



Corporation Tax Act 2009

2009 CHAPTER 4

PART 4

PROPERTY INCOME

CHAPTER 4

PROFITS OF PROPERTY BUSINESSES: LEASE PREMIUMS ETC

Introduction

215 Overview of Chapter

- (1) This Chapter provides for certain amounts (which would otherwise generally be amounts of a capital nature) to be brought into account as receipts in calculating the profits of a property business.
- (2) The amounts relate to short-term leases in the case of—
section 217 (lease premiums),
section 218 (amount treated as lease premium where work required),
section 220 (sums payable for surrender of lease), and
section 222 (assignments for profit of lease granted at undervalue).
- (3) The amounts relate to any lease in the case of—
section 219 (sums payable instead of rent), and
section 221 (sums payable for variation or waiver of terms of lease).
- (4) The amounts relate to the sale of any estate or interest in land in the case of—
section 224 (sales with right to reconveyance), and
section 225 (sale and leaseback transactions).
- (5) This Chapter also permits certain deductions in calculating the profits of property businesses carried on by tenants under certain leases (see sections 231 and 232).

216 Meaning of “short-term lease”

In this Chapter “short-term lease” means a lease whose effective duration is 50 years or less.

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—

$$P \times \left(\frac{50 - Y}{50} \right)$$

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—

$$S \times \left(\frac{50 - Y}{50} \right)$$

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—

$$S \times \left(\frac{50 - Y}{50} \right)$$

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.

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—

$$S \times \left(\frac{50 - Y}{50} \right)$$

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.

222 Assignments for profit of lease granted at undervalue

- (1) This section applies to an assignment of a short-term lease if—
- the lease was granted at an undervalue, and
 - a profit is made on the assignment.
- (2) The company which assigns the lease is treated as—
- 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
 - 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—

$$P \times \left(\frac{50 - Y}{50} \right)$$

where—

P is the lesser of—

- the profit on the assignment, and
- 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—
- 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.
- (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.

Other amounts treated as receipts

224 Sales with right to reconveyance

- (1) This section applies if—
 - (a) an estate or interest in land is sold subject to terms which provide that it is to be, or may be required to be, reconveyed on a future date to the seller or a person connected with the seller,
 - (b) the period beginning with the sale and ending with the earliest date on which under the terms of the sale the estate or interest would fall to be reconveyed is 50 years or less, and
 - (c) the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed.
- (2) The seller is treated as—
 - (a) entering into a transaction mentioned in section 205 (if the land is in the United Kingdom) or section 206 (if the land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsection (4) 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 estate or interest is sold.
- (4) The amount of the receipt is given by the formula—

$$E \times \left(\frac{50 - Y}{50} \right)$$

where—

E is the amount by which the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed, and

Y is the number of complete periods of 12 months (other than the first) comprised in the period beginning with the sale and ending with the earliest date on which under the terms of the sale the estate or interest would fall to be reconveyed.

- (5) See section 226 for some provisions which are supplementary to this section.

225 Sale and leaseback transactions

- (1) This section applies if—

- (a) an estate or interest in land is sold subject to terms which provide for the grant of a lease directly or indirectly out of the estate or interest to the seller or a person connected with the seller,
 - (b) the period beginning with the sale and ending with the earliest date on which under the terms of the sale the lease would fall to be granted is 50 years or less, and
 - (c) the price at which the estate or interest is sold exceeds the total of—
 - (i) the amount of any premium for the lease, and
 - (ii) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run.
- (2) This section does not apply if the lease is granted and begins to run within one month after the sale.
- (3) The seller is treated as—
- (a) entering into a transaction mentioned in section 205 (if the land is in the United Kingdom) or section 206 (if the land is outside the United Kingdom), and
 - (b) receiving the amount calculated under subsection (5) as a result of that transaction.
- (4) 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 estate or interest is sold.
- (5) The amount of the receipt is given by the formula—
- $$E \times \left(\frac{50 - Y}{50} \right)$$
- where—
- E is the amount by which the price at which the estate or interest is sold exceeds the total of—
- (a) the amount of any premium for the lease, and
 - (b) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run, and
- Y is the number of complete periods of 12 months (other than the first) comprised in the period beginning with the sale and ending with the earliest date on which under the terms of the sale the lease would fall to be granted.
- (6) See section 226 for some provisions which are supplementary to this section.

