

*These notes refer to the Taxation (International and Other Provisions)
Act 2010 (c.8) which received Royal Assent on 18 March 2010*

TAXATION (INTERNATIONAL AND OTHER PROVISIONS) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 3: Leasing arrangements: finance leases and loans

Part 1: New Part 11A of ITA 2007

Chapter 3: Other finance leases

Overview

900. This Chapter is concerned with cases outside Chapter 2 where any assets are leased in such a way that the lease is a finance lease or loan in accordance with GAAP.

Section 614C: Introduction to Chapter

901. This section introduces the Chapter. It is based on paragraph 15(1) of Schedule 12 to FA 1997.

Section 614CA: Purpose of this Chapter

902. This section sets out the main purpose of the Chapter. It is based on paragraph 15(2) of Schedule 12 to FA 1997.

903. That purpose is to ensure that the taxable measure of earnings from the lease is not less than the accountancy measure. In effect, the rules take as the taxable earnings the amount which, but for Part 11A, the lessor would bring into account as rent from the lease for the purposes of income tax or the amount of the return on investment from the lease in accordance with GAAP, whichever is the higher. Unlike Chapter 2, this Chapter contains no special rules relating to reliefs for capital expenditure.

Section 614CB: Leases to which this Chapter applies

904. This section determines whether Chapter 3 applies to a particular lease. It is based on paragraph 16 of Schedule 12 to FA 1997.

905. The Chapter only applies to leases granted on or after 26 November 1996 and then only if they form part of a post-25 November 1996 scheme as defined in section 614D(1)(b) (see *subsection (1)(a)* and *(b)*).

906. The lease may be of any property or rights (see *subsection (1)(a)* and the definition of “asset” in section 614DG).

907. In addition, for the Chapter to apply, condition A, but not all of conditions B to E, in section 614BC must have been met in relation to the lease at some time on or after 26 November 1996 in a period of account of the current lessor (see *subsection (1)(c)* and

*These notes refer to the Taxation (International and Other Provisions)
Act 2010 (c.8) which received Royal Assent on 18 March 2010*

(d)). But once condition A has been met in relation to the lessor at the time, it is treated as continuing to be met as regards any subsequent lessor unless and until the lease is assigned to a wholly unrelated person (see *subsections (4) to (6)*).

908. *Subsection (3)* provides that the Chapter does not apply to long funding leases of plant or machinery in relation to which Part 2 of CAA gives capital allowances to the lessee instead of the lessor. Chapter 10A of Part 2 of ITTOIA sets out the basis of taxation of rental earnings under such leases.
909. *Subsection (7)* is a necessary consequence of the split into separate provisions for income tax purposes and corporation tax purposes.

Section 614CC: Current lessor taxed by reference to accountancy rental earnings

910. This section provides for the lessor to bring into account for income tax purposes the accountancy rental earnings in respect of the lease for a period of account if they exceed the normal rent for the period. It is based on paragraph 17 of Schedule 12 to FA 1997.
911. [Paragraph 17](#) applies paragraph 5 of Schedule 12 to FA 1997 for the purposes of Part 2 of that Schedule by cross-reference. This section restates section 614BF (based on paragraph 5 of Schedule 12 to FA 1997) in full for the purposes of Chapter 3.

Section 614CD: Application of provisions of Chapter 2 for purposes of this Chapter

912. This section applies the provisions of sections 614BG to 614BQ for the purposes of this Chapter. It is based on paragraph 17 of Schedule 12 to FA 1997.