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SCHEDULES

SCHEDULE 11

TAX RELIEF FOR BUSINESS EXPENDITURE ON CARS AND MOTOR CYCLES

PART 2

RESTRICTIONS ON DEDUCTIONS FOR HIRE EXPENSES

Income tax

- 34 ITTOIA 2005 is amended as follows.
- 35 In section 31(1)(b) (relationship between rules prohibiting and allowing deductions), omit “or motor cycle”.
- 36 (1) Section 48 (rules restricting deductions from profits: car or motor cycle hire) is amended as follows.
- (2) In subsection (1), for the words from “or motor cycle”, in the first place, to the end substitute “which is not—
- (a) a car that is first registered before 1 March 2001,
 - (b) a car that has low CO₂ emissions,
 - (c) a car that is electrically propelled, or
 - (d) a qualifying hire car.”
- (3) In subsection (2), for the words from “multiplying” to the end substitute “ 15% ”.
- (4) In subsection (4), for “multiplying it by the fraction in subsection (2)” substitute “ 15% ”.
- (5) In subsection (4A)(a), (b) and (c), omit “or motor cycle”.
- (6) Omit subsection (5).
- (7) In the heading, omit “or motor cycle”.
- 37 (1) Section 49 (car or motor cycle hire: supplementary) is amended as follows.
- (2) In subsection (1)—
- (a) omit “or motor cycle”,
 - (b) omit “one”,
 - (c) before paragraph (a) insert—
 - “(za) a motor cycle (within the meaning of section 185(1) of the Road Traffic Act 1988),” and
 - (d) in paragraphs (a) and (b), insert at the beginning “a vehicle”.
- (3) After that subsection insert—

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“(1A) In section 48—

“a car that has low CO2 emissions” has the same meaning as in section 104AA of CAA 2001 (special rate expenditure: main rate car);

“electrically propelled” has the meaning given in section 268B of that Act.”

(4) In subsection (2)—

(a) omit “or motor cycle” (in each place),

(b) omit paragraph (c), and

(c) insert at the end—

“(d) is leased under a long-funding lease (within the meaning of section 70G of CAA 2001).”

(5) In subsection (6), omit “and section 48”.

(6) In the heading, omit “or motor cycle”.

38 Omit section 50 (hiring cars with low carbon dioxide emissions).

39 After that section insert—

“50A Short-term hiring in and long-term hiring out

(1) Section 48 does not apply to expenses incurred by a person (“the taxpayer”) on the hiring of a car if condition A or B is met.

(2) Condition A is that—

(a) the expenses are incurred in respect of the making available of the car to the taxpayer for a period (“the hire period”) of not more than 45 consecutive days, and

(b) if the car is made available to the taxpayer (whether by the same person or different persons) for one or more periods linked to the hire period, the hire period and the linked period or periods, taken together, consist of not more than 45 days.

(3) Condition B is that the expenses are incurred in respect of a period (“the sub-hire period”) throughout which the taxpayer makes the car available to another person (“the customer”) and—

(a) the sub-hire period consists of more than 45 consecutive days, or

(b) if the taxpayer makes the car available to the customer throughout one or more periods linked to the sub-hire period, the sub-hire period and the linked period or periods, taken together, consist of more than 45 days,

but see subsection (4).

(4) Condition B is not met if—

(a) the customer is an employee of the taxpayer or of a person connected with the taxpayer, or

(b) during all or part of the sub-hire period (or any period linked to the sub-hire period), the customer makes any car available to an employee of the taxpayer under arrangements with the taxpayer or with a person connected with the taxpayer.

