

SCHEDULES

SCHEDULE 10

SALE ETC OF LESSOR COMPANIES ETC

PART 3

LEASING BUSINESS CARRIED ON BY A COMPANY IN PARTNERSHIP

Change in company's interest in business: income treated as received etc

- 23 (1) This paragraph applies for corporation tax purposes if—
- (a) on any day (“the relevant day”) a company (“the partner company”) carries on a business of leasing plant or machinery in partnership with other persons (see paragraph 25),
 - (b) the partner company is within the charge to corporation tax in respect of the business, and
 - (c) there is a qualifying change in the partner company’s interest in the business on the relevant day (see paragraphs 27 and 28).
- (2) On the relevant day—
- (a) the partner company is treated as receiving an amount of income, and
 - (b) any other company which carries on the business on that day and which is within the charge to corporation tax in respect of the business is treated as incurring an expense.
- (3) The income—
- (a) is treated as a receipt of the partner company’s notional business, and
 - (b) is brought into account in calculating for corporation tax purposes the profits of that business for the accounting period in which it is treated as received.
- (4) The expense—
- (a) is treated as an expense of the other company’s notional business, and
 - (b) is allowed as a deduction in calculating for corporation tax purposes the profits of that business for the accounting period in which it is treated as incurred.
- (5) In this Part of this Schedule a company’s “notional business” means the business—
- (a) from which the company’s share in the profits or loss of the business carried on by the partnership is treated under section 114(2) of ICTA as deriving for the purposes of the charge to corporation tax, and
 - (b) which is treated under that provision as carried on alone by the company for those purposes.
- (6) This paragraph is supplemented by paragraph 24.

Status: This is the original version (as it was originally enacted).

Amount of income and expense

- 24 (1) The amount of the income is calculated in accordance with paragraphs 29 to 31.
- (2) The amount of the expense of the other company is calculated in accordance with paragraph 32.

Meaning of “business of leasing plant or machinery”

- 25 (1) For purposes of this Part of this Schedule whether, on any day (“the relevant day”), a company (“the partner company”) carries on a business of leasing plant or machinery in partnership with other persons is determined in accordance with paragraphs 6 to 8 (but modified as follows).
- (2) Any reference in those paragraphs to the relevant company is to be read as a reference to the partnership.
- (3) Any reference in those paragraphs to an associated company of the relevant company on the relevant day is to be read as a reference to each of the following—
- (a) the partner company,
 - (b) any company which is an associated company (see paragraph 26) of the partner company on the relevant day,
 - (c) any other partner company in relation to whose interest in the business there is a qualifying change on the relevant day,
 - (d) any other partner company in relation to which there is a qualifying change of ownership on the relevant day, and
 - (e) any company which is an associated company of any other partner company mentioned in paragraph (c) or (d) on the relevant day.
- (4) For this purpose “any other partner company” means a company—
- (a) which carries on the business at the start of the relevant day, and
 - (b) which is within the charge to corporation tax in respect of the business.

Meaning of “associated company”

- 26 (1) A company is an “associated company” of another company on any day if, at the start of that day,—
- (a) one of the two has control of the other, or
 - (b) both are under the control of the same person or persons,
- and for this purpose “control” is to be read in accordance with section 416 of ICTA.
- (2) Sub-paragraphs (3) and (4) apply if, at the start of any day, a company (“the consortium company”)—
- (a) is owned by a consortium, or
 - (b) is a qualifying 90% subsidiary of a company owned by a consortium.
- (3) If there is any qualifying change in the consortium company’s interest in a business on that day, references to an associated company of the consortium company on that day include—
- (a) any member of the consortium at the start of that day, and
 - (b) any company which is an associated company of any such member on that day.

