



# Income Tax Act 2007

## 2007 CHAPTER 3

### PART 13

#### TAX AVOIDANCE

#### [<sup>F1</sup>CHAPTER 6

#### AVOIDANCE INVOLVING LEASES OF PLANT AND MACHINERY

#### [<sup>F1</sup>809ZB] **Section 809ZA: interpretation**

- (1) The expressions used in section 809ZA and this section are to be interpreted as follows.
- (2) “Capital payment” means any payment except one which, if made to the lessor—
  - (a) would fall to be included in a calculation of the lessor's income for income tax purposes, or
  - (b) would fall to be included in such a calculation but for section 148A of ITTOIA 2005 (rental earnings under long funding finance lease).
- (3) “Lease” includes—
  - (a) a licence, and
  - (b) the letting of a ship or aircraft on charter or the letting of any other asset on hire,and “lessor” and “lessee” are to be read accordingly.
- (4) “Lease of plant or machinery” includes a lease of plant or machinery and other property but does not include—
  - (a) a lease where the income attributable to the lease received by the lessor (if any) would be chargeable to tax under Part 3 of ITTOIA 2005 (property income), or
  - (b) a lease of plant or machinery where the lessor has incurred what would (but for section 34A of CAA 2001) be qualifying expenditure (within the meaning of Part 2 of that Act) on the plant or machinery.

*Status: Point in time view as at 21/07/2009. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax Act 2007, Section 809ZB. (See end of Document for details)*

- (5) “Relevant arrangement” means any agreement or arrangement relating to a lease of plant or machinery, including one made before the lease is entered into or after it has ended (and, accordingly, “lessor” and lessee” include prospective and former lessors and lessees).
- (6) A capital payment, in relation to a lease or relevant arrangement, is “relevant” if condition A or B is met (but this is subject to <sup>F2</sup>subsections (9) and (9A)).
- (7) Condition A is that the capital payment is payable (or paid), directly or indirectly, by (or on behalf of) the lessee to (or on behalf of) the lessor in connection with—
- (a) the grant, assignment, novation or termination of the lease, or
  - (b) any provision of the lease or relevant arrangement (including the variation or waiver of any such provision).
- (8) Condition B is that rentals payable under the lease are less than (or payable later than) they might reasonably be expected to be if there were no obligation to make the capital payment (and the capital payment were not made).
- (9) A capital payment is not “relevant” if or to the extent that—
- (a) the capital payment reduces (or would but for section 536 of CAA 2001 reduce) the amount of expenditure incurred by the lessor for the purposes of CAA 2001 in respect of the plant or machinery in question, <sup>F3</sup>or]
  - (b) the capital payment is compensation for loss resulting from damage to, or damage caused by, the plant or machinery in question, <sup>F4</sup>...
  - <sup>F4</sup>(c) .....
- [ Where—
- <sup>F5</sup>(9A) (a) a capital payment is an initial payment under a long-funding lease, and
- (b) under section 61 of CAA 2001 (disposal events and disposal values), the commencement of the term of the lease is an event that requires the lessor to bring a disposal value into account,
- the capital payment is only “relevant” to the extent that it exceeds the disposal value.”
- (9B) “Commencement”, “disposal value”, “initial payment”, “long funding lease” and “the term” have the same meaning as in Part 2 of CAA 2001.]
- (10) References to payment include the provision of value by any means other than the making of a payment, and accordingly—
- (a) references to the making of a payment include the passing of value (by any other means), and
  - (b) references to the amount of the payment include the value passed.]

#### Textual Amendments

- F1** Pt. 13 Ch. 6 inserted (21.7.2008 with effect in accordance with Sch. 20 para. 2(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 20 para. 2\(1\)](#) (with [Sch. 20 para. 2\(3\)](#))
- F2** Words in s. 809ZB(6) substituted (with effect in accordance with Sch. 32 para. 11 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 32 para. 10\(2\)](#)
- F3** Word in s. 809ZB(9)(a) inserted (with effect in accordance with Sch. 32 para. 11 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 32 para. 10\(3\)\(a\)](#)
- F4** S. 809ZB(9)(c) and preceding word omitted (with effect in accordance with Sch. 32 para. 11 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 32 para. 10\(3\)\(b\)](#)

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**Changes to legislation:** There are currently no known outstanding effects for the Income Tax Act 2007, Section 809ZB. (See end of Document for details)

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**F5** S. 809ZB(9A)(9B) inserted (with effect in accordance with Sch. 32 para. 11 of the amending Act) by Finance Act 2009 (c. 10), **Sch. 32 para. 10(4)**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Income Tax Act 2007, Section 809ZB.