
Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Part 1. (See end of Document for details)

SCHEDULES

SCHEDULE 3

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

PART 1

NEW PART 11A OF ITA 2007

- 1 ITA 2007 is amended as follows.
- 2 After Part 11 insert—

“PART 11A

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

CHAPTER 1

INTRODUCTION

Introduction

Overview of Part

- 614A(1) This Part makes provision for the purposes of income tax about the taxation of leasing arrangements.
- (2) Chapter 2 makes provision in relation to certain arrangements involving the lease of assets where the conditions in section 614BC are or have been met, so far as the lease is not regarded as a long-funding lease for the purposes of Part 2 of CAA 2001 in accordance with Chapter 6A of that Part (see sections 614BB to 614BE).
 - (3) Chapter 3 makes provision in relation to arrangements involving the lease of assets that are not within Chapter 2, so far as the lease is not so regarded (see sections 614C and 614CB).
 - (4) The remaining provisions of this Chapter explain some expressions about rent for the purposes of this Part.
 - (5) Chapter 4 contains further provisions supplementing this Part, including more about its interpretation.

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Meaning of expressions about rent

Normal rent

- 614A(1) For the purposes of this Part, the “normal rent” in respect of a lease for a period of account of the lessor (“L”) is the amount specified in subsection (2).
- (2) That amount is the amount that L would, apart from this Part, bring into account as rent from the lease that arises to L in that period of account for the purpose of determining L's liability to income tax for the related tax year or years.
- (3) For the meaning of “related tax year”, see section 614DB(4).

Accountancy rental earnings

- 614A(1) For the purposes of this Part, the “accountancy rental earnings” in respect of a lease for a period of account of the lessor (“L”) is the greatest of the amounts specified in subsection (2).
- (2) Those amounts are—
- (a) the rental earnings for that period in respect of the lease in L's case,
 - (b) the rental earnings for that period in respect of the lease in the case of a person connected with L, and
 - (c) the rental earnings for that period in respect of the lease for the purposes of consolidated group accounts of a group of companies of which L is a member.
- (3) For the meaning of “the rental earnings”, see section 614AC.

Rental earnings

- 614A(1) In this Part “the rental earnings” for any period in respect of a lease of an asset in the case of any person or any consolidated group accounts is the amount specified in subsection (2).
- (2) That amount is the amount that falls for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the gross return for that period on investment in respect of a finance lease or loan in respect of the leasing arrangements.
- (3) For the meaning of “for accounting purposes”, see section 614DG.”

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“CHAPTER 2

FINANCE LEASES WITH RETURN IN CAPITAL FORM

Introduction

614B Arrangements to which this Chapter applies

- (1) This Chapter applies to arrangements involving the lease of an asset that meet conditions A and B.
- (2) Condition A is that in accordance with generally accepted accounting practice the arrangements fall to be treated as a finance lease or loan.
- (3) Condition B is that the effect of the arrangements is that some or all of the return on investment in respect of the finance lease or loan—
 - (a) is or may be in the form of a sum that is not rent, and
 - (b) would not, apart from this Part and Part 21 of CTA 2010, be wholly brought into account for tax purposes as rent from the lease of the asset.
- (4) It does not matter—
 - (a) when the arrangements are or have been entered into, or
 - (b) whether they are or have been entered into by companies or other persons.

614BA Purposes of this Chapter

- (1) This section sets out the main purposes of this Chapter where there are any arrangements to which this Chapter applies.
- (2) The first main purpose is to charge any person entitled to the lessor's interest under the lease of the asset to income tax on amounts of income determined as mentioned in subsections (3) and (4).
- (3) The amounts referred to in subsection (2) are determined by reference to the amounts that fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the income return on and after 26 November 1996 on investment in respect of the finance lease or loan.
- (4) The amounts referred to in subsection (2) are also determined taking into account the substance of the matter as a whole, including, in particular, the state of affairs—
 - (a) as between connected persons, or
 - (b) within a group of companies,as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts.
- (5) The second main purpose of this Chapter is, if the sum mentioned in section 614B(3)(a) that is not rent falls due, to recover by reference to that sum the whole or any part of the capital expenditure reliefs.

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- (6) In subsection (5) “the capital expenditure reliefs” means any reliefs, allowances or deductions that are or have been allowed or made in respect of capital expenditure incurred in respect of the leased asset.

Leases to which this Chapter applies

614BB 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 614BC 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 614BC 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—
- (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 corporation tax on income, the reference in subsection (3) to the conditions in section 614BC having been met at that time includes a reference to the conditions in section 902 of CTA 2010 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.