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

- (4) If there is any qualifying change of ownership in relation to the consortium company on that day but there is no qualifying change in its interest in a business on the relevant day, references to an associated company of the consortium company on that day include—
- (a) any relevant member of the consortium on that day, and
 - (b) any company which is an associated company of any relevant member of the consortium on that day.
- (5) For this purpose a member of the consortium is a “relevant” member on any day if—
- (a) it is a member of the consortium at the start of the day, and
 - (b) the qualifying change of ownership occurs on that day in a case where the member of the consortium is regarded as “company E” for the purposes of paragraph 12 (consortium relationships).
- (6) This paragraph applies for the purposes of this Part of this Schedule.

Meaning of “qualifying change” in company’s interest in a business

- 27 (1) For the purposes of this Schedule there is a qualifying change in a company’s interest in a business on any day if its relevant percentage share at the end of the day is less than its relevant percentage share at the start of the day.
- (2) In this paragraph “relevant percentage share”, in relation to a company’s interest in a business, means its percentage share in the profits or loss of the business (determined in accordance with paragraph 28).
- (3) For the purposes of this paragraph any reference to a company’s share in the profits or loss of the business includes a nil share (whether as a result of the dissolution of the partnership or otherwise).

Determining the percentage share in the profits or loss of business

- 28 (1) For the purposes of this Part of this Schedule a company’s percentage share in the profits or loss of a business at any time is determined on a just and reasonable basis.
- (2) In making that determination, regard must be had, in particular, to—
- (a) any matter that would be taken into account in determining under section 114(2) of ICTA the company’s share at that time in the profits or loss of the business, and
 - (b) any matter that would be taken into account in determining under that provision the company’s share at that time in any capital allowances and charges under CAA 2001.

The amount of the income: the basic amount

- 29 (1) This paragraph determines the amount of the income under paragraph 23 when a qualifying change in the interest of a company (“the partner company”) in a business of leasing plant or machinery occurs on any day (“the relevant day”).
- (2) The amount of the income is found by—
- (a) applying the following formula to give the basic amount, and
 - (b) making the adjustment in accordance with paragraph 30 or 31 to the basic amount.

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

(3) The formula is—

$$PM - TWDV$$

(4) In this paragraph “PM” has the meaning given by paragraph 17, but —

- (a) reading any reference in that paragraph to the relevant company as a reference to the partnership, and
- (b) reading any reference in that paragraph to an associated company of the relevant company on the relevant day as a reference to a qualifying company (see sub-paragraph (7)).

(5) In this paragraph “TWDV” means the amount found by adding together—

- (a) the total amount of unrelieved qualifying expenditure in single asset pools for the new chargeable period that would be carried forward in the pools from the old chargeable period under section 59 of CAA 2001,
- (b) the total amount of unrelieved qualifying expenditure in class pools for the new chargeable period that would be carried forward in the pools from the old chargeable period under that section, and
- (c) the amount of unrelieved qualifying expenditure in the main pool for the new chargeable period that would be carried forward in the pool from the old chargeable period under that section.

(6) For the purposes of “TWDV”—

- (a) it is to be assumed that the chargeable period (within the meaning of CAA 2001) of the partnership ends on the relevant day (“the old chargeable period”) and a new one begins on the following day (“the new chargeable period”), and
- (b) expenditure incurred by the partnership in acquiring plant or machinery on the relevant day is to be left out of account unless it is acquired from a qualifying company.

(7) In this paragraph “qualifying company” means each of the following—

- (a) the partner company,
- (b) any company which is an associated company of the partner company on the relevant day,
- (c) any other partner company in relation to whose interest in the business there is a qualifying change on the relevant day,
- (d) any other partner company in relation to which there is a qualifying change of ownership on the relevant day, and
- (e) any company which is an associated company of any other partner company mentioned in paragraph (c) or (d) on the relevant day.

(8) For this purpose “any other partner company” means a company—

- (a) which carries on the business at the start of the relevant day, and
- (b) which is within the charge to corporation tax in respect of the business.

Amount to be nil if basic amount negative

- 30 If the basic amount given by the formula is a negative amount, the amount is taken instead to be nil.

