



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART II

[^{F1}PROVISIONS RELATING TO THE SCHEDULE A CHARGE]

[^{F1} *Rent factoring*]

Textual Amendments

- F1** Ss. 43A-43G and cross-heading inserted (with effect in accordance with s. 110(2) of the amending Act) by Finance Act 2000 (c. 17), s.110(1)

43A Finance agreement: interpretation.

- (1) A transaction is a finance agreement for the purposes of sections 43B to 43F if in accordance with normal accounting practice the accounts of a company which receives money under the transaction would record a financial obligation (whether in respect of a lease creditor or otherwise) in relation to that receipt.
- (2) In subsection (1) “normal accounting practice” in relation to a company means normal accounting practice for a company incorporated in a part of the United Kingdom (irrespective of where the company is in fact incorporated).
- (3) The reference to a company’s accounts in subsection (1) shall be taken to include a reference to the consolidated group accounts of a group of companies of which it is a member; and—
 - (a) “group of companies” means a set of companies which, if each were incorporated in Great Britain, would form a group within the meaning given by section 262(1) of the ^{M1}Companies Act 1985, and
 - (b) “consolidated group accounts” means accounts of a kind which would satisfy the requirements of section 227 of the Companies Act 1985.

Status: Point in time view as at 11/05/2001.

Changes to legislation: Income and Corporation Taxes Act 1988, Cross Heading: Rent factoring is up to date with all changes known to be in force on or before 31 May 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)

- (4) For the purposes of subsection (1) a company shall be treated as receiving any money which—
- (a) falls to be taken into account as a receipt for the purpose of calculating the company's liability to corporation tax, or
 - (b) would fall to be taken into account as a receipt for that purpose if the company were resident in the United Kingdom.

Marginal Citations

M1 1985 c. 6.

43B Transfer of rent.

- (1) This section applies to a finance agreement if it transfers a right to receive rent in respect of land in the United Kingdom from one person to another, otherwise than by means of the grant of a lease of land in the United Kingdom.
- (2) A person who receives a finance amount shall be treated for the purposes of the Tax Acts as receiving it—
 - (a) by way of rent,
 - (b) in the course of a business falling within paragraph 1(1) of Schedule A, and
 - (c) in the chargeable period in which the agreement is made;
 and the finance amount shall be taken into account in computing the profits of the Schedule A business for the chargeable period in which the agreement is made.
- (3) In subsection (2) “finance amount” means a receipt in respect of which section 43A(1) is satisfied.

43C Transfer of rent: exceptions, &c.

- (1) Section 43B shall not apply to a finance agreement if the term over which the financial obligation is to be reduced exceeds 15 years.
- (2) Section 43B shall not apply to a finance agreement if—
 - (a) the arrangements for the reduction of the financial obligation substantially depend on a person's entitlement to an allowance under [^{F2}the Capital Allowances Act (including enactments which under this Act are to be treated as contained in that Act)], and
 - (b) that person is not connected to the person from whom the right to receive rent is transferred.
- (3) Section 43B shall not apply to a finance agreement if—
 - (a) section 36(1) applies (without reference to section 36(3)), or
 - (b) section 36(1) would apply (without reference to section 36(3)) if the price at which an estate or interest is sold were to exceed the price at which it is to be reconveyed.
- (4) If—
 - (a) section 36(1) would apply in relation to a finance agreement by virtue only of section 36(3), and
 - (b) section 43B applies in relation to the agreement,

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section 36(1) shall not apply.

(5) Section 43B shall not apply to a finance agreement if section 780 applies.

(6) Section 43B(2) shall not apply to a finance amount which is brought into account in computing the profits of a trade for the purposes of Case I of Schedule D (otherwise than by virtue of section 83 of the ^{M2}Finance Act 1989 (life assurance)).

Textual Amendments

F2 Words in s. 43C(2)(a) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), s. 578, **Sch. 2 para. 11**

Marginal Citations

M2 1989 c. 26.

43D Interposed lease.

