



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 9

#### LEASING PLANT OR MACHINERY

### CHAPTER 3

#### SALES OF LESSORS: LEASING BUSINESS CARRIED ON BY A COMPANY ALONE

#### *The amount of the income*

#### **399 The amount of the income: the basic amount**

- (1) This section determines the amount of the income under section 383 when a qualifying change of ownership in relation to a company carrying on a business of leasing plant or machinery occurs on any day.
- (2) The amount of the income is found by—
  - (a) applying the formula in subsection (3) to give the basic amount, and
  - (b) making any adjustment in accordance with any of sections 404 to 406 to the basic amount.
- (3) The formula is—
$$PM - TWDV$$
- (4) For this purpose—
  - “PM” has the meaning given by sections 400 to 402, and
  - “TWDV” has the meaning given by section 403.
- (5) In those sections references to the relevant company and the relevant day are to the company and the day mentioned in subsection (1).

#### **400 “PM” in section 399**

- (1) For the purposes of this section and sections 401 and 402 references to plant or machinery, in the case of any company, include all plant or machinery, whether or not subject to a lease, except for plant or machinery within subsection (2).
- (2) Plant or machinery is within this subsection if—
  - (a) the company has not incurred expenditure on its provision that is qualifying expenditure for the purposes of Part 2 of CAA 2001,
  - (b) the company is a lessor of it under a long funding lease,
  - (c) as a result of section 67 of that Act (hire-purchase and similar contracts) it is treated for the purposes of that Part as owned by a person other than the company, or
  - (d) it is to be ignored as a result of section 407(2) (migration).
- (3) For the purposes of section 399, “PM” is the sum of—
  - (a) the amounts (if any) which would be shown in respect of plant or machinery in the appropriate balance sheet of the relevant company drawn up as at the start of the relevant day, and
  - (b) the amounts (if any) which would be shown in the appropriate balance sheet of the relevant company drawn up as at the end of the relevant day in respect of relevant transferred plant or machinery.
- (4) For the purposes of subsection (3)(b), plant or machinery is “relevant transferred plant or machinery” if an amount in respect of it would be shown in the appropriate balance sheet of an associated company drawn up as at the start of the relevant day.
- (5) This section is supplemented by section 401 and is subject to section 402 (“PM” where relevant company lessee under long funding lease etc).

#### **401 Provisions supplementing section 400**

- (1) For the purposes of section 400 and this section the amounts shown in the appropriate balance sheet of any company in respect of any plant or machinery are—
  - (a) the amounts shown in that balance sheet as the net book value (or carrying amount) in respect of the plant or machinery, and
  - (b) the amounts shown in that balance sheet as the net investment in respect of finance leases of the plant or machinery.
- (2) If—
  - (a) any of the plant or machinery is a fixture in any land (see section 437(5)), and
  - (b) the amount which falls (or would fall) to be shown in an appropriate balance sheet as the net book value (or carrying amount) of the land includes (or would include) an amount in respect of the fixture,

the amount of the net book value (or carrying amount) in respect of the fixture is determined on a just and reasonable basis.
- (3) If—
  - (a) any of the plant or machinery is subject to a finance lease (see section 437(4)), and
  - (b) any land or asset which is not plant or machinery is subject to that lease,

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

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the amount of the net investment in respect of the finance lease of that plant or machinery is determined on a just and reasonable basis.

- (4) In section 400 and this section any reference to any amount shown in the appropriate balance sheet of a company is to the amount which, on the assumptions in subsection (5), falls (or would fall) to be shown in a balance sheet of the company.
- (5) The assumptions are—
  - (a) that the balance sheet is drawn up in accordance with generally accepted accounting practice, and
  - (b) that, if the company acquired any plant or machinery in circumstances in which this paragraph applies, the plant or machinery had been acquired for an amount equal to its market value as at the relevant day.
- (6) Paragraph (b) of subsection (5) applies if—
  - (a) the relevant day falls on or after 22 March 2006,
  - (b) the plant or machinery was acquired directly or indirectly from a person who was connected with the company when the acquisition took place, and
  - (c) either the acquisition took place on or after 5 December 2005 or the person from whom the plant or machinery was so acquired was also connected with the company on that date.