226 Provisions supplementary to sections 224 and 225

- (1) This section operates for the purposes of sections 224 (sales with right to reconveyance) and 225 (sale and leaseback transactions).
- (2) Subsection (3) explains how to determine for the purposes of section 224 the price at which an estate or interest is to be reconveyed when—
 - (a) the date on which the estate or interest would fall to be reconveyed is not fixed under the terms of the sale, and
 - (b) the price at which it is to be reconveyed varies with the date.
- (3) The price is taken to be the lowest possible under the terms of the sale.

- (4) Subsection (5) explains how to determine for the purposes of section 225 the total of—
- (a) the amount of any premium for the lease, and
 - (b) the value on the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run,
- when the date for the grant of the lease is not fixed under the terms of the sale and the total varies with the date.
- (5) The total is taken to be the lowest possible under the terms of the sale.
- (6) For the purposes of sections 224(3) and 225(4) (receipts of property business for accounting period in which estate or interest sold) an estate or interest in land is sold when any of the following occurs—
- (a) an unconditional contract for its sale is entered into,
 - (b) a conditional contract for its sale becomes unconditional, or
 - (c) an option or right of pre-emption is exercised requiring the seller to enter into an unconditional contract for its sale.

Additional calculation rule for reducing certain receipts

227 Circumstances in which additional calculation rule applies

- (1) The rule in section 228 (the additional calculation rule) applies in relation to the calculation of receipts under—
- section 217 (lease premiums),
 - section 219 (sums payable instead of rent),
 - section 220 (sums payable for surrender of lease),
 - section 221 (sums payable for variation or waiver of terms of lease), or
 - section 222 (assignments for profit of lease granted at undervalue).
- (2) It applies if conditions A and B are met.
- (3) Condition A is that—
- (a) in the case of a receipt under section 217, 219 or 220, the lease is granted out of a taxed lease,
 - (b) in the case of a receipt under section 221, the lease was granted out of a taxed lease, and
 - (c) in the case of a receipt under section 222, the assignment is of a taxed lease.
- (4) A lease is a “taxed lease” for the purposes of this Chapter if—
- (a) there is a receipt under any of sections 217 to 222 in respect of the lease,
 - (b) there would be such a receipt, but for the operation of the rule in section 228 (the additional calculation rule) in the calculation of its amount,
 - (c) there is a receipt under any of sections 277 to 282 of ITTOIA 2005 (receipts in respect of lease premiums, sums payable instead of rent, for surrender of lease and for variation or waiver of terms of lease and assignments) in respect of the lease, or
 - (d) there would be such a receipt, but for the operation of the rule in section 288 of that Act (the additional calculation rule) in the calculation of its amount.

In this Chapter a receipt falling within paragraph (a), (b), (c) or (d) is referred to as a “taxed receipt”.

- (5) Condition B is that the taxed receipt, or if there is more than one, at least one of them, has an unused amount.
- (6) See section 230 for an explanation of when a taxed receipt has an “unused amount”.

228 The additional calculation rule

- (1) The rule in this section applies if the conditions mentioned in section 227(2) are met.
- (2) The additional calculation rule is that the amount given by the formula in section 217, 219, 220, 221 or 222 must be reduced by the amount calculated in accordance with this section in order to give the amount of the receipt under calculation.
- (3) The amount of the reduction is—
 - (a) if there is one taxed receipt which has an unused amount, the basic relieving amount by reference to that receipt, and
 - (b) if there is more than one taxed receipt which has an unused amount, the total of the basic relieving amounts by reference to each receipt,
 adjusted, if necessary, in the light of section 229(5) (reduction not to exceed amount being reduced).
- (4) The basic relieving amount by reference to a taxed receipt is given by the formula—

$$\frac{A \times LRP}{TRP}$$

where—

A is the unreduced amount of the taxed receipt (which is, generally, the amount given by the formula in section 217, 219, 220, 221 or 222, or in section 277, 279, 280, 281 or 282 of ITTOIA 2005, but see section 230(2) to (4) of this Act),
 LRP is the receipt period of the receipt under calculation, and
 TRP is the receipt period of the taxed receipt.

