



Income Tax Act 2007

2007 CHAPTER 3

[^{F1}PART 12A

SALE AND LEASE-BACK ETC]

[^{F1}CHAPTER 3

LEASED TRADING ASSETS

Textual Amendments

- F1** Pt. 12A Ch. 3 inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 4 para. 4](#) (with Sch. 9 paras. 1-9, 22)

Overview

681C Overview

This Chapter provides that, in certain circumstances where a payment is made under a lease of a trading asset, income tax relief for the payment is restricted.

Application of the Chapter

681CA Professions and vocations

In this Chapter a reference to a trade includes a reference to a profession or vocation.

681CB Leased trading assets

- (1) Section 681CC has effect if—

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax Act 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (a) condition A is met, and
 - (b) condition B or C is met.
- (2) Condition A is that—
- (a) a payment is made by a person under a lease of a relevant asset, and
 - (b) a deduction is allowed for the payment in calculating the profits of a trade for income tax purposes.
- (3) Condition B is that—
- (a) at a time before the lease's creation the asset was used for the purposes of the trade, and
 - (b) when it was so used it was owned by the person then carrying on the trade.
- (4) Condition C is that—
- (a) at a time before the lease's creation the asset was used for the purposes of another trade,
 - (b) when it was so used it was owned by the person then carrying on the other trade, and
 - (c) when it was so used, or later, that person was carrying on the trade mentioned in subsection (2).
- (5) The reference in subsection (2)(a) to a lease does not include a lease created on or before 14 April 1964.
- (6) In this section references to a person carrying on a trade are to the person carrying on the trade for the time being.

Relief: restriction and carrying forward

681CC Tax deduction not to exceed commercial rent

- (1) The rules in subsection (3) apply to the calculation of the deduction by way of relevant income tax relief allowed in a relevant period—
- (a) for the non-excluded element of the payment within section 681CB(2), or
 - (b) if there are two or more such payments, for the non-excluded elements of those payments.
- (2) For the purposes of this section—
- (a) “relevant period” means—
 - (i) a period of account of the trade, or
 - (ii) if no accounts of the trade are drawn up for a period, the basis period of a tax year, and
 - (b) the non-excluded element of a payment is the element of the payment not excluded under section 681CD (long funding finance leases).
- (3) The rules are—
- Rule 1—meaning of amount E* For any relevant period, amount E (which may be nil) is the expense or total expenses to be brought, in accordance with generally accepted accounting practice, into account in the period in respect of—
- (a) the non-excluded element of the payment, or
 - (b) the non-excluded elements of the payments.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax Act 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Rule 2 — calculations For every relevant period—

- (a) calculate the total of amount E for the period and amount E for every previous relevant period ending on or after the date of the creation of the lease mentioned in section 681CB(2)(a),
- (b) calculate the total of the deductions by way of relevant income tax relief for every previous relevant period ending on or after that date, and
- (c) subtract the total at (b) from the total at (a) to give the cumulative unrelieved expenses for the period.

Rule 3 — meaning of post-spread period A relevant period is a post-spread period if for that relevant period, and every later relevant period, there are no payments within section 681CB(2).

Rule 4 — the deduction allowed in a relevant period If a relevant period is not a post-spread period, the deduction allowed for the period is equal to the cumulative unrelieved expenses for the period, but is the commercial rent for the period if that is less (see section 681CE).

Rule 5 — relevant periods in which no deduction allowed If a relevant period is a post-spread period, no deduction is allowed for the period.

681CD Long funding finance leases

- (1) This section applies for the purposes of section 681CC.
- (2) A payment must be excluded so far as, in the case of the lessee, it is to be regarded in accordance with Chapter 6A of Part 2 of CAA 2001 as a payment under a lease which is a long funding finance lease for the purposes of that Part.

681CE Commercial rent

- (1) Subsection (3) applies for the purpose of making a comparison under rule 4 of section 681CC(3).
- (2) In this section “the actual lease” means the lease mentioned in section 681CB(2)(a).
- (3) The commercial rent is the rent which might at the relevant time be expected to be paid under a lease of the asset if—
 - (a) the lease were for the rest of the asset's expected normal working life,
 - (b) the rent were payable at uniform intervals and at a uniform rate, and
 - (c) the rent gave a reasonable return for the asset's market value at the relevant time, taking account of the actual lease's terms and conditions.
- (4) The relevant time is the time when the actual lease was created.
- (5) An asset's expected normal working life is the period which might be expected, when it is first put into use, to pass before it is finally put out of use as being unfit for further use.
- (6) In applying subsection (5) it must be assumed that the asset will be used in the normal way, and to the normal extent, throughout the period.
- (7) If the asset is used at the same time partly for the purposes of the trade mentioned in section 681CB(2)(b) and partly for other purposes, the commercial rent as defined in subsection (3) is to be determined by reference to what would be paid for such partial use.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax Act 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Interpretation

681CF Lease

- (1) This section applies for the purposes of this Chapter.
- (2) A lease is (in relation to an asset) an agreement or arrangement under which payments are made for the use of or otherwise in respect of the asset.
- (3) In particular it includes an agreement or arrangement under which the payments (or any of them) represent instalments of a purchase price or payments towards it.

681CG Relevant asset

For the purposes of this Chapter a relevant asset is any description of property or rights other than land or an interest in land.]

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Income Tax Act 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)