

TAXATION (INTERNATIONAL AND OTHER PROVISIONS) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 4: Sale and lease-back etc: new Part 12A of ITA 2007

Overview

934. This Schedule inserts new Part 12A of ITA, which rewrites sections 779 to 785 of ICTA (sales and lease-backs) for the purposes of income tax.
935. Sections 779 and 781 to 785 of ICTA first appeared as sections 17 to 19 of, and Schedule 7 to, FA 1964. Section 780 of ICTA first appeared as section 80 of FA 1972. There have been numerous changes to the taxation of leasing since 1972, but sections 779 to 785 of ICTA are still capable of applying.
936. The four main operative sections of the source legislation – sections 779, 780, 781 and 782 of ICTA – are rewritten in separate Chapters. Within each Chapter, the detailed provisions are laid out in sections arranged in a rational order. The legislation is also being split between the corporation tax and income tax codes.
937. This Part has the following structure.
- Chapter 1 (payments connected with transferred land) is based on section 779 of ICTA.
 - Chapter 2 (new lease of land after assignment or surrender) is based on section 780 of ICTA.
 - Chapter 3 (leased trading assets) is based on sections 782 and 785 of ICTA.
 - Chapter 4 (leased assets: capital sums) is based on sections 781, 782(1) and 783 to 785 of ICTA.
938. Chapters 1 and 2 apply to certain transactions in land. Chapters 3 and 4 apply to certain transactions in assets other than land.
939. If Chapter 1 or Chapter 3 applies, tax relief for lease rental (or similar) expenditure is deferred (and may in certain circumstances be denied).
940. If Chapter 2 or Chapter 4 applies, a capital sum is taxed as income.
941. This Part largely replicates Part 19 of CTA 2010, which makes similar provision for the purposes of corporation tax. See the commentary on that Part.
942. As far as possible, the income tax provisions and the corporation tax provisions are drafted in the same terms. The drafting differs in the following respects.
- Part 19 of CTA 2010 refers to corporation tax; Part 12A of ITA refers to income tax.

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

- Companies may in certain circumstances be liable to income tax, but persons other than companies are not liable to corporation tax. Accordingly, the corporation tax provisions use “company” to denote the person liable where the corresponding income tax provisions use “person”.
- Part 19 of CTA 2010 refers to provisions which are specific to corporation tax; Part 12A of ITA refers to provisions which are specific to income tax.
- Part 19 of CTA 2010 does not refer to companies carrying on professions or vocations; Part 12A of ITA refers to persons carrying on professions and vocations. See section 837 of CTA 2010, with the commentary thereon, and section 681CA.