- (5) But the basic relieving amount is different if section 229(2) or (4) applies (certain special cases).
- (6) For the purposes of this Chapter, the “receipt period” of a receipt is—
 - (a) in the case of a receipt under section 217 or 220, the effective duration of the lease,
 - (b) in the case of a receipt under section 219, the period in relation to which the sum payable instead of rent is payable,
 - (c) in the case of a receipt under section 221, the period for which the variation or waiver has effect,
 - (d) in the case of a receipt under section 222, the effective duration of the lease remaining at the date of the assignment, and
 - (e) in the case of a receipt under Chapter 4 of Part 3 of ITTOIA 2005 (profits of property businesses: lease premiums etc), its receipt period within the meaning of that Chapter (see section 288(6) of that Act).

229 The additional calculation rule: special cases

- (1) This section explains how section 228 operates in some special cases.
- (2) If—
 - (a) the receipt under calculation is under any of sections 217 to 221, and
 - (b) the lease does not extend to the whole of the premises subject to the taxed lease,

the basic relieving amount by reference to a taxed receipt is calculated by multiplying the amount given by the formula in subsection (4) of section 228 by the fraction of those premises which is subject to the lease.
- (3) This fraction is calculated on a just and reasonable basis.
- (4) If the basic relieving amount given by section 228(4) or subsection (2) above by reference to a taxed receipt would otherwise exceed the unused amount of the taxed receipt, the basic relieving amount is the unused amount.
- (5) If the amount of the reduction under section 228 would otherwise exceed the amount given, in respect of the receipt under calculation, by the formula in section 217, 219, 220, 221 or 222, the amount of the reduction is equal to the amount given by the formula.

230 Meaning of “unused amount” and “unreduced amount”

- (1) For the purposes of this Chapter, a taxed receipt has an “unused amount” if the unreduced amount exceeds the total of the reductions and deductions referred to in subsection (5).
- (2) In this Chapter the “unreduced amount” of a taxed receipt is the amount given, in respect of the taxed receipt, by the formula in—
 - (a) section 217, 219, 220, 221 or 222 above, or
 - (b) section 277, 279, 280, 281 or 282 of ITTOIA 2005 (income tax provisions corresponding to those listed in paragraph (a)).
- (3) Subsection (4) applies—
 - (a) to a taxed receipt under section 217 (lease premiums) as a result of section 218 (amount treated as lease premium where work required), and
 - (b) to a taxed receipt under section 277 of ITTOIA 2005 (lease premiums) as a result of section 278 of that Act (amount treated as lease premium where work required).
- (4) If the obligation to carry out work included the carrying out of work which gives, or will give, rise to qualifying expenditure under CAA 2001, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.
- (5) The reductions and deductions mentioned in subsection (1) are—
 - (a) the reductions under section 228 above or section 288 of ITTOIA 2005 (the additional calculation rule) by reference to the taxed receipt,
 - (b) the deductions made in calculating the profits of a trade, profession or vocation for expenses under section 63 above or section 61 of ITTOIA 2005 (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt, and

- (c) the deductions made in calculating the profits of a property business for expenses under section 232 below or section 292 of ITTOIA 2005 (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt.
- (6) For the purposes of this Chapter references to a reduction under section 228 above or section 288 of ITTOIA 2005 by reference to a taxed receipt are to a reduction under the section concerned so far as attributable to the taxed receipt.

