



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER VI

MISCELLANEOUS

Other provisions

VALID FROM 21/07/2008

[^{F1}785C Section 785B: interpretation

- (1) The expressions used in section 785B and this section are to be interpreted as follows.
- (2) “Capital payment” means any payment except one which, if made to the lessor—
 - (a) would fall to be included in a calculation of the lessor's income for corporation tax purposes, or
 - (b) would fall to be included in such a calculation but for section 502B (rental earnings under long funding finance lease).
- (3) “Lease” includes—
 - (a) a licence, and
 - (b) the letting of a ship or aircraft on charter or the letting of any other asset on hire,and “lessor” and “lessee” are to be read accordingly.
- (4) “Lease of plant or machinery” includes a lease of plant or machinery and other property but does not include—

Status: Point in time view as at 15/02/1999. This version of this provision is not valid for this point in time.

Changes to legislation: *Income and Corporation Taxes Act 1988, Section 785C is up to date with all changes known to be in force on or before 12 September 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)*

- (a) a lease where the income attributable to the lease received by the lessor (if any) would be chargeable to tax under Schedule A, or
 - (b) a lease of plant or machinery where the lessor has incurred what would (but for section 34A of the Capital Allowances Act) be qualifying expenditure (within the meaning of Part 2 of that Act) on the plant or machinery.
- (5) “Relevant arrangement” means any agreement or arrangement relating to a lease of plant or machinery, including one made before the lease is entered into or after it has ended (and, accordingly, “lessor” and lessee” include prospective and former lessors and lessees).
- (6) A capital payment, in relation to a lease or relevant arrangement, is “relevant” if condition A or B is met (but this is subject to subsection (9)).
- (7) Condition A is that the capital payment is payable (or paid), directly or indirectly, by (or on behalf of) the lessee to (or on behalf of) the lessor in connection with—
- (a) the grant, assignment, novation or termination of the lease, or
 - (b) any provision of the lease or relevant arrangement (including the variation or waiver of any such provision).
- (8) Condition B is that rentals payable under the lease are less than (or payable later than) they might reasonably be expected to be if there were no obligation to make the capital payment (and the capital payment were not made).
- (9) A capital payment is not “relevant” if or to the extent that—
- (a) the capital payment reduces (or would but for section 536 of the Capital Allowances Act reduce) the amount of expenditure incurred by the lessor for the purposes of the Capital Allowances Act in respect of the plant or machinery in question,
 - (b) the capital payment is compensation for loss resulting from damage to, or damage caused by, the plant or machinery in question, or
 - (c) the capital payment would fall (or falls) to be brought into account by the lessor as a disposal receipt within the meaning of Part 2 of the Capital Allowances Act (see section 60(1) of that Act).
- (10) References to payment include the provision of value by any means other than the making of a payment, and accordingly—
- (a) references to the making of a payment include the passing of value (by any other means), and
 - (b) references to the amount of the payment include the value passed.]

Textual Amendments

- F1** Ss. 785B-785E inserted (with effect in accordance with [Sch. 20 para. 1\(2\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 20 para. 1\(1\)](#) (with transitional modifications in [Sch. 20 para. 1\(3\)](#))

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