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- (5) Neither condition A nor condition B is met if the car is hired under arrangements the purpose, or one of the main purposes, of which is—
 - (a) to disapply or reduce the effect of section 48, or
 - (b) other avoidance of tax.
- (6) For the purposes of condition B the expenses incurred by the taxpayer on the hiring of the car must be apportioned between—
 - (a) the sub-hire period, and
 - (b) the remainder of the period during which the car is made available to the taxpayer,according to the respective lengths of those periods.
- (7) A period of consecutive days (“the main period”) is linked to—
 - (a) a period of consecutive days that ends not more than 14 days before the main period begins,
 - (b) a period of consecutive days that begins not more than 14 days after the main period ends, and
 - (c) a period of consecutive days linked to a period in paragraph (a) or (b).
- (8) For the purposes of this section, where arrangements for the hiring of a car include arrangements for the provision of a replacement car in the event that the first car is not available, the first car and any replacement car are to be treated as if they were the same car.
- (9) In this section (and section 50B) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions.

50B Connected persons: application of section 48

- (1) This section applies where connected persons incur expenses on the hiring of the same car for the same period and—
 - (a) section 48 would (but for this section) apply to the expenses of two or more of those persons, or
 - (b) section 48 and section 56 of CTA 2009 would (but for this section and section 58B of that Act) each apply to the expenses of at least one of those persons.
- (2) This section only applies where one or more of the persons mentioned in subsection (1)(a) or (b) incurs the expenses under commercial arrangements (and such a person is referred to below as a “commercial lessee”).
- (3) In relation to the expenses mentioned in subsection (1) to which section 48 would (but for this section) apply, section 48 only applies to the following—
 - (a) where there is one commercial lessee, any such expenses incurred by that lessee, and
 - (b) where there is more than one, any such expenses incurred by the first commercial lessee in the chain of arrangements for the hiring of the car for the period.
- (4) In this section—

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- (a) references to expenses incurred by a commercial lessee include expenses incurred in that or any other capacity, and
 - (b) “commercial arrangements” means arrangements the terms of which are such as would reasonably have been expected if the parties to the arrangements had been dealing at arm's length.”
- 40 In section 247(1) (other rules about what counts as post-cessation receipts), omit “or motor cycle”.
- 41 In section 272(2) (profits of a property business: application of trading income rules), in the entry in the Table relating to sections 48 to 50—
- (a) for “50” substitute “ 50B ”, and
 - (b) omit “or motor cycle”.
- 42 In section 274(1)(b) (relationship between rules prohibiting and allowing deductions), omit “or motor cycle”.
- 43 In section 354(2) (other rules about what counts as post-cessation receipts), omit “or motor cycle”.
- 44 In Schedule 2 (transitionals and savings), omit paragraphs 16 and 17 (and the heading before them).

Corporation tax

- 45 CTA 2009 is amended as follows.
- 46 In section 51(1)(b)(i) (relationship between rules prohibiting and allowing deductions), omit “or motor cycle”.
- 47 (1) Section 56 (rules restricting deductions from profits: car or motor cycle hire) is amended as follows.
- (2) In subsection (1), for the words from “or motor cycle”, in the first place, to the end substitute “which is not—
- (a) a car that is first registered before 1 March 2001,
 - (b) a car that has low CO₂ emissions,
 - (c) a car that is electrically propelled, or
 - (d) a qualifying hire car.”
- (3) In subsection (2), for the words from “multiplying” to the end substitute “ 15% ”.
- (4) In subsection (4), for “multiplying it by the fraction in subsection (2)” substitute “ 15% ”.
- (5) In subsection (5)(a), (b) and (c), omit “or motor cycle”.
- (6) Omit subsection (6).
- (7) In the heading, omit “or motor cycle”.
- 48 (1) Section 57 (car or motor cycle hire: supplementary) is amended as follows.
- (2) In subsection (1)—
- (a) omit “or motor cycle”,
 - (b) omit “one”,
 - (c) before paragraph (a) insert—

