



Corporation Tax Act 2010

2010 CHAPTER 4

PART 9

LEASING PLANT OR MACHINERY

CHAPTER 6

SALES OF LESSORS: GENERAL INTERPRETATION

437 Interpretation of the sales of lessors Chapters

- (1) This section applies for the purposes of the sales of lessors Chapters.
- (2) “Company” means a body corporate.
- (3) “Excluded lease of background plant or machinery for a building” has the meaning given in Chapter 6A of Part 2 of CAA 2001 (see section 70R of that Act).
- [^{F1}(4) “Finance lease” means—
 - (a) in relation to any person, a lease that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated in the accounts of that person as a finance lease or loan, or
 - (b) in relation to a lessee under a right-of-use lease, a lease that would fall to be treated in the accounts of the lessee as a finance lease if the lessee were required under generally accepted accounting practice to determine whether the lease falls to be so treated.]
- (5) “Fixture”—
 - (a) means any plant or machinery that is so installed or otherwise fixed in or to a building or other description of land as to become, in law, part of that building or other land, and
 - (b) includes any boiler or water-filled radiator installed in a building as part of a space or water heating system.

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- (6) “Long funding finance lease”, “long funding lease”^{F2}, “long funding operating lease” and “right-of-use lease”] have the meanings given in Part 2 of CAA 2001 (see section 70YI(1) of that Act).
- (7) “Plant or machinery” has the same meaning as in Part 2 of CAA 2001.
- (8) “Plant or machinery lease” has the meaning given in Chapter 6A of that Part (see section 70YI(1) of that Act).

[^{F3}(8A) Property business” means a UK property business or an overseas property business.]

^{F4}(9)

Textual Amendments

- F1** S. 437(4) substituted (with effect in accordance with Sch. 14 para. 6(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 14 para. 4\(7\)\(a\)](#)
- F2** Words in s. 437(6) substituted (with effect in accordance with Sch. 14 para. 6(1) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 14 para. 4\(7\)\(b\)](#)
- F3** S. 437(8A) inserted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 18 para. 7](#)
- F4** S. 437(9) omitted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 21](#)

[^{F5}437A Determining the ascribed value of plant or machinery

- (1) For the purposes of the sales of lessors Chapters, the ascribed value of plant or machinery at any given time (“ the relevant time ”) is the value determined in accordance with this section.
- (2) Subsection (3) applies to plant or machinery if—
- (a) it is subject to a plant or machinery lease at the relevant time,
 - (b) the relevant company or partnership is a lessor under the lease, and
 - (c) subsection (5) does not apply to it.
- (3) The ascribed value of plant or machinery to which this subsection applies is the higher of—
- (a) the market value of the plant or machinery at the relevant time, and
 - (b) the present value at that time of the lease referred to in subsection (2).
- (4) Subsection (5) applies to plant or machinery if—
- (a) it is subject to a plant or machinery lease at the relevant time,
 - (b) the lease is an equipment lease within the meaning of Chapter 14 of Part 2 of CAA 2001 (fixtures),
 - (c) the relevant company or partnership is the equipment lessor in respect of the lease (see section 174 of that Act), and
 - (d) the equipment lessor is treated at that time as the owner of the plant or machinery by virtue of an election made in reliance on section 177(1)(a)(i) of that Act (which permits elections if the conditions in section 178 are met in relation to the lease).

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- (5) The ascribed value of plant or machinery to which this subsection applies is the present value at the relevant time of the lease referred to in subsection (4).
- (6) The ascribed value of plant or machinery to which neither subsection (3) nor subsection (5) applies is the market value of the plant or machinery at the relevant time.

Textual Amendments

F5 Ss. 437A-437C inserted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 6 para. 22](#)

437B Section 437A: supplementary

- (1) This section supplements section 437A.
- (2) Market value is to be determined on the assumption of a disposal by an absolute owner free from all leases and other encumbrances (including any agreement or arrangement that is or includes a plant or machinery lease).
- (3) If plant or machinery is a fixture, its market value is so much of the market value of the relevant land and the fixture together as is attributable to the fixture on a just and reasonable apportionment.
- (4) “ Relevant land ” has the meaning given in section 173(2) of CAA 2001.

Textual Amendments

F5 Ss. 437A-437C inserted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 6 para. 22](#)

437C Present value of a lease

- (1) For the purposes of section 437A, the present value of a lease is the present value of the amounts mentioned in subsection (2).
- (2) The amounts are—
 - (a) the amounts payable under the lease after the relevant time, and
 - (b) any residual amount.
- (3) Subsection (2)(a) does not apply to amounts payable by the lessor or to amounts that represent—
 - (a) charges for services, or
 - (b) qualifying UK or foreign tax to be paid by the lessor.
- (4) Present value is to be calculated by using the interest rate implicit in the lease.
- (5) The interest rate implicit in the lease is the interest rate that would apply in accordance with normal commercial criteria, including, in particular, generally accepted accounting practice (where applicable).
- (6) But if a rate cannot be determined in accordance with subsection (5), the interest rate implicit in the lease is taken to be [^{F6}the incremental borrowing rate].

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- [^{F7}(7) For this purpose, the incremental borrowing rate has the same meaning as it has for accounting purposes.
- (7A) The Treasury may by regulations amend this section for the purpose of replacing references to the incremental borrowing rate with references to another rate.]
- (8) If—
- (a) the lessee has an option to continue the lease for a period after expiry of its initial term, and
 - (b) it is reasonably certain at the relevant time that the lessee will exercise that option,
- references in this section to amounts payable under the lease include amounts payable under the lease as continued for any such period.
- (9) If the lease also relates to land or assets that are not plant or machinery, the present value of the lease is so much of the present value of the amounts mentioned in subsection (2) as is attributable to the plant or machinery on a just and reasonable apportionment.
- (10) In this section, “qualifying UK or foreign tax” and “residual amount” have the meaning given in section 70YE of CAA 2001.]

Textual Amendments

- F5** Ss. 437A-437C inserted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 22](#)
- F6** Words in s. 437C(6) substituted (with effect in accordance with s. 132(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 132\(3\)\(a\)](#)
- F7** S. 437C(7)(7A) substituted for s. 437C(7) (with effect in accordance with s. 132(6) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 132\(3\)\(b\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Corporation Tax Act 2010, Chapter 6.