

Status: Point in time view as at 01/04/2012.

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Corporation Tax Act 2010

2010 CHAPTER 4

PART 9

LEASING PLANT OR MACHINERY

CHAPTER 3

SALES OF LESSORS: LEASING BUSINESS CARRIED ON BY A COMPANY ALONE

[^{F1}Election out of qualifying change of ownership

Textual Amendments

F1 Ss. 398A-398G and cross-heading inserted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 18 para. 6](#) (with [Sch. 18 paras. 11-13](#))

398A Election out of qualifying change of ownership

- (1) This section applies if—
- on any day [^{F2} before 23 March 2011] (“ the relevant day ”) a company (“A”) carries on a business of leasing plant or machinery otherwise than in partnership,
 - there is a relevant change in the relationship between A and a principal company of A (“P”) on the relevant day, and
 - an election that this section is to apply is made by A.
- (2) For the purposes of the sales of lessors Chapters, there is no qualifying change of ownership in relation to A on the relevant day as a result of the change in the relationship but—
- subsections (2)(b) and (4)(b) of section 383 nevertheless apply,

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- (b) section 398D (and section 398C so far as relating to it) has effect during the relevant period, and
 - (c) sections 398E to 398G (and section 398C so far as relating to section 398E) have effect on the relevant day and during the relevant period.
- (3) “The relevant period” is the period—
- (a) beginning with the day after the relevant day, and
 - (b) ending with the day on which there is next a relevant change in the relationship between A and a principal company of A falling within subsection (4) (or continuing indefinitely if there is not another such relevant change).
- (4) A relevant change in the relationship between A and a principal company of A falls within this subsection if, as a result of it, the (unadjusted) basic amount (see section 399) is (or, but for a further election, would be) treated as a receipt of the business of leasing plant or machinery carried on by A.
- (5) Where during the relevant period there is a relevant change in the relationship between A and a principal company of A but the relevant period is not brought to an end by it, for the purposes of the sales of lessors Chapters there is no qualifying change of ownership in relation to A as a result of the change in the relationship.

Textual Amendments

F2 Words in s. 398A(1)(a) inserted (retrospective to 23.3.2011) by [Finance Act 2011 \(c. 11\), s. 54\(1\)\(2\)](#)

398B The election

- (1) The election under section 398A must state the date of the relevant day.
- (2) The election must be made—
 - (a) by notice to an officer of Revenue and Customs, and
 - (b) during the period of two years beginning with the relevant day.
- (3) The election is irrevocable.
- (4) All such assessments and adjustments of assessments are to be made as are necessary to give effect to the election.

398C Special treatment of A's trade or business that includes leasing

- (1) Sections 398D and 398E make special provision about the trade or property business consisting of or including A's business of leasing plant or machinery.
- (2) In those sections “the relevant activity” means—
 - (a) if A's business of leasing plant or machinery constitutes or forms part of a trade, that trade, and
 - (b) if it forms part of a property business, that property business.

398D Restrictions on use of losses etc

- (1) No loss may be deducted under—
 - (a) Chapter 2 of Part 4,

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- (b) section 62, or
 - (c) section 189,
- from so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the loss or charge is attributable to the carrying on of the relevant activity.
- (2) Group relief is not to be given under Part 5 against so much of the total profits of A as are attributable to the carrying on of the relevant activity.
 - (3) No deficit may be set off under section 461 of CTA 2009 (non-trading deficit from loan relationship) against profits attributable to the carrying on of the relevant activity except to the extent that the deficit is attributable to the carrying on of the relevant activity.
 - (4) No loss may be set off under section 753 of CTA 2009 (non-trading loss on intangible fixed assets) against so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the loss or charge is attributable to the carrying on of the relevant activity.
 - (5) No deduction is to be allowed under section 1219 of CTA 2009 (expenses of management of investment business) from so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the expenses concerned are attributable to the carrying on of the relevant activity.
 - (6) If A is a controlled foreign company within the meaning of Chapter 4 of Part 17 of ICTA in relation to which an apportionment falls to be made under section 747(3) of that Act in respect of the accounting period ending with the relevant day, no sum may be set off under paragraph 1 of Schedule 26 to ICTA by any person in respect of so much of the chargeable profits of A as are apportioned to the person and are attributable to the carrying on of the relevant activity.
 - (7) If A would otherwise be a tonnage tax company under Schedule 22 to FA 2000 (tonnage tax) it is to be treated as not being such a company.

398E Restriction on artificial losses or reductions in profits

- (1) This section applies if any expenditure incurred by A in carrying on the relevant activity has an unallowable purpose.
- (2) In calculating the profits or losses of A for any accounting period for the purposes of corporation tax so much of the expenditure as, on a just and reasonable apportionment, is attributable to the unallowable purpose is to be left out of account.
- (3) Expenditure has an unallowable purpose if the main purpose, or one of the main purposes, of A in incurring it is to obtain a relevant tax advantage (“the unallowable purpose”).
- (4) A “relevant tax advantage” is—
 - (a) a reduction in the profits which, for the purposes of corporation tax, are attributable to the carrying on of the relevant activity by A,
 - (b) the creation of a loss which, for those purposes, is so attributable, or
 - (c) an increase in losses which, for those purposes, are so attributable.

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398F Limit on availability of capital allowances to A

- (1) Expenditure incurred by A in providing plant or machinery is not qualifying expenditure for the purposes of Part 2 of CAA 2001 if the expenditure is incurred on the acquisition or creation of an independent asset.
- (2) An asset is an “independent” asset if, in the normal course of business—
 - (a) it could be used individually (whether or not it could also be used in conjunction with another asset or other assets as a constituent part of a single asset consisting of more than one asset (a “combined asset”)), or
 - (b) it could be used (at different times) as a constituent part of different combined assets.

398G Transfers into and out of A

- (1) Section 948 does not apply where A is the predecessor or the successor.
- ^{F3}(2)
- ^{F4}(3) If any event occurs that requires A to bring the disposal value of plant or machinery into account under Part 2 of CAA 2001, that Part has effect as if the disposal value that A is required to bring into account were the higher of—
 - (a) the disposal value determined in accordance with that Part, and
 - (b) the ascribed value of the plant or machinery.
- (4) Section 265 of CAA 2001 (successions) is subject to this section.]]

Textual Amendments

- F3** S. 398G(2) omitted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by virtue of Finance Act 2011 (c. 11), **Sch. 6 para. 6(2)**
- F4** S. 398G(3)(4) substituted for s. 398G(3) (with effect in accordance with Sch. 6 para. 27 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 6 para. 6(3)**

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