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- “(za) a motor cycle (within the meaning of section 185(1) of the Road Traffic Act 1988),” and
- (d) in paragraphs (a) and (b), insert at the beginning “a vehicle”.
- (3) After that subsection insert—
- “(1A) In section 56—
- “a car that has low CO₂ emissions” has the same meaning as in section 104AA of CAA 2001 (special rate expenditure: main rate car);
- “electrically propelled” has the meaning given in section 268B of that Act.”
- (4) In subsection (2)—
- (a) omit “or motor cycle” (in each place),
- (b) omit paragraph (c), and
- (c) insert at the end—
- “(d) is leased under a long-funding lease (within the meaning of section 70G of CAA 2001).”
- (5) In subsection (6), omit “and section 56”.
- (6) In the heading, omit “or motor cycle”.
- 49 Omit section 58 (hiring cars with low CO₂ emissions before 1 April 2013).
- 50 After section 58 insert—

“58A Short-term hiring in and long-term hiring out

- (1) Section 56 does not apply to expenses incurred by a company (“the taxpayer”) on the hiring of a car if condition A or B is met.
- (2) Condition A is that—
- (a) the expenses are incurred in respect of the making available of the car to the taxpayer for a period (“the hire period”) of not more than 45 consecutive days, and
- (b) if the car is made available to the taxpayer (whether by the same person or different persons) for one or more periods linked to the hire period, the hire period and the linked period or periods, taken together, consist of not more than 45 days.
- (3) Condition B is that the expenses are incurred in respect of a period (“the sub-hire period”) throughout which the taxpayer makes the car available to another person (“the customer”) and—
- (a) the sub-hire period consists of more than 45 consecutive days, or
- (b) if the taxpayer makes the car available to the customer throughout one or more periods linked to the sub-hire period, the sub-hire period and the linked period or periods, taken together, consist of more than 45 days,
- but see subsection (4).
- (4) Condition B is not met if—

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- (a) the customer is an employee or officer of the taxpayer or of a person connected with the taxpayer, or
 - (b) during all or part of the sub-hire period (or any period linked to the sub-hire period), the customer makes any car available to an employee or officer of the taxpayer under arrangements with the taxpayer or with a person connected with the taxpayer.
- (5) Neither condition A nor condition B is met if the car is hired under arrangements the purpose, or one of the main purposes, of which is—
- (a) to disapply or reduce the effect of section 56, or
 - (b) other avoidance of tax.
- (6) For the purposes of condition B the expenses incurred by the taxpayer on the hiring of the car must be apportioned between—
- (a) the sub-hire period, and
 - (b) the remainder of the period during which the car is made available to the taxpayer,
- according to the respective lengths of those periods.
- (7) A period of consecutive days (“the main period”) is linked to—
- (a) a period of consecutive days that ends not more than 14 days before the main period begins,
 - (b) a period of consecutive days that begins not more than 14 days after the main period ends, and
 - (c) a period of consecutive days linked to a period in paragraph (a) or (b).
- (8) For the purposes of this section, where arrangements for the hiring of a car include arrangements for the provision of a replacement car in the event that the first car is not available, the first car and any replacement car are to be treated as if they were the same car.
- (9) In this section (and section 58B) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions.

58B Connected persons: application of section 56

- (1) This section applies where connected persons incur expenses on the hiring of the same car for the same period and—
- (a) section 56 would (but for this section) apply to the expenses of two or more of those persons, or
 - (b) section 56 and section 48 of ITTOIA 2005 would (but for this section and section 50B of that Act) each apply to the expenses of at least one of those persons.
- (2) This section only applies where one or more of the persons mentioned in subsection (1)(a) or (b) incurs the expenses under commercial arrangements (and such a person is referred to below as a “commercial lessee”).
- (3) In relation to the expenses mentioned in subsection (1) to which section 56 would (but for this section) apply, section 56 only applies to the following—