Deductions in relation to certain receipts

231 Deductions for expenses under section 232

- (1) Section 232 (tenants under taxed leases treated as incurring expenses) applies in calculating the profits of a property business carried on by the tenant under a taxed lease for the purpose of making deductions for the expenses of the property business.
- (2) A deduction is allowed for an expense under section 232 for a qualifying day on which the whole or part of the premises subject to the taxed lease is—
 - (a) occupied by the tenant for the purpose of carrying on the property business, or
 - (b) sublet.
- (3) But any deduction for an expense under section 232 is subject to the application of any provision of Chapter 4 of Part 3 (as applied to property businesses by section 210).
- (4) The amount of the deduction for an expense under section 232 for a qualifying day by reference to a taxed receipt may be reduced in order to comply with section 235 (limit on reductions and deductions).
- (5) For the meaning of expressions used in this section, see in particular—
 - section 227(4) (“taxed lease”), and
 - Section 227(4) (“taxed receipt”).

232 Tenants under taxed leases treated as incurring expenses

- (1) The tenant under a taxed lease is treated as incurring an expense of a revenue nature in respect of the premises subject to the taxed lease for each qualifying day.
- (2) If there is more than one taxed receipt, this section applies separately in relation to each of them.
- (3) A day is a “qualifying day”, in relation to a taxed receipt, if it falls within the receipt period of the taxed receipt.
- (4) The amount of the expense for the qualifying day by reference to the taxed receipt is given by the formula—

$$\frac{A}{TRP}$$

where—

A is the unreduced amount of the taxed receipt, and

TRP is the number of days in the receipt period of the taxed receipt.

- (5) This section is subject to sections 233 and 234 (restrictions on expenses where the additional calculation rule is relevant).
- (6) For the meaning of expressions used in this section, see in particular—
 section 228(6) (“receipt period”), and
 section 230(2) to (4) (“unreduced amount”).

233 Restrictions on section 232 expenses: the additional calculation rule

- (1) This section applies if—
- (a) in calculating the amount of a receipt under this Chapter there is a reduction under section 228 (the additional calculation rule) by reference to a taxed receipt, or
 - (b) in calculating the amount of a receipt under Chapter 4 of Part 3 of ITTOIA 2005 (profits of a property business: lease premiums etc) there is a reduction under section 288 of that Act (the additional calculation rule) by reference to a taxed receipt.

The receipt that is so reduced is referred to in this section as the “lease premium receipt”.

- (2) Subsections (3) to (5) provide for the application of section 232 for a qualifying day that falls within the receipt period of the lease premium receipt.
- (3) The tenant under the taxed lease is treated as incurring an expense under section 232 for the qualifying day by reference to the taxed receipt only if the daily amount of the taxed receipt exceeds the daily reduction of the lease premium receipt.
- (4) If the condition in subsection (3) is met, the amount of the expense under section 232 for the qualifying day by reference to the taxed receipt is equal to that excess.
- (5) If the qualifying day falls within the receipt periods of more than one lease premium receipt, the reference in subsection (3) to the daily reduction of the lease premium receipt is to be read as a reference to the total of the daily reductions of each of the lease premium receipts whose receipt period includes the qualifying day.
- (6) In this section—

the “daily amount” of the taxed receipt is given by the formula—

$$\frac{A}{TRP}$$

where—

A is the unreduced amount of the taxed receipt (see section 230(2) to (4)),
 and

TRP is the number of days in the receipt period of the taxed receipt, and
 the “daily reduction” of a lease premium receipt is given by the formula—

$$\frac{AR}{RRP}$$

where—

AR is the reduction under section 228 above or section 288 of ITTOIA 2005 by reference to the taxed receipt (see section 230(6)), and

RRP is the number of days in the receipt period of the lease premium receipt.

- (7) Section 234 explains how this section operates if the lease premium receipt is in respect of a lease that has been granted out of the taxed lease and does not extend to the whole of the premises subject to the taxed lease.

