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**Changes to legislation:** Finance Act 2004, Paragraph 7 is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 23

#### FINANCE LEASEBACKS: TRANSITIONAL PROVISION

##### *Section 228D*

- 7 (1) This paragraph applies if the pre-commencement rentals are greater than the total of the actual taxed rentals for periods of account up to, but excluding, the transitional period of account.
- (2) Section 228D shall not apply in relation to—
- (a) the transitional period of account if the lessor's excess rentals are greater than the notional taxed rental for that period, or
  - (b) a subsequent period of account if the untaxed portion of the lessor's excess rentals is greater than the notional taxed rental for that period.
- (3) Section 228D is subject to sub-paragraph (4) in its application to—
- (a) the transitional period of account if the lessor's excess rentals are not greater than the notional taxed rental for that period, or
  - (b) a subsequent period of account if the untaxed portion of the lessor's excess rentals is not greater than the notional taxed rental for that period.
- (4) The permitted threshold for that period of account is the total of—
- (a) the lessor's excess rentals (in the case of the transitional period of account) or the untaxed portion of the lessor's excess rentals (in the case of a subsequent period of account), and
  - (b) the amount given by this calculation—

$$\text{Basic Amount} \times \frac{(\text{Notional Taxed Rental} - \text{Deductible Excess})}{\text{Notional Taxed Rental}}$$

where—

“Basic Amount” means the amount calculated in accordance with section 228D(4);

“Notional Taxed Rental” means the notional taxed rental for the period of account in question, and

“Deductible Excess” means the amount included in the permitted threshold by virtue of sub-paragraph (4)(a).

- (5) But where, in relation to the transitional period of account, the amount given by sub-paragraph (4) is less than the appropriate fraction of the notional taxed rental for that period, the permitted threshold shall be that fraction of that rental.

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(6) In this paragraph—

- (a) “the lessor’s excess rentals” means—
  - (i) the pre-commencement rentals, minus
  - (ii) the total of the actual taxed rentals referred to in sub-paragraph (1), and
- (b) “the untaxed portion of the lessor’s excess rentals”, in relation to a period of account, means—
  - (i) the lessor’s excess rentals, minus
  - (ii) the total of the actual taxed rentals for periods of account from and including the transitional period up to, but excluding, the period in question.

(7) In this paragraph—

“actual taxed rental”, in relation to a period of account, means the amount that should be taken into consideration in respect of amounts receivable under the existing leaseback in calculating the lessor’s income or profits for that period of account for the purpose of income tax or corporation tax;

“notional taxed rental”, in relation to a period of account, means the amount that would, if section 228D did not apply, be taken into consideration in respect of amounts receivable under the existing leaseback in calculating the lessor’s income or profits for that period of account for the purpose of income tax or corporation tax.

- (8) Nothing in sub-paragraphs (3) to (5) prevents the inclusion of an amount in the permitted threshold by virtue of section 228D(2).
- (9) This paragraph does not apply in relation to any period of account later than a period of account for which the permitted threshold has been determined in accordance with sub-paragraphs (3) to (5).

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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\(2\)](#)