614BC The conditions referred to in section 614BB(1)

- (1) This section sets out the conditions required by section 614BB(1) to be met for this Chapter to apply (conditions A to E).
- (2) Condition A is that at the relevant time—

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- (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 income tax purposes in tax years ending with the relevant tax year 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.
- (8) Condition E is that at the relevant time—
 - (a) arrangements within section 614BE(1) exist, or
 - (b) paragraph (a) does not apply and circumstances within section 614BE(3) exist.
- (9) Section 614BD supplements this section.

614BD Provisions supplementing section 614BC

- (1) In section 614BC—
 - “the relevant tax year”, in relation to a major lump sum, means—
 - (a) the tax year which is related to the period of account of the lessor (“L”) 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 tax years, the latest of them, and
 - “the relevant time” means the time as at which it must be determined for the purposes of section 614BB(1) or (3) whether the conditions in section 614BC are or, as the case may be, were met.

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- (2) For the meaning of a tax year being related to a period of account, see section 614DB(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 614BC is met as respects L unless subsection (5) applies.
- (4) Rent that falls to be brought into account for income 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).

614BE The arrangements and circumstances referred to in section 614BC(8)

- (1) The arrangements referred to in section 614BC(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 614BC(8)(b) are circumstances which make it more likely—
 - (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

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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 614DD.

Current lessor taxed by reference to accountancy rental earnings

614BF Current lessor taxed by reference to accountancy rental earnings

- (1) This section applies if, in the case of any period of account of the current lessor (“L”)—
- (a) this Chapter applies in relation to the lease, and
 - (b) the accountancy rental earnings in respect of the lease for that period of account exceed the normal rent for that period.
- (2) For income tax purposes, L is treated as if in that period of account L had been entitled to, and there had arisen to L, rent from the lease of an amount equal to those accountancy rental earnings (instead of the normal rent referred to in subsection (1)(b)).
- (3) Such rent from the lease of an asset is treated for income tax purposes—
- (a) as if it had accrued at an even rate throughout so much of the period of account as falls within the period for which the asset is leased, and
 - (b) as if L had become entitled to it as it accrued.

Reduction of taxable rent by cumulative rental excesses

614BG Reduction of taxable rent by cumulative rental excesses: introduction

- (1) This section and sections 614BH to 614BK provide for reductions of the taxable rent of a current lessor (“L”) under a lease to which this Chapter applies.
- (2) In this section and sections 614BH to 614BK “taxable rent”, in relation to a period of account of L, means the amount that would, apart from those sections, be treated for income tax purposes as rent from the lease that arises to L in that period of account for the purpose of determining L's liability to tax for the related tax year or years.
- (3) The reductions of taxable rent under sections 614BH to 614BK depend on there being—
- (a) a cumulative accountancy rental excess for the period of account of L in question, or
 - (b) a cumulative normal rental excess for the period of account of L in question.
- (4) For the meaning of “cumulative accountancy rental excess” and “cumulative normal rental excess”, see sections 614BH and 614BJ respectively.

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614BH Meaning of “accountancy rental excess” and “cumulative accountancy rental excess”

- (1) For the purposes of this Chapter, there is an “accountancy rental excess” in relation to the lease for a period of account of the current lessor (“L”) if the taxable rent in relation to the lease for the period is as a result of section 614BF (current lessor taxed by reference to accountancy rental earnings) an amount equal to the accountancy rental earnings.
- (2) The amount of the accountancy rental excess for the period is equal to the difference between the accountancy rental earnings for the period and the normal rent for the period.
- (3) But if the taxable rent for the period is reduced under section 614BK (reduction of taxable rent by the cumulative normal rental excess), there is only an accountancy rental excess for the period if—
 - (a) the accountancy rental earnings, reduced by an amount equal to the reduction under that section, exceed
 - (b) the normal rent.
- (4) And in that case the amount of the accountancy rental excess for the period is equal to that excess.
- (5) In this Chapter the “cumulative accountancy rental excess”, in relation to the lease and a period of account of L, means so much of the total of the accountancy rental excesses for previous periods of account of L (as increased under section 614BM: recovery of bad debts following reduction under section 614BL) as has not been—
 - (a) set off under section 614BI (reduction of taxable rent by the cumulative accountancy rental excess) against the taxable rent for any such previous period,
 - (b) reduced under section 614BL (relief for bad debts: reduction of cumulative accountancy rental excess), or
 - (c) set off under section 37A of TCGA 1992 (consideration on disposal of certain leases) against the consideration for a disposal.

614BI Reduction of taxable rent by the cumulative accountancy rental excess

- (1) This section applies if a period of account of the current lessor (“L”) is one for which—
 - (a) the normal rent in relation to the lease exceeds the accountancy rental earnings, and
 - (b) there is a cumulative accountancy rental excess.
- (2) The taxable rent for the period of account is reduced by setting against it the cumulative accountancy rental excess (but not so as to reduce that rent below the amount of the accountancy rental earnings).
- (3) But see section 614BL(3) and (4) (under which the amount of the cumulative accountancy rental excess which may be set against the taxable rent is limited in some circumstances).