#### **402 “PM” where relevant company lessee under long funding lease etc**

- (1) Any amount included in the amounts mentioned in paragraph (a) or (b) of section 400(3) in respect of plant or machinery to which this section applies is to be deducted from the sum mentioned in that section.
- (2) But the market value as at the relevant day of any plant or machinery to which this section applies is to be added to that sum or, if that sum is nil, is “PM”.
- (3) This section applies to plant or machinery if—
  - (a) condition A or B is met at the start of the relevant day, or
  - (b) the plant or machinery is acquired by the relevant company from an associated company on the relevant day and condition A or B is met at the end of that day.
- (4) Condition A is that the relevant company is the lessee of the plant or machinery under a long funding finance lease or a long funding operating lease.
- (5) Condition B is that the relevant company is treated as the owner of the plant or machinery under section 67 of CAA 2001 (hire purchase and similar contracts).

#### **403 “TWDV” in section 399**

- (1) For the purposes of section 399, “TWDV” means the sum of—
  - (a) the total amount of unrelieved qualifying expenditure in single asset pools for the new chargeable period that is carried forward in the pools from the previous 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 is carried forward in the pools from the previous chargeable period under that section, and

- (c) the amount of unrelieved qualifying expenditure in the main pool for the new chargeable period that is carried forward in the pool from the previous chargeable period under that section.
- (2) For the purposes of this section—
- (a) “the new chargeable period” means the accounting period of the relevant company that begins on the day following the relevant day (see section 383(4)(b)), and
  - (b) expenditure incurred by the relevant company in acquiring plant or machinery on the relevant day is to be left out of account unless it is acquired from an associated company.

#### **404 Amount to be nil if basic amount negative**

If the basic amount given by the formula in section 399(3) is a negative amount, the amount is taken instead to be nil.

#### **405 Adjustment to the basic amount: qualifying 75% subsidiaries**

- (1) This section applies if—
- (a) the qualifying change of ownership occurs on any day as a result of section 393 (qualifying 75% subsidiaries),
  - (b) the change occurs by reference to a company (“A”) ceasing to be a qualifying 75% subsidiary of another company (“B”) on that day, and
  - (c) on that day A meets one of the conditions in subsection (2).
- (2) The conditions are—
- (a) that A becomes owned by a consortium of which B is a member, or
  - (b) that A becomes a qualifying 90% subsidiary of a company owned by a consortium of which B is a member.
- (3) The basic amount is adjusted so that the amount of the income is limited to the appropriate percentage of the basic amount.
- (4) The appropriate percentage is found by subtracting the ownership percentage at the end of the day from 100%.
- (5) For this purpose “the ownership percentage” is whichever is the lowest of the following percentages—
- (a) the percentage of the ordinary share capital of A that is beneficially owned by B,
  - (b) the percentage to which B is beneficially entitled of any profits available for distribution to equity holders of A, and
  - (c) the percentage to which B would be beneficially entitled of any assets of A available for distribution to its equity holders on a winding up.
- (6) But if A becomes a qualifying 90% subsidiary of a company, subsection (5) is to be read as if references to that company were substituted for references to A.

#### **406 Adjustment to the basic amount: consortium relationships**

- (1) This section applies if the qualifying change of ownership occurs as a result of section 394 (consortium relationships).
- (2) In a case where that change arises only because the ownership proportion at the end of the day on which the change occurs is less than the ownership proportion at the start of the day, the amount of the income is limited to the appropriate proportion of the basic amount.
- (3) The appropriate proportion is found by subtracting the ownership proportion at the end of the day from the ownership proportion at the start of the day.
- (4) In any other case, the amount of the income is limited to the ownership proportion at the start of the day on which the change occurs of the basic amount.
- (5) In this section “the ownership proportion” has the same meaning as in section 394 (see section 394(3) and (4)).

#### **407 Migration**

- (1) This section applies if on any day (“the relevant day”)—
  - (a) a company begins to be within the charge to corporation tax in respect of a business of leasing plant or machinery which it carries on otherwise than in partnership, and
  - (b) a qualifying change of ownership in relation to the company occurs.
- (2) For the purposes of this Chapter, any plant or machinery is to be ignored in calculating the amount of the income treated as received on the relevant day if an amount would be shown in respect of it in a balance sheet of the company drawn up immediately before that day in accordance with generally accepted accounting practice.