Adjustment of basic amount

- 31 (1) The amount of the company's income under paragraph 23 is limited to the appropriate percentage of the basic amount.
- (2) The appropriate percentage is found by subtracting the company's relevant percentage share at the end of the day from its relevant percentage share at the start of the day.
- (3) In this paragraph "relevant percentage share" has the same meaning as it has for the purposes of paragraph 27.

Amount of expense

- 32 (1) This paragraph applies if, as a result of a qualifying change in a company's interest in a business on any day,—
- (a) the company ("the partner company") is treated as receiving an amount of income under paragraph 23 on that day,
 - (b) any other company is treated as incurring an expense under that paragraph on that day,
 - (c) the other company's percentage share in the profits or loss of the business increases at any time on that day, and
 - (d) the increase at that time (or any part of the increase at that time) is wholly attributable to the change in the partner company's interest in the business.
- (2) The amount of the expense of the other company is limited to the appropriate percentage of the amount of the income.
- (3) The appropriate percentage is the percentage of the other company's percentage share in the profits or loss of the business immediately after the change that is wholly attributable to the change.
- (4) For the purposes of this paragraph any reference to an increase in the other company's percentage share in any profits or loss of the business includes an increase from a nil share (whether as a result of its becoming a partner or otherwise).

Income and matching expense in different accounting periods

- 33 (1) This paragraph applies for corporation tax purposes if—
- (a) on any day ("the relevant day") a company carries on a business of leasing plant or machinery in partnership with other persons,
 - (b) the company is within the charge to corporation tax in respect of the business, and
 - (c) there is a qualifying change of ownership in relation to the company on the relevant day.
- (2) On the relevant day—
- (a) the company is treated as receiving an amount of income, and
 - (b) the accounting period of the company ends.
- (3) The income—
- (a) is treated as a receipt of the company's notional business, and
 - (b) is brought into account in calculating for corporation tax purposes the profits of that business for that accounting period.

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

- (4) On the day following the relevant day—
 - (a) the company is treated as incurring an expense, and
 - (b) a new accounting period of the company begins.
- (5) The expense—
 - (a) is treated as an expense of the company’s notional business, and
 - (b) is allowed as a deduction in calculating for corporation tax purposes the profits of that business for that new accounting period.
- (6) This paragraph is supplemented by paragraphs 34 and 35.

Amount of income and expense

- 34 (1) The amount of the income is calculated in accordance with paragraph 36.
- (2) The amount of the expense is the same as the amount of the income.

No carry back of the expense

- 35 (1) This paragraph applies if the notional business carried on by the company is a trade the profits of which are chargeable to corporation tax under Case I of Schedule D.
- (2) No relief is to be given by virtue of section 393A(1)(b) of ICTA (set off of trading losses against profits of earlier accounting periods) in respect of so much of any loss as derives from the expense.
- (3) For the purpose of determining how much of a loss derives from the expense, the loss is to be calculated on the basis that the expense is the final amount to be deducted.

Amount of the income

- 36 (1) This paragraph determines the amount of the income under paragraph 33 when a qualifying change of ownership in relation to a company carrying on a business of leasing plant or machinery occurs on any day (“the relevant day”).
- (2) The amount of the income is found by first—
 - (a) applying the formula in paragraph 29 to give the basic amount (as if the company were “the partner company” mentioned in that paragraph), and
 - (b) making any adjustment in accordance with any of paragraphs 19 to 21 to the basic amount.
- (3) The amount is then limited to the appropriate percentage of the amount given as a result of sub-paragraph (2).
- (4) If there is no qualifying change in the company’s interest in the business on the relevant day, the appropriate percentage is the percentage share of the company in the profits or loss of the business on the relevant day.
- (5) If there is a qualifying change in the company’s interest in the business on the relevant day, the appropriate percentage is the percentage share of the company in the profits or loss of the business at the end of the relevant day.

Meaning of “profits” etc

- 37 In this Part of this Schedule “profits” does not include chargeable gains, and references to “loss” are to be read accordingly.