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614BJ Meaning of “normal rental excess” and “cumulative normal rental excess”

- (1) For the purposes of this Chapter, there is a “normal rental excess” in relation to a lease for any period of account of the current lessor (“L”) throughout which the leasing arrangements fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as a finance lease or loan if—
 - (a) the normal rent for the period, exceeds
 - (b) the accountancy rental earnings for the period.
- (2) The amount of the normal rental excess for that period is equal to that excess.
- (3) But if the taxable rent for the period is reduced under section 614BI (reduction of taxable rent by the cumulative accountancy rental excess), there is only a normal rental excess for the period if—
 - (a) the normal rent, reduced by an amount equal to the reduction under that section, exceeds
 - (b) the accountancy rental earnings.
- (4) And in that case the amount of the normal rental excess for the period is equal to that excess.
- (5) In this Chapter “cumulative normal rental excess”, in relation to the lease and a period of account of L, means so much of the total of the normal rental excesses for previous periods of account of L (as increased under section 614BO: recovery of bad debts following reduction under section 614BN) as has not been—
 - (a) set off under section 614BK (reduction of taxable rent by the cumulative normal rental excess) against the taxable rent for any such previous period, or
 - (b) reduced under section 614BN (relief for bad debts: reduction of cumulative normal rental excess).

614BK Reduction of taxable rent by the cumulative normal rental excess

- (1) This section applies if a period of account of the current lessor (“L”) is one for which—
 - (a) the taxable rent in relation to the lease is as a result of section 614BF (current lessor taxed by reference to accountancy rental earnings) an amount equal to the accountancy rental earnings, and
 - (b) there is a cumulative normal rental excess.
- (2) The taxable rent for the period of account is reduced by setting against it the cumulative normal rental excess (but not so as to reduce that rent below the amount of the normal rent).
- (3) But see section 614BN(3) and (4) (under which the amount of the cumulative normal rental excess which may be set against the taxable rent is limited in some circumstances).

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Part 1. (See end of Document for details)

Relief for bad debts by reduction of cumulative rental excesses

614BL Relief for bad debts: reduction of cumulative accountancy rental excess

- (1) This section applies if in relation to the lease for any period of account of the current lessor—
 - (a) there is a cumulative accountancy rental excess, and
 - (b) a bad debt deduction falls to be made in respect of rent from the lease.
- (2) If for that period—
 - (a) the accountancy rental earnings in relation to the lease exceed the normal rent, and
 - (b) the amount of the bad debt deduction exceeds the amount of the accountancy rental earnings,
 the cumulative accountancy rental excess for that period is reduced by the amount of the excess of that deduction over those earnings (but not so as to reduce the amount of that rental excess below nil).
- (3) Subsections (4) and (5) apply if for that period the accountancy rental earnings in relation to the lease do not exceed the normal rent.
- (4) The amount of the cumulative accountancy rental excess that may be set against the taxable rent for that period under section 614BI(2) (reduction of taxable rent by the cumulative accountancy rental excess) is limited to the amount (if any) by which the normal rent exceeds the bad debt deduction.
- (5) If for that period the bad debt deduction exceeds the normal rent, the cumulative accountancy rental excess for that period is reduced by the amount of that excess (but not so as to reduce the amount of that rental excess below nil).
- (6) In this section—

“bad debt deduction”, in relation to a period of account of the lessor, means the total of any sums falling within section 35(1)(a), (b) or (c) of ITTOIA 2005 in respect of amounts in respect of rents from the lease of the asset which are deductible as expenses for that period, and

“taxable rent” has the meaning given in section 614BG(2).

614BM Recovery of bad debts following reduction under section 614BL

- (1) This section applies if in relation to the lease—
 - (a) the cumulative accountancy rental excess for any period of account of the current lessor (“L”) has been reduced under section 614BL(2) or (5) because of a bad debt deduction,
 - (b) in a subsequent period of account of L, an amount (“the relevant credit”) is recovered or credited in respect of the amount which constituted the bad debt deduction, and

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- (c) there is a cumulative accountancy rental excess for that subsequent period.
- (2) The cumulative accountancy rental excess for the subsequent period is increased.
- (3) If the relevant credit does not exceed the total of the reductions under section 614BL(2) or (5), the increase is by the relevant credit.
- (4) Otherwise, the increase is limited to that total.
- (5) In this section “bad debt deduction” has the meaning given in section 614BL(6).

