



Corporation Tax Act 2010

2010 CHAPTER 4

PART 20

TAX AVOIDANCE INVOLVING LEASING PLANT OR MACHINERY

CHAPTER 1

RESTRICTIONS ON USE OF LOSSES IN LEASING PARTNERSHIPS

887 When restrictions on leasing partnership losses under this Chapter apply

- (1) The restrictions in section 888 (restrictions on leasing partnership losses) apply if—
 - (a) a company carries on a business in respect of which the company is within the charge to corporation tax,
 - (b) the company carries on the business in partnership with other persons in an accounting period of the partnership,
 - (c) the business (“the leasing business”) is, on any day in that period, a business of leasing plant or machinery,
 - (d) the company incurs a loss in its notional business in any accounting period of the company comprised (wholly or partly) in the accounting period of the partnership, and
 - (e) the interest of the company in the leasing business during the accounting period of the partnership is not determined on an allowable basis (see subsections (2) to (4)).
- (2) The interest of the company in the leasing business during the accounting period of the partnership is determined on an allowable basis if (and only if) the condition in subsection (3) is met.
- (3) The condition is that for the purposes of sections 1262 to 1264 of CTA 2009 (allocation of firm's profits between partners)—
 - (a) the company's share in the profits or loss of the leasing business for that period is determined wholly by reference to a single percentage, and

Status: Point in time view as at 16/11/2017.

Changes to legislation: Corporation Tax Act 2010, Chapter 1 is up to date with all changes known to be in force on or before 15 July 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) the company's share in any relevant capital allowances for that period is determined wholly by reference to the same percentage.
- (4) For the purposes of subsection (3) “profits” does not include chargeable gains.
- (5) In this section “business of leasing plant or machinery” has the same meaning as in Chapter 4 of Part 9 (sales of lessors: leasing business carried on by a company in partnership) (see sections 410 to 414).
- (6) For the meaning of other expressions used in this section or section 888, see section 889.

888 Restrictions on leasing partnership losses

- (1) The restrictions in subsections (2) to (4) apply in respect of so much of the loss incurred by the company in its notional business as derives from any relevant capital allowances (“the restricted part of the loss”).
- (2) Relief is not to be given to the company under any relevant loss relief provision in respect of the restricted part of the loss, except by way of set off against any relevant leasing income.
- (3) If the leasing business is a trade, relief is not to be given to the company under section 37 [^{F1}or 45A] (relief for trade losses against total profits) in respect of the restricted part of the loss.
- (4) The restricted part of the loss is not available for set off [^{F2}—
 - (a) by way of group relief in accordance with Chapter 2 of Part 5 (surrender of company's losses etc for an accounting period)[^{F3}, or
 - (b) by way of group relief for carried-forward losses in accordance with Chapter 2 of Part 5A (surrender of company's carried-forward losses etc.)]
- (5) For the purpose of determining how much of a loss derives from any relevant capital allowances, the loss is to be calculated on the basis that any relevant capital allowances are the final amounts to be deducted.
- (6) In this section—
 - “the leasing business” has the same meaning as in section 887,
 - “relevant leasing income” means any income of the company's notional business deriving from any lease which—
 - (a) is a lease of plant or machinery, and
 - (b) was entered into before the end of the accounting period of the company in which the loss in the notional business was incurred, and
 - “relevant loss relief provision” means—
 - (a) section 45 (carry forward of [^{F4}pre-1 April 2017] trade loss against subsequent trade profits),
 - (b) [^{F5}section 45B (carry forward of post-1 April 2017 trade loss against subsequent trade profits),]
 - (c) section 62 (relief for losses made in UK property business),
 - (d) section 63 (company with investment business ceasing to carry on UK property business),
 - (e) section 66 (relief for losses made in overseas property business), and
 - (f) section 91 (relief for losses from miscellaneous transactions).

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Textual Amendments

- F1** Words in s. 888(3) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 4 para. 173(2)**
- F2** Word in s. 888(4) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 4 para. 173(3)(a)**
- F3** S. 888(4)(b) and word inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 4 para. 173(3)(b)**
- F4** Words in s. 888(6) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 4 para. 173(4)(a)**
- F5** Words in s. 888(6) inserted (with effect in accordance with Sch. 4 para. 190 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 4 para. 173(4)(b)**

889 Interpretation of Chapter

(1) In this Chapter—

“lease” includes an underlease, sublease, tenancy or licence and an agreement for any of those things,

“notional business”, in relation to a company, means the business the profits or losses of which are determined, in relation to the company, under section 1259 of CTA 2009 (calculation of firm's profits and losses),

“plant or machinery” has the same meaning as in Part 2 of CAA 2001, and

“relevant capital allowance” means an allowance under that Part in respect of expenditure incurred on the provision of plant or machinery wholly or partly for the purposes of the leasing business.

(2) In this section “the leasing business” has the same meaning as in section 887.

Status:

Point in time view as at 16/11/2017.

Changes to legislation:

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