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SCHEDULES

SCHEDULE 23

FINANCE LEASEBACKS: TRANSITIONAL PROVISION

Section 228C

- 6 (1) This paragraph applies if—
- (a) the existing leaseback terminates otherwise than by expiry of its term,
 - (b) upon the termination of the leaseback, or during the period of one month beginning with the date of termination, the lessee becomes the owner of the plant of machinery by acquiring it—
 - (i) from the lessor, or
 - (ii) where no person other than the lessor or a person connected with the lessee has owned the plant or machinery at any time since the termination of the leaseback, from a person connected with the lessee,
 - (c) the person who first acquires the plant or machinery from the lessor does so as a result of incurring capital expenditure equal (at least) to the market value of the plant or machinery at the termination of the leaseback, and
 - (d) the amount of the lessee acquisition expenditure that counts as qualifying expenditure is restricted under section 226.
- (2) If the section 226 restriction is greater than the amount calculated in accordance with section 228C(3)—
- (a) section 228C(2) to (4) shall not apply, but
 - (b) if there is a taxable disposal, section 228C(2) to (4) shall apply subject to sub-paragraph (5).
- (3) If the section 226 restriction is not greater than the amount calculated in accordance with section 228C(3)—
- (a) the amount by which profits or income are increased in accordance with section 228C(2) shall be reduced by the section 226 restriction, and
 - (b) if there is a taxable disposal, section 228C(2) to (4) shall apply again subject to sub-paragraph (5).
- (4) For the purposes of sub-paragraphs (2) and (3) there is a taxable disposal if, during the period of six years beginning with the date of termination of the leaseback—
- (a) the whole of the plant or machinery is the subject of a disposal event (within the meaning of Part 2), or
 - (b) part of the plant or machinery is the subject of such a disposal event.
- (5) Where section 228C(2) to (4) applies subject to this sub-paragraph—
- (a) a reference to the termination shall be treated as a reference to the cessation of ownership of the plant or machinery, and

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- (b) the amount by which profits or income are increased in accordance with section 228C(2) shall be—
- (i) in a case falling within sub-paragraph (2)(b), the relevant fraction of the amount calculated in accordance with section 228C(3), or
 - (ii) in a case falling within sub-paragraph (3)(b), the relevant fraction of the section 226 restriction.
- (6) In sub-paragraph (5)(b)(i) and (ii) “relevant fraction” means—

$$\frac{\text{(Disposal Proceeds – Restricted Qualifying Expenditure)}}{\text{(Lessee Acquisition Expenditure – Restricted Qualifying Expenditure)}}$$

where “Disposal Proceeds” means the consideration due to the lessee under the taxable disposal or, if higher, the market value of the plant or machinery at the time of the taxable disposal; but—

- (a) where that amount is greater than the lessee acquisition expenditure, the Disposal Proceeds shall be the amount of the lessee acquisition expenditure, or
 - (b) where that amount is less than the restricted qualifying expenditure, the Disposal Proceeds shall be the amount of the restricted qualifying expenditure.
- (7) Where there is a taxable disposal by virtue of sub-paragraph (4)(b), this paragraph applies in relation to that disposal with the following modifications—
- (a) references in sub-paragraphs (5)(a) and (6) to the plant or machinery shall be taken to be references to the part of the plant or machinery comprised in the taxable disposal;
 - (b) the amount by which profits or income are to be increased by virtue of sub-paragraph (5)(b) shall be the partial disposal fraction of the amount given by sub-paragraph (5)(b)(i) or (ii);
 - (c) the partial disposal fraction of the restricted qualifying expenditure and of the lessee acquisition expenditure shall be used for the purposes of sub-paragraph (6) instead of those amounts of expenditure.
- (8) For the purposes of sub-paragraph (7) the partial disposal fraction is—

$$\frac{\text{Apportioned Lessee Acquisition Expenditure}}{\text{Lessee Acquisition Expenditure}}$$

where “Apportioned Lessee Acquisition Expenditure” means so much of the lessee acquisition expenditure as was attributable to the acquisition of the part of the plant or machinery comprised in the taxable disposal.

- (9) In this paragraph—
- “lessee acquisition expenditure” means the capital expenditure incurred by the lessee in acquiring the plant or machinery as described in sub-paragraph (1)(b),
 - “restricted qualifying expenditure” means the qualifying expenditure under section 226, and
 - “section 226 restriction” means—

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- (a) the lessee acquisition expenditure, minus
- (b) the restricted qualifying expenditure.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)