614BN Relief for bad debts: reduction of cumulative normal rental excess

- (1) This section applies if in relation to the lease for any period of account of the current lessor—
 - (a) there is a cumulative normal rental excess, and
 - (b) a bad debt deduction falls to be made in respect of rent from the lease.
- (2) If for that period—
 - (a) the accountancy rental earnings in the case of the lease do not exceed the normal rent, and
 - (b) the amount of the bad debt deduction exceeds the amount of that rent,the cumulative normal rental excess for that period is reduced by the amount of the excess of that deduction over that rent (but not so as to reduce the amount of that rental excess below nil).
- (3) Subsections (4) and (5) apply if for that period the accountancy rental earnings in relation to the lease exceed the normal rent.
- (4) The amount of the cumulative normal rental excess that may be set against the taxable rent for that period under section 614BK (reduction of taxable rent by the cumulative normal rental excess) is limited to the amount (if any) by which the accountancy rental earnings exceed the bad debt deduction.
- (5) If for that period the bad debt deduction exceeds the accountancy rental earnings, the cumulative normal rental excess for that period is reduced by the amount of the excess (but not so as to reduce the amount of that rental excess below nil).
- (6) In this section, in relation to a period of account of the lessor—
 - “bad debt deduction” has the meaning given in section 614BL(6),
 - and
 - “taxable rent” has the meaning given in section 614BG(2).

614BO Recovery of bad debts following reduction under section 614BN

- (1) This section applies if in relation to the lease—

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- (a) the cumulative normal rental excess for any period of account of the current lessor (“L”) has been reduced under section 614BN(2) or (5) as a result of a bad debt deduction,
 - (b) in a subsequent period of account of L, an amount (“the relevant credit”) is recovered or credited in respect of the amount which constituted the bad debt deduction, and
 - (c) there is a cumulative normal rental excess for that subsequent period.
- (2) The cumulative normal rental excess for the subsequent period is increased.
- (3) If the relevant credit does not exceed the total of the reductions under section 614BN(2) or (5), the increase is by the relevant credit.
- (4) Otherwise, the increase is limited to that total.
- (5) In this section “bad debt deduction” has the meaning given in section 614BL(6).

Effect of disposals

614BP Effect of disposals of leases: general

- (1) This section applies if the current lessor (“L”) or a person connected with L disposes of—
- (a) the lessor's interest under the lease,
 - (b) the leased asset, or
 - (c) an asset representing the leased asset (see section 614DD).
- (2) This Part has effect as if immediately before the disposal a period of account of L ended and another began.
- (3) If—
- (a) two or more disposals within subsection (1) are made at the same time, and
 - (b) there is any cumulative accountancy rental excess for any period of account of L in which the disposal occurs,
- subsection (2) has effect in relation to those disposals as if they together constituted a single disposal.
- (4) In this section “dispose” and “disposal” are to be read in accordance with TCGA 1992.
- (5) In cases where there is any cumulative accountancy rental excess for L's period of account in which the disposal occurs, section 37A of that Act (consideration on disposal of certain leases) makes provision for the purposes of that Act about the reduction of the consideration for the disposal by that excess in determining if a gain has accrued.

614BQ Assignments on which neither a gain nor a loss accrues

- (1) This section applies if—
- (a) the current lessor (“L”) assigns the lessor's interest under the lease, and

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Part 1. (See end of Document for details)

- (b) the assignment is a disposal on which, as a result of any of the no gain/no loss provisions, neither a gain nor a loss accrues.
- (2) This Part has effect as if—
- (a) a period of account of L (“L's period”) ended with the assignment, and
 - (b) a period of account of the assignee (“A's period”) began with the assignment.
- (3) Any cumulative accountancy rental excess for L's period becomes the cumulative accountancy rental excess for A's period.
- (4) Any cumulative normal rental excess for L's period becomes the cumulative normal rental excess for A's period.
- (5) If the assignee is a company subject to the charge to corporation tax on income, so far as this section relates to the assignee, it applies for the purposes of Part 21 of CTA 2010 as it would otherwise apply for the purposes of this Part.
- (6) In this section “the no gain/no loss provisions” has the same meaning as in TCGA 1992 (see section 288(3A) of that Act).

Capital allowances: claw-back of major lump sum

614BR Effect of capital allowances: introduction

- (1) This section and sections 614BS to 614BW apply if an occasion occurs on which a major lump sum falls to be paid in relation to the lease of the asset.
- (2) In those sections the occasion is called “the relevant occasion”.

