

Status: Point in time view as at 08/05/2012.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1997, SCHEDULE 12. (See end of Document for details)

SCHEDULES

SCHEDULE 12

Section 82.

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

PART I

LEASING ARRANGEMENTS WHERE ANY OF THE RETURN ON INVESTMENT IS IN CAPITAL FORM

Purpose of this Part of this Schedule

F1F2₁

Textual Amendments

- F1** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F2** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Application of this Part of this Schedule

F1F2₂

Textual Amendments

- F1** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F2** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

The conditions

F1F2₃

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Textual Amendments

- F1** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F2** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

The arrangements and circumstances in paragraph 3(5)

FIF²₄

Textual Amendments

- F1** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F2** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Current lessor to be taxed by reference to accountancy rental earnings

FIF²₅

Textual Amendments

- F1** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F2** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Reduction of taxable rent by certain excesses

FIF²₆

Textual Amendments

- F1** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F2** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

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Assignments on which neither a gain nor a loss accrues

F1F27

Textual Amendments

- F1** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F2** Sch. 12 paras. 1-7 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Relief for bad debts etc: corporation tax under Schedule A

- [^{F3}8] (1) Section 41 of the Taxes Act 1988 (which gives a person relief from corporation tax under Schedule A for rent etc not paid, by treating him as if he had never been entitled to the rent) shall be disregarded in determining for the purposes of this Part of this Schedule the amount of—
- (a) the accountancy rental earnings in respect of the lease, or
 - (b) the normal rent from the lease,
- for any period of account.
- (2) Where for any period of account—
- (a) a person is treated under paragraph 5 above as if he had been entitled to receive an amount of rent, and
 - (b) the amount is in respect of rents on the profits or gains arising from which that person is chargeable to corporation tax under Schedule A,
- section 41 of the Taxes Act 1988 shall not have effect in relation to amounts in respect of rents from the lease of the asset for that or any subsequent period of account of his, or of any person to whom the lessor's interest under the lease is assigned, until the lease terminates or is assigned in circumstances such that paragraph 7 above does not apply.
- (3) Where, by virtue of sub-paragraph (2) above, section 41 of the Taxes Act 1988 does not apply, sub-paragraph (4) below shall apply instead.
- (4) In computing the profits or gains on which a person is chargeable to corporation tax under Schedule A in a case falling within sub-paragraph (2) above, any sums falling within sub-paragraph (i), (ii) or (iii) of section 74(1)(j) of the Taxes Act 1988 in respect of amounts in respect of rents from the lease of the asset shall be deductible in a period of account as an expense to the extent that they would be deductible in that period of account if—
- (a) amounts in respect of rents from the lease of the asset fell to be taken into account as trading receipts in computing the [^{F4}profits] of a trade carried on by the person;
 - (b) the asset were leased in the course of that trade; and
 - (c) the charge to corporation tax under Schedule A were in respect of such annual profits or gains as are described in that Schedule arising from a trade.

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- (5) Any such expense as is mentioned in sub-paragraph (4) above shall be treated for the purposes of section 25 of the Taxes Act 1988 (deductions from rent for the purposes of corporation tax under Schedule A) as if that expense—
- (a) were included among the permitted deductions, within the meaning of that section;
 - (b) were a payment made in respect of the premises comprised in the lease; and
 - (c) were a payment which became due, and was made, immediately before the end of the period of account mentioned in sub-paragraph (4) above.
- (6) Where—
- (a) a deduction has been made by virtue of sub-paragraph (4) above in respect of an amount, but
 - (b) subsequently an amount (“the relevant credit”) is recovered or credited in respect of the amount in respect of which the deduction was made, and
 - (c) the relevant credit would, on the suppositions in paragraphs (a) to (c) of sub-paragraph (4) above, be brought into account for tax purposes as a trading receipt for a period of account of the current lessor,
- the taxable rent for that period of account shall be increased by the amount of the relevant credit.
- (7) In sub-paragraph (6) above, “the taxable rent”, in the case of a period of account of the current lessor, means the amount which would, apart from that sub-paragraph, be treated for tax purposes as rent from the lease—
- (a) which arises to him, and
 - (b) if rent arising to him from the lease is chargeable to corporation tax under Schedule A, to which he is entitled,
- in that period of account for the purpose of determining his liability to tax for the related chargeable period or periods.
- (8) After the time when the conditions in paragraph 3 above become satisfied as respects any particular lessor, no claim under section 41 of the Taxes Act 1988 shall be made in respect of any amount which that lessor was entitled to receive in respect of rents from the lease of the asset.
- (9) Where—
- (a) before the time at which the conditions in paragraph 3 above become satisfied as respects any particular lessor, a claim under section 41 of the Taxes Act 1988 in respect of an amount which he was entitled to receive in respect of any rents from the lease of the asset has been made, and
 - (b) the claim is to any extent allowed,
- no amount shall be deductible under sub-paragraph (4) above in respect of that amount so far as so allowed.]

