
Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Part 2. (See end of Document for details)

SCHEDULES

SCHEDULE 3

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

PART 2

NEW SECTION 37A OF TCGA 1992

6 TCGA 1992 is amended as follows.

7 After section 37 insert—

“37A Consideration on disposal of certain leases

- (1) This section applies if—
 - (a) a disposal occurs that is within section 614BP of ITA 2007 (including that section as it has effect as a result of section 614CD of that Act), and
 - (b) for the purposes of Chapter 2 or 3 of Part 11A of that Act there is any cumulative accountancy rental excess in relation to the lease for the period of account of the current lessor in which the disposal takes place.
- (2) This section also applies if—
 - (a) a disposal occurs that is within section 915 of CTA 2010 (including that section as it has effect as a result of section 929 of that Act), and
 - (b) for the purposes of Chapter 2 or 3 of Part 21 of that Act there is any cumulative accountancy rental excess in relation to the lease for the period of account of the current lessor in which the disposal takes place.
- (3) In determining for the purposes of this Act the amount of any gain accruing to the person making the disposal, the consideration for the disposal is treated as reduced by setting against it that excess (but not so as to reduce the amount of that consideration below nil).
- (4) Subsection (3) only affects section 37 so far as subsection (5) provides.
- (5) Section 37 does not exclude any money or money's worth from the consideration for a disposal so far as it is represented by any such cumulative accountancy rental excess that, in accordance with subsection (3)—
 - (a) falls to be set against the consideration for the disposal, or
 - (b) has fallen to be set against the consideration for a previous disposal made by the person making the disposal in question or a person connected with that person.

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- (6) Subsections (7) to (9) apply if the disposal mentioned in subsection (1) or (2) is a part disposal of the asset in question.
- (7) The cumulative accountancy rental excess mentioned in subsection (3) must be apportioned between—
 - (a) the property disposed of, and
 - (b) the property that remains undisposed of.
- (8) That apportionment must be made in the same proportions as those in which the sums that under section 38(1)(a) or (b) are attributable to the asset fall to be apportioned under section 42.
- (9) Only so much of the cumulative accountancy rental excess as is so apportioned to the property disposed of is set against the consideration for the part disposal in accordance with subsection (3).
- (10) If subsection (3) applies in a case where two or more disposals within subsection (1) or (2) are made at the same time, the cumulative accountancy rental excess mentioned in subsection (3) must be apportioned, subject to subsections (7) to (9), between the disposals in such proportions as are just and reasonable.
- (11) Section 614DC of ITA 2007 (connected persons) applies for the purposes of this section in its application as a result of any leasing arrangements (within the meaning of that section) as it applies for the purposes mentioned in that section.”

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