

Status: Point in time view as at 21/07/2009.

Changes to legislation: Finance Act 2009, SCHEDULE 32 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 32

Section 64

LEASES OF PLANT OR MACHINERY

Disposal values: commencement of long funding finance leases

- 1 (1) Section 61 of CAA 2001 (disposal events and disposal values) is amended as follows.
(2) In the Table in subsection (2), for item 5A substitute—

“5A. Commencement of the term of a long funding finance lease of the plant or machinery.	The greater of— (a) the market value of the plant or machinery at the commencement of the term of the lease, and (b) the qualifying lease payments.”
--	--

- (3) After subsection (5) insert—
 “(5A) In item 5A of the Table “qualifying lease payments” means the minimum payments under the lease (including any initial payment), excluding the following—
 (a) so much of any payment as, under generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment in respect of the lease,
 (b) so much of any payment as represents charges for services, and
 (c) so much of any payment as represents qualifying UK or foreign tax (within the meaning of section 70YE) to be paid by the lessor.”
- (4) Omit subsections (6) to (9).
- 2 Accordingly, in FA 2008, in Schedule 20, omit paragraph 4.
- 3 (1) Section 25A of TCGA 1992 (long funding leases of plant or machinery: deemed disposals) is amended as follows.
(2) In subsection (2)(a), for “the value described in subsection (4)(a) or (b)” substitute “the relevant disposal value”.
(3) For subsections (4) to (4D) substitute—
 “(4) “Relevant disposal value” means—
 (a) in relation to a long funding finance lease, the disposal value described in item 5A of the table in section 61(2) of the Capital Allowances Act (disposal values), and
 (b) in relation to a long funding operating lease, the disposal value described in item 5B of that table.”
- (4) In subsection (5), omit “ “market value”, ”.

Status: Point in time view as at 21/07/2009.

Changes to legislation: Finance Act 2009, SCHEDULE 32 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 4 Accordingly, in FA 2008, in Schedule 20, omit paragraph 5.
- 5 (1) The amendments made by paragraphs 1 and 2 have effect in relation to leases whose inception is on or after 13 November 2008.
- (2) The amendments made by paragraphs 3 and 4 have effect in relation to leases whose inception is on or after 22 April 2009.

Disposal values: termination etc of long funding leases

- 6 In section 66 of CAA 2001 (list of provisions outside Chapter 5 of Part 2 of that Act about disposal values), in the list, insert at the appropriate place—

“section 70E	long funding leases: disposal events and disposal values”.
--------------	--

- 7 (1) Section 70E of CAA 2001 (long funding leases: disposal events and disposal values) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute—
“(c) a relevant event occurs.”
- (3) After that subsection insert—
“(1A) A relevant event occurs if—
(a) the lease terminates,
(b) the plant or machinery begins to be used wholly or partly for purposes other than those of the qualifying activity, or
(c) the qualifying activity is permanently discontinued.”
- (4) In subsection (2)(a), for “termination of the lease” substitute “relevant event”.
- (5) For subsections (3) to (8) substitute—
“(2A) The amount of the disposal value is—

$$(QE - QA) + R$$

where—

QE is the person's qualifying expenditure on the provision of the plant or machinery,

QA is the qualifying amount (see subsections (2B) to (2E)), and

R is any relevant rebate (see subsections (2F) and (2G)).

- (2B) In the case of a long funding operating lease, “the qualifying amount” means the aggregate amount of the reductions made under section 502K of ICTA or section 148I of ITTOIA 2005 for periods of account in which the person was the lessee.
- (2C) In the case of a long funding finance lease, “the qualifying amount” means the aggregate of—
(a) the payments made to the lessor by the person under the lease (including any initial payment), and
(b) the payments made to the lessor by the person under a guarantee of any residual amount (as defined in section 70YE),

Status: Point in time view as at 21/07/2009.

Changes to legislation: Finance Act 2009, SCHEDULE 32 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

subject to subsection (2D).

(2D) The following are excluded from the “qualifying amount” under subsection (2C)—

- (a) so much of any payment as, in accordance with generally accepted accounting practice, falls (or would fall) to be shown in the person's accounts as finance charges in respect of the lease,
- (b) so much of any payment as represents charges for services, and
- (c) so much of any payment as represents qualifying UK or foreign tax (within the meaning of section 70YE) to be paid by the lessor.

(2E) In the case of a long funding finance lease that is not a transaction at arm's length, “the qualifying amount” includes only so much of the amounts described in subsection (2C) as would reasonably be expected to have been paid if the lease had been such a transaction.