614BS Cases where expenditure taken into account under Part 2, 5 or 8 of CAA 2001

- (1) This section applies if capital expenditure incurred by the current lessor (“L”) in respect of the leased asset is or has been taken into account for the purposes of any allowance or charge under—
 - (a) Part 2 of CAA 2001 (plant and machinery allowances),
 - (b) Part 5 of that Act (mineral extraction allowances), or
 - (c) Part 8 of that Act (patent allowances).
- (2) The Part of that Act in question (“the relevant Part”) has effect as if the relevant occasion were an event (“the relevant event”) as a result of which a disposal value is to be brought into account of an amount equal to the amount or value of the major lump sum (but subject to any applicable limiting provision).
- (3) In this section “limiting provision” means a provision to the effect that the disposal value of the asset in question is not to exceed an amount (“the limit”) described by reference to capital expenditure incurred in respect of the asset.
- (4) Subsection (5) applies if—

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- (a) as a result of subsection (2), a disposal value (“the relevant disposal value”) falls or has fallen to be brought into account by a person in respect of the leased asset for the purposes of the relevant Part, and
 - (b) a limiting provision has effect in the case of that Part.
- (5) The limiting provision has effect (so far as it would not otherwise do so), in relation to the relevant disposal value and any simultaneous or later disposal value, as if—
- (a) it did not limit any particular disposal value, but
 - (b) it limited the total amount of all the disposal values brought into account for the purposes of the relevant Part by L in respect of the leased asset.
- (6) In subsection (5) “simultaneous or later disposal value” means any disposal value which falls to be brought into account by L in respect of the leased asset as a result of any event occurring at the same time as, or later than, the relevant event.

614BT Cases where expenditure taken into account under other provisions of CAA 2001

- (1) This section applies if any allowance is or has been given in respect of capital expenditure incurred by the current lessor (“L”) in respect of the leased asset under any provision of CAA 2001 other than—
- (a) Part 2 of CAA 2001 (plant and machinery allowances),
 - (b) Part 5 of that Act (mineral extraction allowances), or
 - (c) Part 8 of that Act (patent allowances).
- (2) The amount specified in subsection (3) is treated, in relation to L, as if it were a balancing charge to be made on L for the chargeable period in which the relevant occasion falls.
- (3) That amount is an amount equal to—
- (a) the total of the allowances given as mentioned in subsection (1) (so far as not previously recovered or withdrawn), or
 - (b) if it is less, the amount or value of the major lump sum.
- (4) In this section “chargeable period” has the meaning given by section 6 of CAA 2001.

614BU Capital allowances deductions: waste disposal and cemeteries

- (1) This section applies if any deduction is or has been allowed to the current lessor (“L”) in respect of capital expenditure incurred in connection with the leased asset as a result of—
- (a) section 165 or 168 of ITTOIA 2005 (preparation and restoration expenditure in relation to waste disposal site), or
 - (b) section 170 of that Act (cemeteries and crematoria: deduction for capital expenditure).
- (2) L is treated as if trading receipts arose to L from the trade in question on the relevant occasion.

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- (3) The amount of those receipts is equal to the lesser of—
- (a) the amount or value of the major lump sum, and
 - (b) the deductions previously allowed.

614BV Capital allowances deductions: films and sound recordings

- (1) This section applies if—
- (a) any relevant deduction has been allowed to the current lessor (“L”) in respect of expenditure incurred in connection with the leased asset, and
 - (b) the amount or value of the major lump sum exceeds so much of that sum as was treated as receipts of a revenue nature under section 134(2) of ITTOIA 2005 (disposal proceeds of original master version of film or sound recording treated as receipt of a revenue nature).
- (2) In subsection (1) “relevant deduction” means any deduction as a result of—
- (a) section 135 of ITTOIA 2005 (allocation of expenditure on master versions of films or sound recordings to periods), or
 - (b) section 138, 138A, 139 or 140 of that Act (relief for production or acquisition expenditure in respect of films).
- (3) L is treated as if receipts of a revenue nature arose to L from the trade or business in question on the relevant occasion.
- (4) The amount of those receipts is equal to the excess mentioned in subsection (1)(b).

614BW Contributors to capital expenditure

- (1) This section applies if—
- (a) section 614BS or 614BT applies in relation to a leased asset,
 - (b) allowances are or have been made to a person (“the contributor”) as a result of sections 537 to 542 of CAA 2001 (allowances in respect of contributions to capital expenditure), and
 - (c) those allowances are or were in respect of the contributor's contribution of a capital sum to expenditure on the provision of the leased asset.
- (2) Section 614BS or, as the case may be, section 614BT has effect in relation to the contributor and those allowances as it has effect in relation to the current lessor and allowances in respect of capital expenditure incurred by the current lessor in respect of the leased asset.

