



Corporation Tax Act 2009

2009 CHAPTER 4

PART 4

PROPERTY INCOME

CHAPTER 4

PROFITS OF PROPERTY BUSINESSES: LEASE PREMIUMS ETC

Amounts treated as receipts: leases

217 Lease premiums

- (1) This section applies if a premium is required to be paid—
 - (a) under a short-term lease, or
 - (b) otherwise under the terms subject to which a short-term lease is granted.
- (2) The company to which the premium is due is treated as—
 - (a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the lease is granted.
- (4) The amount of the receipt is given by the formula—

Status: Point in time view as at 17/07/2013.

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$$P \times 50 - Y50$$

where—

P is the premium, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

- (5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.

218 Amount treated as lease premium where work required

- (1) This section applies if the terms subject to which a lease is granted impose on the tenant an obligation to carry out work on the premises.
- (2) The lease is treated for the purposes of section 217 (lease premiums) as requiring the payment of a premium to the landlord (in addition to any other premium).
- (3) The amount of the premium is the amount by which the value of the landlord's estate or interest immediately after the commencement of the lease exceeds what its value would have been at that time if the terms of the lease did not impose the obligation on the tenant.
- (4) An obligation, or part of an obligation, that requires the carrying out of excepted work is ignored for the purposes of this section.
- (5) Work is “excepted work” if the payment for carrying it out would, if the landlord and not the tenant were obliged to carry it out, be deductible as an expense in calculating the profits of the landlord's property business.

219 Sums payable instead of rent

- (1) This section applies if—
 - (a) under the terms subject to which a lease is granted a sum becomes payable by the tenant instead of the whole or a part of the rent for a period, and
 - (b) the period is 50 years or less.
- (2) The company to which the sum is due is treated as—
 - (a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the sum becomes payable.
- (4) The amount of the receipt is given by the formula—

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$$S \times 50 - Y50$$

where—

S is the sum payable instead of rent, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period in relation to which the sum is payable.

- (5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.
- (6) In determining for the purposes of this Chapter the duration of the period in relation to which the sum is payable, any part of the period that falls after the expiry of the effective duration of the lease is excluded.

220 Sums payable for surrender of lease

- (1) This section applies if, under the terms subject to which a short-term lease is granted, a sum becomes payable by the tenant as consideration for the surrender of the lease.
- (2) The company to which the sum is due is treated as—
 - (a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the sum becomes payable.
- (4) The amount of the receipt is given by the formula—

$$S \times 50 - Y50$$

where—

S is the sum payable as consideration for the surrender of the lease, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

- (5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.

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221 Sums payable for variation or waiver of terms of lease

- (1) This section applies if—
- (a) a sum becomes payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of a term of a lease,
 - (b) the sum is due to the landlord or a company which is connected with the landlord, and
 - (c) the period for which the variation or waiver has effect is 50 years or less.
- (2) The company to which the sum is due is treated as—
- (a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the contract providing for the variation or waiver is entered into.
- (4) The amount of the receipt is given by the formula—

$$S \times 50 - Y50$$

where—

S is the sum payable as consideration for the variation or waiver, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period for which the variation or waiver has effect.

- (5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.
- (6) In determining for the purposes of this Chapter the duration of the period for which the variation or waiver has effect, any part of the period that falls after the expiry of the effective duration of the lease is excluded.

[^{F1}221A Sums to which sections 217 to 221 do not apply

- (1) This section applies if a grant of a lease constitutes a disposal of an asset for the purposes of section 758(2)(b) or 763(2)(a) of CTA 2010 (disposals under finance arrangements).
- (2) Sections 217 to 221 do not apply in relation to a premium paid in respect of the grant.]

Textual Amendments

- F1** S. 221A inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 600](#) (with [Sch. 2](#))

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222 Assignments for profit of lease granted at undervalue

- (1) This section applies to an assignment of a short-term lease if—
 - (a) the lease was granted at an undervalue, and
 - (b) a profit is made on the assignment.
- (2) The company which assigns the lease is treated as—
 - (a) entering into a transaction mentioned in section 205 (if the land to which the lease relates is in the United Kingdom) or section 206 (if that land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsections (4) and (5) as a result of that transaction.
- (3) That amount is brought into account as a receipt in calculating the profits of the property business which consists of or includes that transaction for the accounting period in which the consideration for the assignment becomes payable.
- (4) The amount of the receipt is given by the formula—

$$P \times 50 - Y50$$

where—

P is the lesser of—

- (a) the profit on the assignment, and
- (b) the amount by which the undervalue exceeds the total of the profits (if any) made on previous assignments of the lease, and

Y is the number of complete periods of 12 months (other than the first) comprised in the effective duration of the lease.

- (5) But, if the rule in section 228 (the additional calculation rule) applies, the amount given by the formula in subsection (4) is reduced by the amount calculated in accordance with section 228.
- (6) Section 223 explains references in this section to the grant of a lease at an undervalue and the making of a profit on an assignment of a lease.

223 Provisions supplementary to section 222

- (1) This section operates for the purposes of section 222.
- (2) A lease is granted at an undervalue if the terms subject to which it was granted are such that the landlord who granted it could have required the payment of an additional sum by way of premium, or additional premium, for its grant.
- (3) The additional sum is the undervalue.
- (4) The test in subsection (2) must be applied—
 - (a) having regard to values prevailing at the time the lease was granted, and
 - (b) on the assumption that the negotiations for the lease were at arm's length.

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- (5) A profit is made on an assignment of a lease if the consideration for the assignment exceeds—
- (a) if the lease has not previously been assigned, any premium for which it was granted, or
 - (b) in any other case, any consideration for which it was last assigned.
- (6) The amount of the excess is the profit.

Status:

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