

## SCHEDULES

### SCHEDULE 12

#### PILLAR TWO

#### PART 2

#### MULTINATIONAL TOP-UP TAX

##### *Substance based income exclusion: leases*

- 25 (1) In section 195 (calculation of substance based income exclusion), after subsection (7) insert—

“(7A) Section 197A sets out the treatment of operating leases.”

- (2) After section 197 insert—

##### “197A Operating leases

- (1) Subsection (2) applies where—
- (a) a member of a multinational group holds property located in the same territory as the member in an accounting period,
  - (b) that property is held for lease by the member, and
  - (c) the lease is accounted for in the underlying profits accounts of the member as an operating lease for that period.
- (2) The operating lease is to be regarded as an eligible tangible asset of the member for that period (despite the exclusion in section 197(7)(a)).
- (3) But where the property is not a short-term rental asset for that period, any carrying value of the operating lease recorded at the start or the end of the period is to be reduced by the right-of-use amount for the property at that time for the purposes of carrying out the calculation in section 197(1).
- (4) In a case where the lessee is a member of the same multinational group as the lessor, the right-of-use amount in relation to the property at the start or the end of the period is the carrying value of the lessee’s right-of-use asset in relation to the property recorded at that time.
- (5) Where the lessee is not a member of the same multinational group as the lessor, the right-of-use amount in relation to the property at the start or end of the period is the undiscounted value of any outstanding payments under the lease at that time.
- (6) In determining the value of those outstanding payments—

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*Status: This is the original version (as it was originally enacted).*

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- (a) apply the accounting standard used in determining the underlying profits of the member,
  - (b) include the value of any outstanding payments that would be due under any extension to the lease that would fall to be accounted for in accordance with that standard.
- (7) For the purposes of this section, property held for lease is a short-term rental asset in an accounting period if—
- (a) the property was leased regularly during that period to different lessees, and
  - (b) the average length of the periods for which it was leased does not exceed 30 days.”