



Finance Act 2012

2012 CHAPTER 14

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 3

CORPORATION TAX: GENERAL

Anti-avoidance

24 Companies carrying on businesses of leasing plant or machinery

- (1) CTA 2010 is amended as follows.
- (2) In section 385 (sales of lessors: no carry back of the expense)—
 - (a) for subsections (2) and (3) substitute—
 - “(2) No part of a loss may be deducted under section 37(3)(b) (relief for trade losses against total profits of earlier accounting periods) from so much of the company’s total profits as derive from the income.
 - (3) For the purpose of determining how much of those profits derive from the income, those profits are to be calculated on the basis that the income is the final amount to be added.”, and
 - (b) in the heading, for “**No carry back of the expense**” substitute “**No carry back of loss against the income**”.
- (3) In section 392 (sales of lessors: “relevant change in relationship”), at the end insert “or section 394ZA (company joining tonnage tax group)”.
- (4) After section 394 insert—

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“394ZA Company joining tonnage tax group

There is a relevant change in the relationship between A and a principal company of A on any day if—

- (a) on that day A becomes a member of a tonnage tax group for the purposes of Schedule 22 to FA 2000 without entering tonnage tax on that day, or
- (b) the day ends immediately before the day on which, for the purposes of that Schedule, A both becomes a member of a tonnage tax group and enters tonnage tax.”

(5) In section 394A (sales of lessors: “qualifying change of ownership”)—

- (a) the existing text becomes subsection (1), and
- (b) after that subsection insert—

“(2) If the qualifying change of ownership would (but for this subsection) occur on any day as a result of—

- (a) section 393 or 394ZA, or
- (b) section 394 or 394ZA,

it is treated instead for the purposes of the sales of lessors Chapters as occurring on that day solely as a result of section 394ZA.”

(6) In section 427 (sales of lessors: no carry back of the expense)—

- (a) for subsections (2) and (3) substitute—

“(2) No part of a loss may be deducted under section 37(3)(b) (relief for trade losses against total profits of earlier accounting periods) from so much of the company’s total profits as derive from the income.

(3) For the purpose of determining how much of those profits derive from the income, those profits are to be calculated on the basis that the income is the final amount to be added.”, and

- (b) in the heading, for “**No carry back of the expense**” substitute “**No carry back of loss against the income**”.

(7) In section 950 (transfers of trade without a change of ownership: transfers of trade involving business of leasing plant or machinery), after subsection (3) insert—

“(3A) For the purposes of subsection (2)(a) the principal company or companies of the predecessor immediately before the transfer are not to be regarded as the same as the principal company or companies of the successor immediately afterwards (so far as they would otherwise have been so regarded) if—

- (a) there is a relevant change in the relationship between the successor and a principal company of the successor within section 394ZA (company joining tonnage tax group), and
- (b) that change occurs on or before the transfer day (whether the change occurs on or after 21 March 2012 or before that date).”

(8) In Schedule 22 to FA 2000 (tonnage tax), after paragraph 79 insert—

“79A (1) This paragraph applies if—

- (a) a balancing charge under this Part of this Schedule arises to the company on the disposal of any plant or machinery, and

- (b) the plant or machinery is taken into account in calculating income that the company is treated as receiving under section 383 or 417 of the Corporation Tax Act 2010 (sales of lessors) as a result of section 394ZA of that Act (company joining tonnage tax group).
- (2) The balancing charge is to be reduced by the relevant part of the sales of lessors expense so far as relief has not previously been given for that expense (whether under this sub-paragraph or otherwise).
- (3) “The sales of lessors expense” means—
 - (a) the expense which the company is treated as incurring under section 383 or 417 of the Corporation Tax Act 2010 as a result of section 394ZA of that Act, or
 - (b) if section 386 or 419 of that Act applies or has applied, the expense which derives from the expense within paragraph (a).
- (4) If the sales of lessors expense is incurred at a time when the company is in tonnage tax, the “relevant part” of that expense is so much of it as, on a just and reasonable basis, is attributable to the matters set out in paragraph 56(1)(a) or (b).
- (5) If—
 - (a) the sales of lessors expense is not incurred at a time when the company is in tonnage tax,
 - (b) that expense is taken into account in calculating a loss made by the company in a trade, and
 - (c) the loss is one to which paragraph 56 applies,the “relevant part” of the sales of lessors expense is so much of the apportioned loss as, on a just and reasonable basis, is derived from the sales of lessors expense.
- (6) The reference here to the apportioned loss is to the loss that is attributable to the matters set out in paragraph 56(1)(a) or (b).”
- (9) The amendments made by subsections (2) and (6) have effect—
 - (a) where the income arises as a result of a company becoming a member of a tonnage tax group on or after 21 March 2012 and entering tonnage tax at the same time,
 - (b) where the income arises as a result of a company becoming a member of a tonnage tax group on or after 23 April 2012 without entering tonnage tax at the same time, or
 - (c) where the relevant day is on or after 21 March 2012 (in any case not within paragraph (a) or (b)).
- (10) The amendments made by subsections (3) to (5) and (8) have effect—
 - (a) where a company becomes a member of a tonnage tax group on or after 21 March 2012 and enters tonnage tax at the same time, or
 - (b) where a company becomes a member of a tonnage tax group on or after 23 April 2012 without entering tonnage tax at the same time.
- (11) The amendment made by subsection (7) has effect—
 - (a) except in a case within paragraph (b), where the transfer day is on or after 21 March 2012, and

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- (b) in a case where the relevant change in the relationship occurs as a result of a company becoming a member of a tonnage tax group without entering tonnage tax at the same time, where the transfer day is on or after 23 April 2012.