234 Restrictions on section 232 expenses: lease of part of premises

- (1) This section applies if—
- (a) a lease has been granted out of the taxed lease,
 - (b) the lease does not extend to the whole of the premises subject to the taxed lease, and
 - (c) the condition in subsection (2) is met.
- (2) The condition is that—
- (a) in calculating the amount of a receipt under any of sections 217 to 221 (receipts in respect of lease premiums or sums payable instead of rent, for surrender of lease or for variation or waiver of terms of lease) in respect of the lease, there is a reduction under section 228 by reference to a taxed receipt, or
 - (b) in calculating the amount of a receipt under any of sections 277 to 281 of ITTOIA 2005 (receipts in respect of lease premiums or sums payable instead of rent, for surrender of lease or for variation or waiver of terms of lease) in respect of the lease, there is a reduction under section 288 of that Act (the additional calculation rule) by reference to a taxed receipt.

The receipt that is so reduced is referred to in this section as the “lease premium receipt”.

- (3) Subsections (4) to (6) apply for a qualifying day that falls within the receipt period of the lease premium receipt.
- (4) Sections 232 and 233 apply separately in relation to the part of the premises subject to the lease and to the remainder of the premises.
- (5) If—
- (a) more than one lease that does not extend to the whole of the premises subject to the taxed lease has been granted out of the taxed lease, and
 - (b) the qualifying day falls within the receipt period of two or more lease premium receipts that relate to different leases,
- sections 232 and 233 apply separately in relation to each part of the premises subject to a lease to which such a receipt relates and to the remainder of the premises.
- (6) Where sections 232 and 233 apply in relation to a part of the premises, A becomes the amount calculated by multiplying the unreduced amount of the taxed receipt by the fraction of the premises constituted by the part.
- (7) This fraction is calculated on a just and reasonable basis.

Limit on effect of additional calculation rule and deductions

235 Limit on reductions and deductions

- (1) The total of—
 - (a) the reductions under section 228 by reference to a taxed receipt, and
 - (b) the deductions allowed in calculating the profits of a property business for expenses under section 232 (tenant under taxed lease which uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt,
 must not exceed the amount referred to in subsection (2).
- (2) The amount mentioned in subsection (1) is the difference between—
 - (a) the unreduced amount of the taxed receipt, and
 - (b) the total of the amounts mentioned in subsection (3).
- (3) Those amounts are—
 - (a) the reductions under section 288 of ITTOIA 2005 (the additional calculation rule) by reference to the taxed receipt,
 - (b) the deductions made in calculating the profits of a property business for expenses under section 292 of ITTOIA 2005 (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt, and
 - (c) the deductions made in calculating the profits of a trade, profession or vocation for expenses under section 63 above or section 61 of ITTOIA 2005 (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt.

Certain administrative provisions

236 Payment of tax by instalments

- (1) This section applies if—
 - (a) there is a receipt under section 217 (lease premiums) in respect of a premium which is payable by instalments, or
 - (b) there is a receipt under any of sections 219 to 221 (sums payable instead of rent, for surrender of lease or for variation or waiver of terms of lease) in respect of a sum which is payable by instalments.
- (2) The company which is liable to pay tax by reference to the receipt may choose to pay the tax by such instalments as an officer of Revenue and Customs may allow.
- (3) The period over which the instalments of tax must be paid—
 - (a) must be 8 years or less, and
 - (b) must end before, or at the same time as, the time when the last of the instalments mentioned in subsection (1)(a) or (b) is payable.

237 Statement of accuracy for purposes of section 222

- (1) This section applies if any of the persons mentioned in subsection (3) provides an officer of Revenue and Customs with a statement showing—

- (a) whether or not there is, or may be, a receipt under section 222 (assignments for profit of lease granted at undervalue), and
 - (b) the amount of any receipt.
- (2) The officer must certify the accuracy of the statement, if satisfied as to its accuracy.
- (3) The persons referred to in subsection (1) are—
 - (a) the landlord who granted the lease,
 - (b) a company which assigned it, or
 - (c) a person to whom it was assigned.

