

Status: Point in time view as at 08/07/2008.

Changes to legislation: Taxation of Chargeable Gains Act 1992, Cross Heading: Premiums for leases 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 8

LEASES

Modifications etc. (not altering text)

- C1** Sch. 8 modified (with effect in accordance with s. 39(4)(a)(5) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 39\(3\), Sch. 6 para. 37](#)

Premiums for leases

- 2 (1) Subject to this Schedule where the payment of a premium is required under a lease of land, or otherwise under the terms subject to which a lease of land is granted, there is a part disposal of the freehold or other asset out of which the lease is granted.
- (2) In applying section 42 to such a part disposal, the property which remains undisposed of includes a right to any rent or other payments, other than a premium, payable under the lease, and that right shall be valued as at the time of the part disposal.
- 3 (1) This paragraph applies in relation to a lease of land.
- (2) Where under the terms subject to which a lease is granted, a sum becomes payable by the tenant in lieu of the whole or part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum^[F1], being a premium which—
- (a) is due when the sum is payable by the tenant; and
 - (b) where the sum is payable in lieu of rent, is in respect of the period in relation to which the sum is payable.]
- (3) Where, as consideration for the variation or waiver of any of the terms of a lease, a sum becomes payable by the tenant otherwise than by way of rent, the lease shall be deemed for the purposes of this Schedule to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum^[F2], being a premium which—
- (a) is due when the sum is payable by the tenant; and
 - (b) is in respect of the period from the time when the variation or waiver takes effect to the time when it ceases to have effect.]
- ^[F3](4) Where under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, that shall not be the occasion of any recomputation of the gain accruing on the receipt of any other premium, and the premium shall be regarded—
- (a) in the case of a premium deemed to have been received for the surrender of a lease, as consideration for a separate transaction which is effected when the

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- premium is deemed to be due and consists of the disposal by the landlord of his interest in the lease; and
- (b) in any other case, as consideration for a separate transaction which is effected when the premium is deemed to be due and consists of a further part disposal of the freehold or other asset out of which the lease is granted.
- (5) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, and the landlord is a tenant under a lease the duration of which does not exceed 50 years, this Schedule shall apply—
- (a) as if an amount equal to the amount of that premium deemed to have been received had been given by way of consideration for the grant of the part of the sublease covered by the period in respect of which the premium is deemed to have been paid; and
- (b) as if that consideration were expenditure incurred by the sublessee and attributable to that part of the sublease under section 38(1)(b).]
- (7) Sub-paragraph (3) above shall apply in relation to a transaction not at arm's length, and in particular in relation to a transaction entered into gratuitously, as if such sum had become payable by the tenant otherwise than by way of rent as might have been required of him if the transaction had been at arm's length.

Textual Amendments

- F1** Words in Sch. 8 para. 3(2) substituted (with effect in accordance with s. 142(5) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 142\(2\)](#)
- F2** Words in Sch. 8 para. 3(3) substituted (with effect in accordance with s. 142(5) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 142\(3\)](#)
- F3** Sch. 8 para. 3(4)(5) substituted for Sch. 8 para. 3(4)-(6) (with effect in accordance with s. 142(5) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 142\(4\)](#)

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