section 373(3) “the lease period” means the period which—
 - (a) begins with the inception of the lease, and
 - (b) ends with the end of the term of the lease.
- (5) The reference in section 373(4) to an amount being recognised in determining a company’s profit or loss for a period is to an amount being recognised for accounting purposes in—
 - (a) the company’s profit and loss account, income statement or statement of comprehensive income for that period,
 - (b) the company’s statement of total recognised gains and losses, statement of recognised income and expense, statement of changes in equity or statement of income and retained earnings for that period, or
 - (c) any other statement of items taken into account in calculating the company’s profits or losses for that period.

375 Adjustments where sections 360 to 369 subsequently disapplied by section 373

- (1) This section applies if—
 - (a) at any time any of sections 360 to 369 has applied for determining the amounts to be taken into account in calculating the profits or losses of the company for corporation tax purposes, and
 - (b) subsequently conditions A, B and C in section 373 are met.
- (2) If this section applies—
 - (a) the amounts mentioned in subsection (1)(a), and

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- (b) any other amounts which, as a result of section 373, are to be taken into account in calculating the profits or losses of the company for corporation tax purposes,
are subject to such adjustments as are just and reasonable.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this section.

376 Films

- (1) If a company is or has been a lessor under a long funding lease of a film, sections 360 to 369 do not apply in respect of the lease.
- (2) “Film” has the same meaning as in Part 15 of CTA 2009 (see section 1181 of that Act).