238 Claim for repayment of tax payable by virtue of section 224

- (1) This section applies if—
 - (a) there is a receipt under section 224 (sales with right to reconveyance), and
 - (b) the date on which the estate or interest would fall to be reconveyed was not fixed under the terms of the sale.
- (2) If the seller makes a claim, the seller must be repaid the amount by which A exceeds B, where—
 - A is the amount of tax paid by the seller which was payable by virtue of section 224, and
 - B is the amount of tax that would have been so payable if the date on which the estate or interest was reconveyed had been taken as the date fixed by the terms of the sale.
- (3) The claim must be made within 4 years after the day on which the estate or interest was reconveyed.

239 Claim for repayment of tax payable by virtue of section 225

- (1) This section applies if—
 - (a) there is a receipt under section 225 (sale and leaseback transactions), and
 - (b) the date for the grant of the lease was not fixed under the terms of the sale.
- (2) If the seller makes a claim, the seller must be repaid the amount by which A exceeds B, where—
 - A is the amount of tax paid by the seller which was payable by virtue of section 225, and
 - B is the amount of tax that would have been so payable if the date on which the lease was granted had been taken as the date fixed by the terms of the sale.
- (3) The claim must be made within 4 years after the day on which the lease was granted.

Determinations affecting liability of more than one person

240 Appeals against proposed determinations

- (1) Subsection (2) applies if it appears to an officer of Revenue and Customs that—

- (a) a determination is needed of an amount that is to be brought into account as a receipt under this Chapter in calculating the liability to tax of a person (“the first taxpayer”), and
 - (b) the determination may affect the liability to corporation tax, income tax or capital gains tax of other persons.
- (2) The officer may give notice (a “provisional notice of determination”) to the first taxpayer and the other persons of—
 - (a) the determination the officer proposes to make, and
 - (b) their rights under this section and section 242.
- (3) A person to whom a provisional notice of determination is given may object to the proposed determination by giving notice (“a notice of objection”) to the officer.
- (4) The notice of objection must be given within 30 days of the date on which the provisional notice of determination was given.
- (5) If an officer gives provisional notices of determination and no person gives a notice of objection—
 - (a) a determination must be made by the officer as proposed in the provisional notices, and
 - (b) the determination is not to be called in question in any proceedings.

241 Section 240: supplementary

- (1) A provisional notice of determination under section 240(2) may include a statement of the grounds on which the officer proposes to make the determination.
- (2) Subsection (1) applies despite any obligation as to secrecy or other restriction on the disclosure of information.
- (3) An officer of Revenue and Customs may by notice (a “preliminary notice”) require any person to give any information that appears to the officer to be needed for deciding whether to give any person a provisional notice of determination under section 240(2).
- (4) The preliminary notice must state the time within which the information is to be given.

242 Determination by tribunal

- (1) If a notice of objection is given under section 240(3), the amount mentioned in section 240(1) must be determined in the same way as an appeal.
- (2) All persons to whom provisional notices of determination have been given under section 240(2) may take part—
 - (a) in any proceedings under subsection (1), and
 - (b) in any appeal arising out of those proceedings.
- (3) Those persons are bound by the determination made in the proceedings or on appeal, whether or not they have taken part in the proceedings.
- (4) Their successors in title are bound in the same way.

*Effective duration of lease***243 Rules for determining effective duration of lease**

- (1) The following rules apply for determining the effective duration of a lease for the purposes of this Chapter.

Rule 1: If—

- (a) the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond a date before the end of the term for which the lease was granted, and
- (b) the premium was not substantially greater than it would have been had the term been one ending on that date,

the lease is treated as ending on that date (or the earliest such date).

Rule 2: If the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant, account may be taken of any circumstances making it likely that the lease will be so extended.