Textual Amendments

- F3** Sch. 12 para. 8 repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(4)** note
- F4** Words in Sch. 12 para. 8(4)(a) substituted (31.7.1998) by 1998 c. 36, s. 46(3)(a), **Sch. 7 para. 12**

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Modifications etc. (not altering text)

- C1** Sch. 12 para. 8(1)-(7) excluded (31.7.1998 in relation to periods of account beginning on or after 1.4.1998) by 1998 c. 36, s. 38(1), **Sch. 5 para. 74(1)(2)**
- C2** Sch. 12 para. 8(8) excluded (31.7.1998) by 1998 c. 36, s. 38(1), **Sch. 5 para. 74(1)(2)**
- C3** Sch. 12 para. 8(9) excluded (31.7.1998) by 1998 c. 36, s. 38(1) **Sch. 5 para. 74(1)(2)**

Relief for bad debts etc: cumulative accountancy rental excess

F5F6⁹

Textual Amendments

- F5** Sch. 12 paras. 9-11 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Relief for bad debts etc: cumulative normal rental excess

F5F6¹⁰

Textual Amendments

- F5** Sch. 12 paras. 9-11 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Capital allowances

F5F6¹¹

Textual Amendments

- F5** Sch. 12 paras. 9-11 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Chargeable gains

F6¹²

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Textual Amendments

- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Existing schemes where this Part does not at first apply

F7F613

Textual Amendments

- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)
- F7** Sch. 12 para. 13 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)

New schemes where this Part begins to apply after Part II has applied

F8F614

Textual Amendments

- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)
- F8** Sch. 12 para. 14 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 296(2), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)

PART II

OTHER FINANCE LEASES

Purpose of this Part of this Schedule

F9F615

Textual Amendments

- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)
- F9** Sch. 12 paras. 15-17 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 296(3), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)

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Application of this Part of this Schedule

F9F6 16

Textual Amendments

- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 232\(3\), Sch. 10 Pt. 8](#) (with Sch. 9 paras. 1-9, 22)
- F9** Sch. 12 paras. 15-17 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 296\(3\), Sch. 3 Pt. 2](#) (with Sch. 1 para. 296(5), Sch. 2)

Application of provisions of Part I for purposes of Part II

F9F6 17

Textual Amendments

- F6** Sch. 12 paras. 9-17 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 232\(3\), Sch. 10 Pt. 8](#) (with Sch. 9 paras. 1-9, 22)
- F9** Sch. 12 paras. 15-17 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 296\(3\), Sch. 3 Pt. 2](#) (with Sch. 1 para. 296(5), Sch. 2)

PART III

INSURANCE COMPANIES

Accounting purposes

F10 18

Textual Amendments

- F10** Sch. 12 para. 18 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 16\(6\), Sch. 27 Pt. 2\(10\)](#)

Companies carrying on life assurance business

- 19 F11(1)
- F11(2)
- F11(3)
- F12(4)

[^{F13}(5) In this paragraph “life assurance business” has the same meaning as in Chapter I of Part XII of the Taxes Act 1988.]

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Textual Amendments

- F11** Sch. 12 para. 19(1)–(3) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by Finance Act 2007 (c. 11), Sch. 10 para. 4(4)(c), **Sch. 27 Pt. 2(10)**
- F12** Sch. 12 para. 19(4) omitted (with effect in accordance with Sch. 17 para. 17(12) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 17 para. 17(11)(d)**
- F13** Sch. 12 para. 19(5) added (23.3.1999) by S.I. 1999/498, **reg. 16(2)**

PART IV

SUPPLEMENTARY PROVISIONS

Normal rent

F14F1520

Textual Amendments

- F14** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F15** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Accountancy rental earnings

F14F1521

Textual Amendments

- F14** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
- F15** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Rental earnings

F14F1522

Textual Amendments

- F14** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)

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Periods of account which straddle 26th November 1996

F14F1523

Textual Amendments

F14 Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)

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Time apportionment where periods do not coincide

F14F1524

Textual Amendments

F14 Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)

F15 Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 232(3), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

Connected persons

F14F1525

Textual Amendments

F14 Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)

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Assets which represent the leased asset

F14F1526

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Textual Amendments

- F14** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
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Existing schemes and new schemes

F14F1527

Textual Amendments

- F14** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
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Accounting purposes and normal accountancy practice

F14F1528

Textual Amendments

- F14** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
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Assessments and adjustments

F14F1529

Textual Amendments

- F14** Sch. 12 paras. 20-30 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 296(4), **Sch. 3 Pt. 2** (with Sch. 1 para. 296(5), Sch. 2)
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Interpretation

F14F15 30

Textual Amendments

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Changes to legislation:

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