Schemes to which this Chapter does not at first apply

614BX Pre-26 November 1996 schemes where this Chapter does not at first apply

- (1) This section applies if—

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- (a) the lease of an asset forms part of a pre-26 November 1996 scheme, but
 - (b) the conditions in section 614BC become met after 26 November 1996.
- (2) For the meaning of “forming part of a pre-26 November 1996 scheme”, see section 614D.
- (3) This Part has effect as if—
- (a) a period of account (“period 1”) of the current lessor (“L”) ended immediately before the time at which those conditions become met,
 - (b) another period of account of L (“period 2”) began immediately before that time and ended immediately after that time, and
 - (c) another period of account of L began immediately after that time.
- (4) If, on the continuous application assumption (see subsection (9)), there would be an amount of cumulative accountancy rental excess for period 2, that amount is the cumulative accountancy rental excess for period 2.
- (5) If subsection (4) applies, L is treated for income tax purposes as if in period 1 L had been entitled to, and there had arisen to L, rent from the lease of an amount equal to that cumulative accountancy rental excess.
- (6) The amount of rent mentioned in subsection (5)—
- (a) is in addition to any other rent from the lease for period 1, and
 - (b) is left out of account for the purposes of section 614BF (current lessor taxed by reference to accountancy rental earnings).
- (7) Rent within subsection (5) is treated for income tax purposes as if it had accrued and L had become entitled to it immediately before the end of period 1.
- (8) If, on the continuous application assumption, there would be an amount of cumulative normal rental excess for period 2, that amount is the cumulative normal rental excess for period 2.
- (9) In this section “the continuous application assumption” means the assumption that this Chapter (other than this section) had applied in the case of the lease at all times on or after 26 November 1996.
- (10) If at any time the person who was the lessor at that time was a person within the charge to corporation tax on income, the reference in subsection (9) to this Chapter (other than this section) includes a reference to Chapter 2 of Part 21 of CTA 2010 (other than section 923 of that Act).

614BY Post-25 November 1996 schemes to which Chapter 3 applied first

- (1) This section applies if—
- (a) the conditions in section 614BC become met in the case of the lease of the asset, and
 - (b) immediately before those conditions become met, Chapter 3 applied.
- (2) Subsection (3) applies for the purpose of determining—

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Part 1. (See end of Document for details)

- (a) the cumulative accountancy rental excess for any period of account ending after those conditions become met, or
 - (b) the cumulative normal rental excess for any such period.
- (3) This Part has effect as if this Chapter had applied in relation to the lease at any time when Chapter 3 applied in relation to it.
- (4) If at any time the person who was the lessor at that time was a person within the charge to corporation tax on income—
- (a) the reference in subsection (1)(a) to the conditions in section 614BC becoming met at that time includes a reference to the conditions in section 902 of CTA 2010 becoming so met,
 - (b) the reference in subsection (1)(b) to Chapter 3 applying immediately before that time includes a reference to Chapter 3 of Part 21 of that Act so applying, and
 - (c) the reference in subsection (3) to Chapter 3 applying at that time includes a reference to Chapter 3 of that Part so applying.”

4 After section 614BY insert—

“CHAPTER 3

OTHER FINANCE LEASES

Introduction

614C Introduction to Chapter

- (1) This Chapter applies to arrangements involving the lease of an asset that—
- (a) fall to be treated, in accordance with generally accepted accounting practice, as a finance lease or loan, but
 - (b) are not arrangements to which Chapter 2 applies.
- (2) It does not matter whether the arrangements are or have been entered into by companies or other persons.

614CA Purpose of this Chapter

- (1) The main purpose of this Chapter where there are arrangements to which this Chapter applies is to charge a person entitled to the lessor's interest under the lease of the asset to income tax on amounts of income determined as mentioned in subsection (2).
- (2) The amounts referred to in subsection (1) are determined by reference to the amounts that fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the income return on and after 26 November 1996 on investment in respect of the finance lease or loan.
- (3) The amounts referred to in subsection (1) are also determined taking into account the substance of the matter as a whole, including, in particular, the state of affairs—
- (a) as between connected persons, or

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- (b) within a group of companies,
as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts.

Leases to which this Chapter applies

614CB Leases to which this Chapter applies

- (1) This Chapter applies if—
 - (a) a lease of an asset is or has been granted on or after 26 November 1996,
 - (b) the lease forms part of a post-25 November 1996 scheme,
 - (c) condition A in section 614BC is or has been met at some time on or after 26 November 1996 in relation to the lease in a period of account of the current lessor (“L”), and
 - (d) Chapter 2 does not apply in relation to the lease because of the other conditions in that section not all being, or having been, met as mentioned in section 614BB.
- (2) For the meaning of “forming part of a post-25 November 1996 scheme”, see section 614D.
- (3) This Chapter does not apply so far as, in relation to L, 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).
- (4) If condition A in section 614BC has been met at any time on or after 26 November 1996 in a period of account of the person who was at that time the lessor, it is taken to continue to be met unless and until one of the conditions in subsection (5) is met.
- (5) 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 (6).
- (6) Those persons are—
 - (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.
- (7) If at any time the person who was the lessor at that time was a person within the charge to corporation tax on income—
 - (a) the reference in subsection (4) to condition A in section 614BC having been met at that time includes a reference to condition A in section 902 of CTA 2010 having been so met, and

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- (b) the reference in subsection (1)(d) to the other conditions in section 614BC not having been met as mentioned in section 614BB includes a reference to the other conditions in section 902 of that Act not having been met as mentioned in section 901 of that Act.
- (8) Nothing in subsection (4) 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.

