



Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 9

MISCELLANEOUS PROVISIONS

Sale of lessors

84 Disposal of plant or machinery subject to lease where income retained

- (1) CAA 2001 is amended as follows.
- (2) In section 66 (list of provisions outside Chapter 5 of Part 2 about disposal values), after the entry relating to section 222 of CAA 2001, insert—

“sections 228K to 228M	Disposal of plant or machinery subject to lease where income retained”.
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- (3) After section 228J (plant or machinery subject to further operating lease) insert—

“Disposal of plant or machinery subject to lease where income retained

228K Disposal of plant or machinery subject to lease where income retained

- (1) This section applies for corporation tax purposes if—
 - (a) on any day (“the relevant day”) a person (“the lessor”) carries on a business of leasing plant or machinery (the “leasing business”),

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- (b) on the relevant day the lessor sells or otherwise disposes of any relevant plant or machinery subject to a lease to another person,
 - (c) the lessor remains entitled immediately after the disposal to some or all of the rentals under the lease in respect of the plant or machinery which are payable on or after the relevant day, and
 - (d) the lessor is required to bring a disposal value of the plant or machinery into account under this Part.
- (2) The disposal value to be brought into account is determined as follows.
- (3) If the amount or value of the consideration for the disposal exceeds the limit that would otherwise be imposed on the amount of the disposal value by section 62 (general limit) or 239 (limit on disposal value where additional VAT rebate)—
- (a) that limit is not to apply, and
 - (b) the whole of the amount or value of the consideration for the disposal is to be the disposal value to be brought into account.
- (4) In any other case, the disposal value to be brought into account is the sum of—
- (a) the amount or value of the consideration for the disposal, and
 - (b) the value of the rentals under the lease in respect of the plant or machinery (see subsections (7) and (8)) which are payable on or after the relevant day and to which the lessor remains entitled immediately after the disposal,
- but subject to the limit imposed on the amount of the disposal value by section 62 or 239.
- (5) If—
- (a) any of the rentals under the lease are receivable by the lessor on or after the relevant day, and
 - (b) the value of any of those rentals is represented in the amount of the disposal value under subsection (4)(b),
- the amount of those rentals that is equal to their value as so represented is left out of account in calculating the income of the lessor's leasing business for corporation tax purposes.
- (6) If, in determining under subsection (5) the amount of any rental to be so left out of account, it is necessary to apportion the amount of the rental, the apportionment is to be made on a just and reasonable basis.
- (7) For the purposes of this section, the value of any rentals under the lease in respect of the plant or machinery is taken to be the amount of the net present value of the rentals (see section 228L).
- (8) If any land or other asset which is not plant or machinery is subject to the lease, the value of any rentals under the lease in respect of the plant or machinery is taken to be so much of the amount of the net present value of the rentals as, on a just and reasonable basis, relates to the plant or machinery.
- (9) This section is supplemented by—
- (a) section 228L (which provides rules for determining the net present value of the rentals), and
 - (b) section 228M (which defines other expressions used in this section).

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228L Determining the net present value of the rentals for purposes of s.228K

- (1) For the purposes of section 228K, the amount of the net present value of the rentals is calculated as follows—

Step 1

Find the amount (“RI”) of each rental payment—

- (a) which is payable at any time during the term of the lease, and
- (b) which is payable on or after the relevant day.

Step 2

For each rental payment find the day (“the payment day”) on which it becomes payable.

Step 3

For each rental payment find the number of days in the period (“P”) which—

- (a) begins with the relevant day, and
- (b) ends with the payment day.

Step 4

Calculate the net present value of each payment (“NPVRI”) by applying the following formula—

$$\frac{RI}{(1 + T)^i}$$

where—

- T is the temporal discount rate, and
- i is the number of days in P divided by 365.

Step 5

Add together each amount of NPVRI determined under step 4.

- (2) For the purposes of this section the “term” of a lease has the meaning given in Chapter 6A of this Part.
- (3) For the purposes of this section the “temporal discount rate” is 3.5% or such other rate as may be specified by regulations made by the Treasury.
- (4) The regulations may make such provision as is mentioned in subsection (3) (b) to (f) of section 178 of FA 1989 (power of Treasury to set rates of interest).
- (5) Subsection (5) of that section (power of Commissioners to specify rate by order in certain circumstances) applies in relation to regulations under this section as it applies in relation to regulations under that section.

228M Other definitions for the purposes of s.228K

- (1) This section applies for the purposes of section 228K.
- (2) “Business of leasing plant or machinery”—
- (a) has the same meaning as in Part 2 of Schedule 10 to FA 2006 (sale etc of lessor companies etc) (if the business is carried on otherwise than in partnership), or

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- (b) has the same meaning as in Part 3 of that Schedule (if the business is carried on in partnership).
- (3) “Lease” includes—
 - (a) an underlease, sublease, tenancy or licence, and
 - (b) an agreement for any of those things.
- (4) “Relevant plant or machinery”, in relation to a business of leasing plant or machinery, means plant or machinery on whose provision expenditure is incurred wholly or partly for the purposes of the business.”
- (4) In Schedule 1 (abbreviations and defined expressions), in Part 1 (abbreviations), insert at the end—

“FA 2006

The Finance Act 2006 (c. 25)”.

- (5) The amendments made by this section have effect in relation to any disposal made on or after 5th December 2005.
- (6) But any rentals that are receivable by the lessor before 22nd March 2006 are to be left out of account in calculating the income of the lessor’s leasing business for corporation tax purposes.