
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1997, Paragraph 8. (See end of Document for details)

SCHEDULES

SCHEDULE 12

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

PART I

LEASING ARRANGEMENTS WHERE ANY OF THE RETURN ON INVESTMENT IS IN CAPITAL FORM

Relief for bad debts etc: corporation tax under Schedule A

- [^{F1}8] (1) Section 41 of the Taxes Act 1988 (which gives a person relief from corporation tax under Schedule A for rent etc not paid, by treating him as if he had never been entitled to the rent) shall be disregarded in determining for the purposes of this Part of this Schedule the amount of—
- (a) the accountancy rental earnings in respect of the lease, or
 - (b) the normal rent from the lease,
- for any period of account.
- (2) Where for any period of account—
- (a) a person is treated under paragraph 5 above as if he had been entitled to receive an amount of rent, and
 - (b) the amount is in respect of rents on the profits or gains arising from which that person is chargeable to corporation tax under Schedule A,
- section 41 of the Taxes Act 1988 shall not have effect in relation to amounts in respect of rents from the lease of the asset for that or any subsequent period of account of his, or of any person to whom the lessor's interest under the lease is assigned, until the lease terminates or is assigned in circumstances such that paragraph 7 above does not apply.
- (3) Where, by virtue of sub-paragraph (2) above, section 41 of the Taxes Act 1988 does not apply, sub-paragraph (4) below shall apply instead.
- (4) In computing the profits or gains on which a person is chargeable to corporation tax under Schedule A in a case falling within sub-paragraph (2) above, any sums falling within sub-paragraph (i), (ii) or (iii) of section 74(1)(j) of the Taxes Act 1988 in respect of amounts in respect of rents from the lease of the asset shall be deductible in a period of account as an expense to the extent that they would be deductible in that period of account if—
- (a) amounts in respect of rents from the lease of the asset fell to be taken into account as trading receipts in computing the [^{F2}profits] of a trade carried on by the person;
 - (b) the asset were leased in the course of that trade; and
 - (c) the charge to corporation tax under Schedule A were in respect of such annual profits or gains as are described in that Schedule arising from a trade.

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- (5) Any such expense as is mentioned in sub-paragraph (4) above shall be treated for the purposes of section 25 of the Taxes Act 1988 (deductions from rent for the purposes of corporation tax under Schedule A) as if that expense—
- (a) were included among the permitted deductions, within the meaning of that section;
 - (b) were a payment made in respect of the premises comprised in the lease; and
 - (c) were a payment which became due, and was made, immediately before the end of the period of account mentioned in sub-paragraph (4) above.
- (6) Where—
- (a) a deduction has been made by virtue of sub-paragraph (4) above in respect of an amount, but
 - (b) subsequently an amount (“the relevant credit”) is recovered or credited in respect of the amount in respect of which the deduction was made, and
 - (c) the relevant credit would, on the suppositions in paragraphs (a) to (c) of sub-paragraph (4) above, be brought into account for tax purposes as a trading receipt for a period of account of the current lessor,
- the taxable rent for that period of account shall be increased by the amount of the relevant credit.
- (7) In sub-paragraph (6) above, “the taxable rent”, in the case of a period of account of the current lessor, means the amount which would, apart from that sub-paragraph, be treated for tax purposes as rent from the lease—
- (a) which arises to him, and
 - (b) if rent arising to him from the lease is chargeable to corporation tax under Schedule A, to which he is entitled,
- in that period of account for the purpose of determining his liability to tax for the related chargeable period or periods.
- (8) After the time when the conditions in paragraph 3 above become satisfied as respects any particular lessor, no claim under section 41 of the Taxes Act 1988 shall be made in respect of any amount which that lessor was entitled to receive in respect of rents from the lease of the asset.
- (9) Where—
- (a) before the time at which the conditions in paragraph 3 above become satisfied as respects any particular lessor, a claim under section 41 of the Taxes Act 1988 in respect of an amount which he was entitled to receive in respect of any rents from the lease of the asset has been made, and
 - (b) the claim is to any extent allowed,
- no amount shall be deductible under sub-paragraph (4) above in respect of that amount so far as so allowed.]

Textual Amendments

- F1** Sch. 12 para. 8 repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(4)** note
- F2** Words in Sch. 12 para. 8(4)(a) substituted (31.7.1998) by 1998 c. 36, s. 46(3)(a), **Sch. 7 para. 12**

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Modifications etc. (not altering text)

- C1** Sch. 12 para. 8(1)-(7) excluded (31.7.1998 in relation to periods of account beginning on or after 1.4.1998) by 1998 c. 36, s. 38(1), **Sch. 5 para. 74(1)(2)**
- C2** Sch. 12 para. 8(8) excluded (31.7.1998) by 1998 c. 36, s. 38(1), **Sch. 5 para. 74(1)(2)**
- C3** Sch. 12 para. 8(9) excluded (31.7.1998) by 1998 c. 36, s. 38(1) **Sch. 5 para. 74(1)(2)**

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