

## SCHEDULES

### SCHEDULE 16

#### CAPITAL ALLOWANCES ON FIXTURES

##### PART I

###### AMENDMENTS OF THE CAPITAL ALLOWANCES ACT 1990

###### *Allowances in respect of expenditure by equipment lessors*

- 3 (1) In subsection (1) of section 53 (cases where allowance may be made in respect of expenditure of an equipment lessor), at the beginning there shall be inserted “Subject to subsections (1A) to (1C) below,”.
- (2) In paragraph (b) of that subsection (agreement must be entered into for the purposes of a trade carried on by the equipment lessee etc.), after the word “trade”, in the first place where it occurs, there shall be inserted “which is or is to be”.
- (3) After paragraph (b) of that subsection there shall be inserted the following paragraphs—
- “(ba) that agreement is not an agreement for the lease of the machinery or plant for use in a dwelling-house, and
  - (bb) the equipment lessee is within the charge to tax in the United Kingdom on the profits of, as the case may be—
    - (i) the trade for the purposes of which he has entered into that agreement, or
    - (ii) the leasing of the machinery or plant by him to another,and”.
- (4) In paragraph (d) of that subsection, for the words from “the fixture” to the end of the paragraph there shall be substituted “the equipment lessee would, by virtue of section 52, have been entitled to an allowance in respect of the expenditure, as expenditure incurred on the provision of that fixture, and”.
- (5) After that subsection there shall be inserted the following subsections—
- “(1A) Where the condition specified in paragraph (b) of subsection (1) above is satisfied in any case by reference to an agreement entered into for the purposes of a trade which the equipment lessee has not begun to carry on at the time of the agreement, that subsection shall have effect in that case as if the reference in the words after paragraph (e) to the time at which the expenditure is incurred were a reference to whichever is the later of that time and the time when the equipment lessee begins to carry on that trade.

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*Status: This is the original version (as it was originally enacted).*

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- (1B) Where the conditions set out in subsection (1C) below are satisfied in any case, subsection (1) above shall have effect in that case as if the following were omitted, that is to say—
- (a) in paragraph (b), the words from “for the purposes of” to “course of a trade”; and
  - (b) paragraphs (bb) and (d).
- (1C) Those conditions are as follows—
- (a) that the machinery or plant becomes a fixture by virtue of being fixed to land that is neither a building nor part of a building;
  - (b) that the equipment lessee has an interest in that land at the time when he takes possession of the machinery or plant under the agreement for the lease of it;
  - (c) that, under the terms of that agreement, the equipment lessor is entitled to sever the machinery or plant, at the end of the period for which it is leased, from the land to which it is fixed at that time;
  - (d) that, under the terms of that agreement, the machinery or plant will belong to the equipment lessor on its severance from that land in accordance with that agreement;
  - (e) that the nature of the machinery or plant and the way in which it is fixed to land are such that its use on one set of premises does not, to any material extent, prevent it from being used, once severed, for the same purposes on a different set of premises; and
  - (f) that the agreement for the lease of the machinery or plant is such as falls, for the purposes of the accounts of equipment lessors who are companies incorporated in a part of the United Kingdom, to be treated, in accordance with normal accountancy practice, as an operating lease.”
- (6) Sub-paragraphs (1), (2) and (5) above have effect for chargeable periods ending on or after the day on which this Act is passed in relation to any case in which the agreement for the lease of the machinery or plant is entered into on or after that day.
- (7) Sub-paragraphs (3) and (4) above have effect for chargeable periods ending on or after 24th July 1996 in relation to any case in which the expenditure incurred by the equipment lessor is expenditure incurred on or after that date.