Rule 3: If the tenant or a person connected with the tenant is, or may become, entitled to a further lease or the grant of a further lease (whenever commencing)

- - (a) of the same premises, or
 - (b) of premises including the whole or part of the same premises,
- the term of the lease may be treated as continuing until the end of the term of the further lease.

- (2) The rules are to be applied in accordance with section 244.

- (3) In Rule 1, “premium” includes—

- (a) an amount treated as a premium under section 218 (amount treated as lease premium where work required),
- (b) a sum payable by the tenant under the terms subject to which the lease is granted instead of the whole or a part of the rent for a period,
- (c) a sum payable by the tenant under the terms subject to which the lease is granted as consideration for the surrender of the lease, and
- (d) a sum payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of a term of the lease.

- (4) In this section and section 244, in relation to Scotland, “term”, where referring to the duration of a lease, means period.

244 Applying the rules in section 243

- (1) The rules in section 243 apply by reference to the facts known or ascertainable—

- (a) at the time of the grant of the lease, or
- (b) if the determination is for the purposes of section 221 (sums payable for variation or waiver of terms of lease), at the time when the contract for the variation or waiver is entered into.

- (2) In applying those rules, it is assumed that all parties concerned, whatever their relationship, act as if they were at arm’s length.

- (3) Subsection (5) applies if—

Status: This is the original version (as it was originally enacted).

- (a) special benefits were conferred by the lease or in connection with its grant, or
 - (b) payments were made which one would not expect to be made by parties acting at arm's length unless such benefits had been conferred.
- (4) But subsection (5) does not apply if it can be shown that the special benefits were not conferred nor the payments made for the purpose of securing—
 - (a) a corporation tax advantage in the application of this Chapter, or
 - (b) an income tax advantage in the application of Chapter 4 of Part 3 of ITTOIA 2005 (profits of property business: lease premiums etc).
- (5) In applying paragraph (b) of Rule 1 in section 243, it is assumed that the special benefits would not have been conferred nor the payments made if the lease had been granted for a term ending on the date mentioned in that rule.
- (6) In this section “special benefits” means benefits other than—
 - (a) vacant possession and beneficial occupation of the premises, or
 - (b) the right to receive rent at a reasonable commercial rate in respect of the premises.

245 Information about effective duration of lease

- (1) This section applies if an officer of Revenue and Customs has reason to believe that a person has information relevant to the determination of the effective duration of a lease.
- (2) The officer may by notice require the person to provide such information on the matters specified in the notice as is in the person's possession.
- (3) The information must be provided within a time specified in the notice.
- (4) In relation to anything done by a solicitor on behalf of a client, the solicitor is required only to—
 - (a) state that the solicitor was acting on behalf of a client, and
 - (b) provide the name and address of the client.

Other interpretative provisions

246 Provisions about premiums

- (1) For the purposes of this Chapter, the presumption is that a sum paid on or in connection with the granting of a tenancy has been paid by way of premium.
- (2) This does not apply if the sum is rent.
- (3) This also does not apply so far as other sufficient consideration for the payment can be shown to have been given.
- (4) In this section “sum” includes the value of any consideration.
- (5) Where Rule 3 in section 243 (rules for determining effective duration of lease) applies, the premium, or an appropriate part of it, payable for or in connection with either lease mentioned in that rule may be treated for the purposes of this Chapter as having been required under the other.

247 Interpretation

- (1) In this Chapter “premium” includes any similar sum payable to the immediate or a superior landlord or to a person connected with such a person.
- (2) In subsection (1) “sum” includes the value of any consideration.
- (3) In the application of this Chapter to Scotland—
 - “premium” includes, in particular, a grassum payable to the landlord under the lease in respect of which the grassum is payable or the landlord under any other lease of the property, and
 - “reversion” means the interest of the landlord in the property subject to the lease.
- (4) In the application of this Chapter to Scotland—
 - (a) references to a lease being granted out of a taxed lease are to the grant of a sublease of land subject to the taxed lease, and
 - (b) references to the lease so granted are to be read as references to the sublease.