



Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 9

MISCELLANEOUS PROVISIONS

Sale of lessors

83 Restrictions on use of losses etc: leasing partnerships

- (1) In section 403 of ICTA (amounts which may be surrendered by way of group relief), in subsection (4) (section 403 subject to certain exceptions), at the end insert “and section 785ZA (restrictions on use of losses: leasing partnerships)”.
- (2) After section 785 of ICTA (meaning of expressions for purposes of sections 781 to 784 (assets leased to traders and others)) insert—

“785ZA Restrictions on use of losses: leasing partnerships

- (1) This section applies for corporation tax purposes if—
 - (a) a company carries on a business in respect of which the company is within the charge to corporation tax,
 - (b) the company carries on the business in partnership with other persons in an accounting period of the partnership,
 - (c) the business (“the leasing business”) is, on any day in that period, a business of leasing plant or machinery,

Status: This is the original version (as it was originally enacted).

- (d) the company incurs a loss in its notional business in any accounting period comprised (wholly or partly) in the accounting period of the partnership, and
 - (e) the interest of the company in the leasing business during the accounting period of the partnership is not determined on an allowable basis (see subsections (2) to (4)).
- (2) The interest of the company in the leasing business during the accounting period of the partnership is determined on an allowable basis if (and only if) the following condition is met.
- (3) The condition is met if, for the purposes of section 114(2),—
- (a) the company’s share in the profits or loss of the leasing business for that period is determined wholly by reference to a single percentage, and
 - (b) the company’s share in any relevant capital allowances for that period is determined wholly by reference to the same percentage.
- (4) For the purposes of this condition “profits” does not include chargeable gains.
- (5) The following restrictions apply in respect of so much of the loss incurred by the company in its notional business as derives from any relevant capital allowances (“the restricted part of the loss”).
- (6) Apart from by way of set off against any relevant leasing income, relief is not to be given to the company under any relevant loss relief provision in respect of the restricted part of the loss.
- (7) If the leasing business is a trade, relief is not to be given to the company under section 393A(1) in respect of the restricted part of the loss.
- (8) The restricted part of the loss is not available for set off by way of group relief in accordance with section 403.
- (9) For the purpose of determining how much of a loss derives from any relevant capital allowances, the loss is to be calculated on the basis that any relevant capital allowances are the final amounts to be deducted.

785ZB Section 785ZA: definitions

- (1) This section applies for the purposes of section 785ZA.
- (2) “Business of leasing plant or machinery” has the same meaning as in Part 3 of Schedule 10 to the Finance Act 2006 (sale etc of lessor companies etc).
- (3) “Lease” has the same meaning as in section 785A.
- (4) “Notional business”, in relation to a company, means the business—
 - (a) from which the company’s share in the profits or loss of the leasing business is treated under section 114(2) as deriving for the purposes of the charge to corporation tax, and
 - (b) which is treated under that provision as carried on alone by the company for those purposes.
- (5) “Plant or machinery” has the same meaning as in Part 2 of the Capital Allowances Act.

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

- (6) “Relevant capital allowance” means an allowance under Part 2 of the Capital Allowances Act in respect of expenditure incurred on the provision of plant or machinery wholly or partly for the purposes of the leasing business.
 - (7) “Relevant leasing income” means any income of the company’s notional business deriving from any lease—
 - (a) which is a lease of plant or machinery, and
 - (b) which was entered into before the end of the accounting period of the company in which the loss in its notional business was incurred.
 - (8) “Relevant loss relief provision” means any of the following provisions—
 - (a) section 392A (Schedule A losses),
 - (b) section 392B (losses from overseas property businesses),
 - (c) section 393 (trade losses),
 - (d) section 396 (Case VI losses).”.
- (3) After section 261 of CAA 2001 (special leasing: life assurance business) insert—

“261A Special leasing: leasing partnerships

- (1) This section applies for corporation tax purposes if—
 - (a) a company carries on a business in partnership with other persons in a chargeable period of the partnership,
 - (b) the business (“the leasing business”) is, on any day in that period, a business of leasing plant or machinery,
 - (c) the company is entitled to an allowance under section 19 (special leasing of plant or machinery) for any chargeable period comprised (wholly or partly) in the chargeable period of the partnership, and
 - (d) the interest of the company in the leasing business during the chargeable period of the partnership is not determined on an allowable basis.
- (2) Subsections (3) to (6) of section 260 do not apply in relation to the allowance.
- (3) For the purposes of this section—
 - (a) “business of leasing plant or machinery” has the same meaning as in Part 3 of Schedule 10 to FA 2006 (sale etc of lessor companies etc), and
 - (b) section 785ZA of ICTA applies for determining whether the interest of the company in the leasing business during the chargeable period of the partnership is determined on an allowable basis.”.
- (4) The amendments made by this section have effect in relation to any business carried on by a company in partnership in any accounting period of the partnership ending on or after 5th December 2005.
- (5) But, in relation to any accounting period of the partnership beginning before 5th December 2005 and ending on or after that date, those amendments have effect only if—
 - (a) the company starts to carry on the business in partnership on or after that date,or

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

- (b) a relevant change in the interest of the company in the business occurs on or after that date.
- (6) A relevant change in the interest of the company in the business occurs at any time if—
- (a) immediately before that time its interest in the business during any accounting period of the partnership is determined on an allowable basis (within the meaning given by section 785ZA of ICTA), and
 - (b) immediately after that time its interest in the business during that period is not so determined.