Current lessor taxed by reference to accountancy rental earnings

614CC Current lessor taxed by reference to accountancy rental earnings

- (1) This section applies if, in the case of any period of account of the current lessor (“L”)—
 - (a) this Chapter applies in relation to the lease, and
 - (b) the accountancy rental earnings in respect of the lease for that period of account exceed the normal rent for that period.
- (2) For income tax purposes, L is treated as if in that period of account L had been entitled to, and there had arisen to L, rent from the lease of an amount equal to those accountancy rental earnings (instead of the normal rent referred to in subsection (1)(b)).
- (3) Such rent from the lease of an asset is treated for income tax purposes—
 - (a) as if it had accrued at an even rate throughout so much of the period of account as falls within the period for which the asset is leased, and
 - (b) as if L had become entitled to it as it accrued.

Application of provisions of Chapter 2 for purposes of this Chapter

614CD Application of provisions of Chapter 2 for purposes of this Chapter

Sections 614BG to 614BQ apply for the purposes of this Chapter as they apply for the purposes of Chapter 2, but taking the references in sections 614BH(1) and 614BK(1)(a) to section 614BF as references to section 614CC.”

5 After section 614CD insert—

“CHAPTER 4

SUPPLEMENTARY PROVISIONS

614D Pre-26 November 1996 schemes and post-25 November 1996 schemes

- (1) For the purposes of this Part, a lease of an asset—
 - (a) forms part of a pre-26 November 1996 scheme if (and only if) the conditions in subsection (2) or (3) are met, and
 - (b) in any other case, forms part of a post-25 November 1996 scheme.

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- (2) The conditions in this subsection are that—
- (a) a contract in writing for the lease of the asset was made before 26 November 1996,
 - (b) either—
 - (i) the contract was unconditional, or
 - (ii) if the contract was conditional, the conditions were met before that date, and
 - (c) no terms remain to be agreed on or after that date.
- (3) The conditions in this subsection are that—
- (a) a contract in writing for the lease of the asset was made before 26 November 1996,
 - (b) the condition in subsection (2)(b) or (c) was not met in the case of the contract,
 - (c) either—
 - (i) the contract was unconditional, or
 - (ii) if the contract was conditional, the conditions were met before the end of the finalisation period or within such further period as the Commissioners for Her Majesty's Revenue and Customs may allow in the particular case,
 - (d) no terms remain to be agreed after the end of the finalisation period or such further period as those Commissioners may so allow, and
 - (e) the contract in its final form was not materially different from the contract as it stood when it was made before 26 November 1996.
- (4) In subsection (3) “the finalisation period” means the period which ended with the later of—
- (a) 31 January 1997, and
 - (b) the end of the period of six months beginning with the day after that on which the contract was made as mentioned in subsection (3)(a).

614DA Time apportionment where periods of account do not coincide

- (1) Subsection (2) applies if a period of account of the lessor (“L”) does not coincide with a period of account of a person connected with L.
- (2) Any amount which falls for the purposes of this Part to be found for L's period of account but by reference to the connected person is found by making such apportionments as may be necessary between two or more periods of account of the connected person.
- (3) Subsection (4) applies if a period of account of L does not coincide with a period for which consolidated group accounts of a group of companies of which L is a member fall to be prepared.
- (4) Any amount which falls for the purposes of this Part to be found for L's period of account but by reference to the consolidated group accounts is found by making such apportionments as may be necessary between two or more periods for which consolidated group accounts of the group fall to be prepared.

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Part 1. (See end of Document for details)

- (5) Any apportionment under subsection (2) or (4) must be made in proportion to the number of days in the respective periods that fall within L's period of account.

614DB Periods of account and related periods of account and tax years

- (1) In this Part “period of account” means a period for which accounts are made up.
- (2) Except for the purposes of sections 614BB to 614BE and subsection (3), in this Part “period of account” does not include a period that begins before 26 November 1996.
- (3) But this Part applies in relation to a period of account that begins before 26 November 1996 and ends on or after that date as if—
- (a) so much of the period as falls before that date, and
 - (b) so much of the period as falls on or after that date,
- were separate periods of account.
- (4) For the purposes of this Part, a tax year is related to a period of account if the tax year consists of or includes the whole or any part of the period of account.
- (5) For the purposes of this Part a period of account is related to a tax year if the tax year is related to the period of account.

