



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART II

[^{F1}PROVISIONS RELATING TO THE SCHEDULE A CHARGE]

Premiums, leases at undervalue etc

35 [^{F1}Charge] on assignment of lease granted at an undervalue.

- (1) ^{M1}This section applies to any lease of a duration not exceeding 50 years where the terms subject to which it was granted are such that the grantor, having regard to values prevailing at the time it was granted and on the assumption that the negotiations for the lease were at arm's length, could have required the payment of an additional sum by way of premium, or additional premium, for the grant of the lease; and in this section any such additional sum is referred to as the "amount foregone".
- (2) On any assignment of a lease to which this section applies for a consideration—
- where the lease has not previously been assigned, exceeding the premium, if any, for which it was granted, or
 - where the lease has been previously assigned, exceeding the consideration for which it was last assigned,

the amount of the excess, in so far as it is not greater than the amount foregone reduced by the amount of any such excess arising on a previous assignment of the lease, shall in the same proportion as the amount foregone would, under section 34(1), have fallen to be treated as rent if it had been a premium under the lease, be [^{F2}deemed to have been received as income by the assignor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A.]

[^{F3}(2A) An amount deemed under this section to have been received as income by the assignor—

- is treated as received when the consideration mentioned in subsection (2) becomes payable, and

Status: Point in time view as at 28/09/2004. This version of this provision has been superseded.

Changes to legislation: Income and Corporation Taxes Act 1988, Section 35 is up to date with all changes known to be in force on or before 07 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) shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.]
- (3) ^{M2}If there is submitted to the inspector, by the grantor or any assignor or assignee of the lease, a statement showing whether or not a charge to tax arises or may arise under this section and, if so, the amount on which the charge arises or may arise, then, if the inspector is satisfied as to the accuracy of the statement, he shall certify the accuracy thereof.

Textual Amendments

- F1** S. 35: word in sidenote substituted (with effect as mentioned in s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), s. 38(1), **Sch. 5 para. 16(2)** (with Sch. 5 para. 73)
- F2** Words in s. 35(2) substituted (with effect as mentioned in s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), s. 38(1), **Sch. 5 para. 16(3)**, (with Sch. 5 para. 73)
- F3** S. 35(2A) inserted (with effect as mentioned in s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), s. 38(1), **Sch. 5 para. 16(4)**, (with Sch. 5 para. 73)

Modifications etc. (not altering text)

- C1** See 1979(C) s.106and Sch.3 para.6(2)—1979(C) s.31 (*exclusion from capital gains computation of sums charged to income tax or corporation tax*)not to apply to amounts on which tax paid under s.35.
- C2** S. 35 excluded (19.9.1994) by Coal Industry Act 1994 (c. 21), ss. 21, 68(4), **Sch. 4 para. 15(1)** (with s. 40(7)); S.I. 1994/2189, **art. 2**, Sch.
 S. 35 excluded (8.11.1995) by Atomic Energy Authority Act 1995 (c. 37), s. 8, **Sch. 3 para. 9(1)**
 S. 35 excluded (24.7.1996) by Broadcasting Act 1996 (c. 55), ss. 135, 149(1)(f), **Sch. 7 para. 21(1)**
- C3** S. 35(2) modified (with effect in accordance with s. 39(4)(5) of the modifying Act) by Finance Act 1995 (c. 4), s. 39(3), **Sch. 6 para. 10**

Marginal Citations

- M1** SOURCE-1970 s. 81(1)
M2 SOURCE-1970 s. 81(2)

Status:

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