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- (a) where there is one commercial lessee, any such expenses incurred by that lessee, and
 - (b) where there is more than one, any such expenses incurred by the first commercial lessee in the chain of arrangements for the hiring of the car for the period.
- (4) In this section—
 - (a) references to expenses incurred by a commercial lessee include expenses incurred in that or any other capacity, and
 - (b) “commercial arrangements” means arrangements the terms of which are such as would reasonably have been expected if the parties to the arrangements had been dealing at arm's length.”
- 51 In section 191(1) (other rules about what counts as post-cessation receipts), omit “or motor cycle”.
- 52 In section 210(2) (profits of a property business: application of trading income rules), in the entry in the Table relating to sections 56 to 58—
 - (a) for “58” substitute “ 58B ”, and
 - (b) omit “or motor cycle”.
- 53 In section 214(1)(b)(i) (relationship between rules prohibiting and allowing deductions), omit “or motor cycle”.
- 54 In section 283(2) (other rules about what counts as post-cessation receipts), omit “or motor cycle”.
- 55 In section 865(3)(a) (debits for expenditure not generally deductible for tax purposes), omit “or motor cycle”.
- 56 In section 1231(3) (absence of accounts), omit “or motor cycle”.
- 57 (1) Section 1251 (car or motor cycle hire: companies with investment business) is amended as follows.
 - (2) In subsection (1), for the words from “or motor cycle”, in the first place, to the end substitute “which is not—
 - (a) a car that is first registered before 1 March 2001,
 - (b) a car that has low CO₂ emissions,
 - (c) a car that is electrically propelled, or
 - (d) a qualifying hire car.”
 - (3) In subsection (2), for the words from “multiplying” to the end substitute “ 15% ”.
 - (4) In subsection (4)(b), for “multiply that amount by the fraction set out in subsection (2) above” substitute “ reduce that amount by 15% ”.
 - (5) In subsection (5)(a), (b) and (c), omit “or motor cycle”.
 - (6) Omit subsection (6).
 - (7) In subsection (7)—
 - (a) omit “or motor cycle”, and
 - (b) for “58 (hiring cars with low CO₂ emissions before 1 April 2013)” substitute “ 58A (short-term hiring in and long-term hiring out) ”.
 - (8) After that subsection insert—

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- “(8) For the purposes of section 58B of this Act and section 50B of ITTOIA 2005 (connected persons: application of restrictions), this section is to be treated as if it were part of section 56 of this Act.”
- (9) In the heading, omit “or motor cycle”.
- 58 In Schedule 2 (transitionals and savings), omit paragraphs 16 and 17 (and the heading before them).
- 59 ICTA is amended as follows.
- 60 (1) Section 76ZN (car or motor cycle hire: expenses of insurance companies) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), omit “or motor cycle”, and
- (b) for paragraphs (b) and (c) substitute—
- “(b) the car is not—
- (i) a car that is first registered before 1 March 2001,
- (ii) a car that has low CO₂ emissions (as defined in section 104AA of the Capital Allowances Act),
- (iii) a car that is electrically propelled (as defined in section 268B of that Act), or
- (iv) a qualifying hire car.”
- (3) After that subsection insert—
- “(1A) Subsection (2) does not apply if condition A or condition B in section 58A of CTA 2009 (short-term hiring in and long-term hiring out) is met.”
- (4) In subsection (2), for the words from “multiplying” to the end substitute “ 15% ”.
- (5) In subsection (5), for the words from “multiplying” to the end substitute “ 15% ”.
- (6) In subsection (6)(a), (b) and (c), omit “or motor cycle”.
- (7) Omit subsection (7).
- (8) In subsection (8), omit “or motor cycle” (in both places).
- (9) After that subsection insert—
- “(9) For the purposes of section 50B of ITTOIA 2005 and section 58B of CTA 2009 (connected persons: application of restrictions), this section is to be treated as if it were part of section 56 of CTA 2009.”
- 61 Omit section 76ZO (hiring cars (but not motor cycles) with low CO₂ emissions before 1 April 2013).
- 62 (1) Section 578A (rules restricting deductions: car or motor cycle hire) is amended as follows.
- (2) In subsection (2), for paragraphs (a) and (b) substitute “which is not—
- (a) a car that is first registered before 1 March 2001,
- (b) a car that has low CO₂ emissions (as defined in section 104AA of the Capital Allowances Act),