614DC Connected persons

- (1) For the purposes of this Part in its application as a result of any leasing arrangements, if a person (“A”) is connected with another (“B”) at some time during the relevant period A is treated as being connected with B throughout that period.
- (2) The relevant period is the period that—
- (a) begins at the earliest time at which any of the arrangements were made, and
 - (b) ends when the current lessor finally ceases to have an interest in the asset or any arrangements relating to it.

614DD Assets which represent the leased asset

- (1) For the purposes of this Part, the assets described in subsection (2) are treated as representing the leased asset.
- (2) Those assets are—
- (a) any asset derived from the leased asset or created out of it,
 - (b) any asset from which the leased asset was derived or out of which the leased asset was created,
 - (c) any asset derived from or created out of an asset within paragraph (b), and
 - (d) any asset that derives the whole or a substantial part of its value from the leased asset or an asset that itself represents the leased asset.

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Part 1. (See end of Document for details)

614DE Parent undertakings and consolidated group accounts

- (1) This Part has effect in relation to a body corporate that—
 - (a) is a parent undertaking, but
 - (b) for accounting purposes is not required to prepare consolidated group accounts in accordance with generally accepted accounting practice,
 as if it were so required.
- (2) For the purposes of subsection (1) it does not matter where the body corporate is incorporated.
- (3) In subsection (1) “parent undertaking” is to be read in accordance with section 1162 of the Companies Act 2006.

614DF Assessments and adjustments

All such assessments and adjustments must be made as are necessary to give effect to this Part.

614DG Interpretation

In this Part, unless the context otherwise requires—

“accountancy rental earnings” has the meaning given by section 614AB(1),

“accountancy rental excess” is to be read—

- (a) for the purposes of Chapter 2, in accordance with section 614BH(1) to (4), and
- (b) for the purposes of Chapter 3, in accordance with section 614BH(1) to (4) as it has effect as a result of section 614CD,

“asset” means any form of property or rights,

“asset representing the leased asset” is to be read in accordance with section 614DD,

“cumulative accountancy rental excess” is to be read—

- (a) for the purposes of Chapter 2, in accordance with section 614BH(5), and
- (b) for the purposes of Chapter 3, in accordance with section 614BH(5) as it has effect as a result of section 614CD,

“cumulative normal rental excess” is to be read—

- (a) for the purposes of Chapter 2, in accordance with section 614BJ(5), and
- (b) for the purposes of Chapter 3, in accordance with section 614BJ(5) as it has effect as a result of section 614CD,

“the current lessor”, in relation to a lease of an asset, means the person who is for the time being entitled to the lessor's interest under the lease,

“finance lessor” means a person who for accounting purposes is treated, in accordance with generally accepted accounting practice, as the person with—

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- (a) the grantor's interest in relation to a finance lease, or
- (b) the lender's interest in relation to a loan,
“for accounting purposes” means for the purposes of—
 - (a) accounts of companies incorporated in any part of the United Kingdom, or
 - (b) consolidated group accounts for groups all the members of which are companies so incorporated,“lease”—
 - (a) in relation to land, includes an underlease, sublease, tenancy or licence, and any agreement for a lease, underlease, sublease, tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined, and
 - (b) in relation to any form of property or right other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, an asset,

and “rent” is to be read accordingly,

“the leasing arrangements”, in relation to a lease of an asset, means—

- (a) the lease,
- (b) any arrangements relating to or connected with the lease, and
- (c) any other arrangements of which the lease forms part,

and includes a reference to any of the leasing arrangements,

“the lessee”, in relation to a lease of an asset, means (except in the expression “the lessee's interest under the lease”) the person entitled to the lessee's interest under the lease,

“the lessor”, in relation to a lease of an asset, means (except in the expression “the lessor's interest under the lease”) the person entitled to the lessor's interest under the lease,

“major lump sum” is to be read in accordance with section 614BC(5),

“normal rent” is to be read in accordance with section 614AA,

“normal rental excess” is to be read—

- (a) for the purposes of Chapter 2, in accordance with section 614BJ(1) to (4), and
- (b) for the purposes of Chapter 3, in accordance with section 614BJ(1) to (4) as it has effect as a result of section 614CD,

“period of account” is to be read in accordance with section 614DB(1) to (3),

“post-25 November 1996 scheme” is to be read in accordance with section 614D(1)(b),

“pre-26 November 1996 scheme” is to be read in accordance with section 614D(1)(a),

“related period of account” is to be read in accordance with section 614DB(5),

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“related tax year” is to be read in accordance with section 614DB(4),

“the rental earnings”, in relation to a lease of an asset and any period, has the meaning given by section 614AC, and

“sum” includes any money or money's worth (and “pay” and related expressions are to be read accordingly).”

Changes to legislation:

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Part 1.