(2F) “Relevant rebate” means—

- (a) in a case falling within subsection (1A)(a), any amount calculated by reference to the termination value that is payable for the benefit (directly or indirectly) of the person or another person connected with that person, or
- (b) in a case falling within subsection (1A)(b) or (c), any such amount that would have been so payable if, when the relevant event occurred, the lease had terminated and the plant or machinery had been sold for its market value at that time.

(2G) In the case of a lease that is not a transaction at arm's length, “relevant rebate” includes any amount that would reasonably be expected to have fallen within subsection (2F) if the lease had been such a transaction.

(2H) The amount of the disposal value brought into account under this section cannot be less than nil.”

(6) In subsection (9), for “termination of the lease” substitute “ relevant event ”.

8 The amendments made by paragraphs 6 and 7 have effect in relation to cases where the relevant event occurs on or after 13 November 2008.

Capital receipts treated as income

9 (1) Section 785C of ICTA (plant and machinery leases: capital receipts to be treated as income: interpretation) is amended as follows.

(2) In subsection (6), for “subsection (9)” substitute “ subsections (9) and (9A) ”.

(3) In subsection (9)—

- (a) in paragraph (a), insert at the end “or”, and
- (b) omit paragraph (c) (and the “or” before it).

(4) After subsection (9) insert—

“(9A) Where—

- (a) a capital payment is an initial payment under a long-funding lease, and

Status: Point in time view as at 21/07/2009.

Changes to legislation: Finance Act 2009, SCHEDULE 32 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) under section 61 of the Capital Allowances Act (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 the Capital Allowances Act.”
- 10 (1) Section 809ZB of ITA 2007 (plant and machinery leases: capital receipts to be treated as income: interpretation) is amended as follows.
- (2) In subsection (6), for “subsection (9)” substitute “ subsections (9) and (9A) ”.
- (3) In subsection (9)—
- (a) in paragraph (a), insert at the end “or”, and
- (b) omit paragraph (c) (and the “or” before it).
- (4) After subsection (9) insert—
- “(9A) Where—
- (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.”
- 11 (1) The amendments made by paragraphs 9 and 10 have effect in relation to payments made under leases whose inception is on or after 13 November 2008 (subject to subparagraph (2)).
- (2) In relation to payments made under leases whose inception is before 22 April 2009, section 785C(9A) of ICTA and section 809ZB(9A) of ITA 2007 (inserted by this Schedule) have effect as if, for the words following paragraph (b), there were substituted “ the capital payment is not “relevant” ”.

Transfer and long funding leaseback: restrictions on lessee's allowances

- 12 In section 51A(10) of CAA 2001 (annual investment allowances), insert at the appropriate place— “ section 70DA(2) (transfer and long funding leaseback: no annual investment allowance for lessee), ”.
- 13 In section 52(5) of CAA 2001 (first-year allowances), insert at the appropriate place — “ section 70DA(2) (transfer and long funding leaseback: no first-year allowance for lessee), ”.
- 14 In section 57(3) of CAA 2001 (available qualifying expenditure), insert at the appropriate place— “ section 70DA (transfer and long funding leaseback); ”.
- 15 In CAA 2001, after section 70D insert—

Status: Point in time view as at 21/07/2009.

Changes to legislation: Finance Act 2009, SCHEDULE 32 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“70DA Transfer and long funding leaseback: restrictions on lessee's allowances

- (1) This section applies where—
 - (a) a person (“S”) transfers plant or machinery to another person (“B”),
 - (b) at any time after the date of the transfer, the plant or machinery is available to be used by S, or a person (other than B) who is connected with S (“CS”), under a plant or machinery lease, and
 - (c) that lease is a long funding lease.
- (2) No annual investment allowance or first-year allowance is to be made in respect of the expenditure of S or CS under the lease.
- (3) The amount, if any, by which E exceeds D is to be left out of account in determining the available qualifying expenditure of S or CS.
- (4) E is the capital expenditure of S or CS on the provision of the plant or machinery under the long funding lease.
- (5) If S is required to bring a disposal value into account under this Part because of the transfer referred to in subsection (1)(a), D is that disposal value.
- (6) Otherwise, D is whichever of the following is the smallest—
 - (a) the market value of the plant or machinery;
 - (b) if S incurred capital expenditure on the provision of the plant or machinery before the transfer referred to in subsection (1)(a), the amount of that expenditure;
 - (c) if a person connected with S incurred capital expenditure on the provision of the plant or machinery before that transfer, the amount of that expenditure.
- (7) Section 70Y(3) applies to references in this section to a transfer of plant or machinery by a person.
- (8) For the purposes of this section a transfer involving the grant of a lease takes place on the commencement of the term of the lease.”