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- (c) a car that is electrically propelled (as defined in section 268B of that Act), or
 - (d) a qualifying hire car.”
 - (3) Omit subsections (2A) and (2B).
 - (4) After subsection (2B) insert—
 - “(2C) This section does not apply to the hiring of a car where condition A or condition B in section 58A of CTA 2009 (short-term hiring in and long-term hiring out) is met.”
 - (5) In subsection (3), for the words from “multiplying” to the end substitute “ 15% ”.
 - (6) In subsection (4), for “multiplying it by the fraction in subsection (3) above” substitute “ 15% ”.
 - (7) After that subsection insert—
 - “(5) For the purposes of section 50B of ITTOIA 2005 (connected persons: application of restrictions), this section is to be treated as if it were part of section 48 of that Act.”
- 63 (1) Section 578B (expenditure on car or motor cycle hire: supplementary) is amended as follows.
 - (2) In subsection (1)—
 - (a) omit “one”,
 - (b) before paragraph (a) insert—
 - “(za) a motor cycle (within the meaning of section 185(1) of the Road Traffic Act 1988),”,
 - (c) in paragraphs (a) and (b), insert at the beginning “a vehicle”, and
 - (d) omit the words after paragraph (b).
 - (3) In subsection (2)—
 - (a) omit paragraph (b), and
 - (b) insert at the end—
 - “(c) it is leased under a long-funding lease (within the meaning of section 70G of the Capital Allowances Act).”
 - (4) In subsection (3), omit “section 578A and”.
 - (5) Omit subsection (4).

Consequential repeals

- 64 In consequence of the amendments made by this Part of this Schedule, omit—
 - (a) in FA 2008, section 77(4)(b), and
 - (b) in CTA 2009, in Schedule 1, paragraph 45.

Commencement

- 65 For the purposes of this Part of this Schedule—
 - (a) the first relevant date is—
 - (i) for corporation tax purposes, 1 April 2009, and

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- (ii) for income tax purposes, 6 April 2009, and
 - (b) the second relevant date is—
 - (i) for corporation tax purposes, 1 April 2010, and
 - (ii) for income tax purposes, 6 April 2010, and
- 66 (1) The amendments made by this Part of this Schedule have effect in relation to deductions for expenses incurred on the hiring of a car or motor cycle under an agreement under which the hire period begins on or after the first relevant date (but see paragraph 67).
- (2) For the purposes of this paragraph and paragraph 67, the hire period, in relation to an agreement, begins on the first day on which the car or motor cycle is required to be made available for use under the agreement.

Election for new regime not to apply in certain cases

- 67 (1) This paragraph applies where—
- (a) a person incurs expenses on the hiring of a car or motor cycle under an agreement entered into on or before 8 December 2008, and
 - (b) the hire period begins before the second relevant date.
- (2) If the person makes an election under this paragraph, none of the amendments made by this Part of this Schedule has effect in relation to any deduction for expenses incurred by the person on the hiring of the car or motor cycle under the agreement.
- (3) The election must be made by notice given to an officer of Revenue and Customs—
- (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends, and
 - (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.
- (4) “The relevant chargeable period” means the first chargeable period (as defined in section 6 of CAA 2001) in which any expenditure by the person on the provision of the car or motor cycle under the agreement was incurred.
- (5) The election is irrevocable.
- (6) All such assessments and adjustments of assessments are to be made as are necessary to give effect to the election.
- (7) For the purpose of this paragraph, an agreement is entered into on the first date on which the following conditions are met—
- (a) there is a contract in writing for the use of the car or motor cycle by the person,
 - (b) the contract is unconditional or, if it is conditional, the conditions have been met, and
 - (c) no terms remain to be agreed.

Saving

- 68 The repeal of section 82 of CAA 2001 (meaning of “qualifying hire car”) by Part 1 of this Schedule does not affect the continued operation of the following provisions until they are repealed by this Part of this Schedule—
- (a) section 578B(2)(b) of ICTA,

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- (b) section 49(2)(c) of ITTOIA 2005, and
- (c) section 57(2)(c) of CTA 2009.

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