- (1) This section applies to a finance agreement under which—
 - (a) a lease is granted in respect of land in the United Kingdom,
 - (b) a premium is payable in respect of the lease, and
 - (c) section 43A(1) is satisfied by reference to the receipt of the premium.
- (2) Where this section applies, the person to whom the premium is payable shall be treated for the purposes of the Tax Acts as receiving it—
 - (a) by way of rent,
 - (b) in the course of a business falling within paragraph 1(1) of Schedule A, and
 - (c) in the chargeable period in which the agreement is made;and the premium shall be taken into account in computing the profits of the Schedule A business for the chargeable period in which the agreement is made.

43E Interposed lease: exceptions, &c.

- (1) Section 43D shall not apply to a finance agreement if—
 - (a) the term over which the financial obligation is to be reduced exceeds 15 years, or
 - (b) the length of the lease does not exceed 15 years, or
 - (c) the length of the lease is not significantly different from the term over which the financial obligation is to be reduced.
- (2) For the purpose of subsection (1) the length of a lease shall be calculated in accordance with section 38.
- (3) Section 43D shall not apply to a finance agreement if—
 - (a) the arrangements for the reduction of the financial obligation substantially depend on a person's entitlement to an allowance under [^{F3}the Capital Allowances Act (including enactments which under this Act are to be treated as contained in that Act)], and
 - (b) that person is not connected to the person who grants the lease in respect of which the premium is payable.

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- (4) Section 43D(2) shall not apply where all or part of the premium is brought into account in computing the profits of a trade for the purposes of Case I of Schedule D (otherwise than by virtue of section 83 of the ^{M3}Finance Act 1989 (life assurance)).
- (5) Section 34 shall not apply in relation to a premium to which section 43D(2) applies.

Textual Amendments

F3 Words in s. 43E(3)(a) substituted (with effect in accordance with s. 579 of the amending Act) by Capital Allowances Act 2001 (c. 2), s. 578, **Sch. 2 para. 12**

Marginal Citations

M3 1989 c. 26.

43F Insurance business.

- (1) In the application of sections 43A to 43E to companies carrying on insurance business a reference to accounts does not include a reference to accounts required to be prepared under Part II of the ^{M4}Insurance Companies Act 1982.
- (2) Neither section 43B(2) nor section 43D(2) shall require any amount to be brought into account in a computation of profits of life assurance business, or any category of life assurance business, carried on by a company where the computation is made in accordance with the provisions of this Act applicable to Case I of Schedule D.
- (3) Section 432A shall have effect in relation to any sum which is or would be treated as received by virtue of section 43B(2) or 43D(2) of this Act.
- (4) Expressions used in this section and in Chapter I of Part XII have the same meaning in this section as in that Chapter.

Modifications etc. (not altering text)

C1 S. 43F(1) modified (with effect in accordance with reg. 4A(3) of the 1997 modifying S.I.) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) Regulations 1997 \(S.I. 1997/473\)](#), **reg. 4A(1)(2)** (as inserted (25.10.2000) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2000 \(S.I. 2000/2710\)](#), **regs. 1, 3**, and as amended by: [S.I. 2003/23](#), **regs. 1, 3**; [S.I. 2005/2005](#), **regs. 1, 4**)

Marginal Citations

M4 1982 c. 50.

43G Interpretation.

- (1) This section applies for the purposes of sections 43A to 43F.
- (2) In those sections—
 - “connected” in relation to persons has the meaning given by section 839,
 - “rent” includes any sum which is chargeable to tax under Schedule A,

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“lease” includes an underlease, sublease, tenancy or licence and an agreement for any of those things, but does not include a mortgage or heritable security,

“premium” has the meaning given by section 24(1) (and, in relation to Scotland, section 24(5)), and subsections (4) and (5) of section 34 shall have effect in relation to sections 43A to 43F as they have effect in relation to section 34, and

“sum” has the meaning given by section 24(4).

- (3) A reference to a transfer of a right to receive rent from one person to another includes a reference to any arrangement under which rent ceases to form part of the receipts taken into account for the purposes of calculating a company’s liability to corporation tax or income tax.
- (4) In calculating the term over which a financial obligation is to be reduced no account shall be taken of any period during which the arrangements for reduction differ from the arrangements which apply in a previous period if—
- (a) the period begins after the financial obligation has been substantially reduced, and
 - (b) the different arrangements for reduction are not the result of a provision for periodic review, on commercial terms, of rent under a lease.]

Status:

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