16 In section 70H of CAA 2001 (lessee: requirement for tax return treating lease as long funding lease), after subsection (1B) insert—

“(1C) In a case in which paragraphs (a) and (b) of subsection (1) of section 70DA (leaseback of plant or machinery) are satisfied, subsection (1) of this section does not apply to the lease referred to in section 70DA(1)(b).”

17 The amendments made by paragraphs 12 to 16 have effect in relation to cases where the commencement of the term of the lease referred to in subsection (1)(b) of section 70DA of CAA 2001 is on or after 13 November 2008.

Transfer followed by hire-purchase etc: restrictions on hirer's allowances

18 In section 51A(10) of CAA 2001 (annual investment allowances), after “218A” insert “, 229A(2) ”.

19 In section 52(5) of CAA 2001 (first-year allowances), after “217” insert “, 229A(2) ”.

Status: Point in time view as at 21/07/2009.

Changes to legislation: Finance Act 2009, SCHEDULE 32 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

20 In section 57(3) of CAA 2001 (available qualifying expenditure), after “228(2)” insert “, 229A ”.

21 In CAA 2001, after section 229 insert—

“229A Transfer followed by hire-purchase etc: restrictions on hirer's allowances

- (1) This section applies where—
- (a) a person (“S”) transfers plant or machinery to another person (“B”),
 - (b) at any time after the date of the transfer, the plant or machinery is available to be used by S, or a person (other than B) who is connected with S (“CS”),
 - (c) it is available to be so used under a contract which provides that S or CS is to or may become the owner of the plant or machinery on the performance of the contract, and
 - (d) S or CS incurs capital expenditure on the provision of the plant or machinery under that contract.
- (2) No annual investment allowance or first-year allowance is to be made in respect of the expenditure of S or CS under the contract.
- (3) The amount, if any, by which E exceeds D is to be left out of account in determining the available qualifying expenditure of S or CS.
- (4) E is the capital expenditure of S or CS on the provision of the plant or machinery under the contract referred to in subsection (1)(c).
- (5) If S is required to bring a disposal value into account under this Part because of the transfer referred to in subsection (1)(a), D is that disposal value.
- (6) Otherwise, D is whichever of the following is the smallest—
- (a) the market value of the plant or machinery;
 - (b) if S incurred capital expenditure on the provision of the plant or machinery before the transfer referred to in subsection (1)(a), the amount of that expenditure;
 - (c) if a person connected with S incurred capital expenditure on the provision of the plant or machinery before that transfer, the amount of that expenditure.
- (7) Sections 214 and 215 do not apply in relation to the contract referred to in subsection (1)(c).
- (8) Section 70Y(3) applies to references in this section to a transfer of plant or machinery by a person.
- (9) For the purposes of this section a transfer involving the grant of a lease takes place on the commencement of the term of the lease.”

22 The amendments made by paragraphs 18 to 21 have effect in relation to cases where the contract referred to in subsection (1)(c) of section 229A of CAA 2001 is entered into on or after 13 November 2008.

Status: Point in time view as at 21/07/2009.

Changes to legislation: Finance Act 2009, SCHEDULE 32 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Finance leaseback

- 23 In section 216(1)(b)(i) of CAA 2001 (sale and leaseback etc), after “S” insert “ or by a person (other than B) who is connected with S ”.
- 24 In section 221(1)(b)(i) of CAA 2001 (meaning of “sale and finance leaseback”), for “a qualifying activity carried on by S” substitute “ an activity carried on by S or by a person (other than B) who is connected with S, ”.
- 25 The amendment made by paragraph 23 has effect—
- (a) where the date of the transaction referred to in section 216(1)(a) of CAA 2001 is on or after 22 April 2009, and
 - (b) for the purposes of section 227 of that Act (which applies section 216(1)(b) of that Act), where the date of the transaction referred to in section 227(1)(a) is on or after 22 April 2009.
- 26 The amendment made by paragraph 24 has effect—
- (a) where the date of the transaction referred to in section 221(1)(a) of CAA 2001 is on or after 22 April 2009, and
 - (b) for the purposes of section 228A of that Act (which applies section 221(1)(b) of that Act), where the date of the transaction referred to in section 228A(2)(a) is on or after 22 April 2009.

Interpretation

- 27 In this Schedule “commencement” and “inception” have the meaning given in section 70YI(1) of CAA 2001.

Status:

Point in time view as at 21/07/2009.

Changes to legislation:

Finance Act 2009, SCHEDULE 32 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.