



Income Tax Act 2007

2007 CHAPTER 3

[^{F1}PART 11A

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS]

[^{F1}CHAPTER 4

SUPPLEMENTARY PROVISIONS

Textual Amendments

- F1** Pt. 11A Ch. 4 inserted (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. 3 para. 5](#) (with [Sch. 9 paras. 1-9, 22](#))

614D Pre-26 November 1996 schemes and post-25 November 1996 schemes

- (1) For the purposes of this Part, a lease of an asset—
- (a) forms part of a pre-26 November 1996 scheme if (and only if) the conditions in subsection (2) or (3) are met, and
 - (b) in any other case, forms part of a post-25 November 1996 scheme.
- (2) The conditions in this subsection are that—
- (a) a contract in writing for the lease of the asset was made before 26 November 1996,
 - (b) either—
 - (i) the contract was unconditional, or
 - (ii) if the contract was conditional, the conditions were met before that date, and
 - (c) no terms remain to be agreed on or after that date.
- (3) The conditions in this subsection are that—

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- (a) a contract in writing for the lease of the asset was made before 26 November 1996,
 - (b) the condition in subsection (2)(b) or (c) was not met in the case of the contract,
 - (c) either—
 - (i) the contract was unconditional, or
 - (ii) if the contract was conditional, the conditions were met before the end of the finalisation period or within such further period as the Commissioners for Her Majesty's Revenue and Customs may allow in the particular case,
 - (d) no terms remain to be agreed after the end of the finalisation period or such further period as those Commissioners may so allow, and
 - (e) the contract in its final form was not materially different from the contract as it stood when it was made before 26 November 1996.
- (4) In subsection (3) “the finalisation period” means the period which ended with the later of—
- (a) 31 January 1997, and
 - (b) the end of the period of six months beginning with the day after that on which the contract was made as mentioned in subsection (3)(a).

614DA Time apportionment where periods of account do not coincide

- (1) Subsection (2) applies if a period of account of the lessor (“L”) does not coincide with a period of account of a person connected with L.
- (2) Any amount which falls for the purposes of this Part to be found for L's period of account but by reference to the connected person is found by making such apportionments as may be necessary between two or more periods of account of the connected person.
- (3) Subsection (4) applies if a period of account of L does not coincide with a period for which consolidated group accounts of a group of companies of which L is a member fall to be prepared.
- (4) Any amount which falls for the purposes of this Part to be found for L's period of account but by reference to the consolidated group accounts is found by making such apportionments as may be necessary between two or more periods for which consolidated group accounts of the group fall to be prepared.
- (5) Any apportionment under subsection (2) or (4) must be made in proportion to the number of days in the respective periods that fall within L's period of account.

614DB Periods of account and related periods of account and tax years

- (1) In this Part “period of account” means a period for which accounts are made up.
- (2) Except for the purposes of sections 614BB to 614BE and subsection (3), in this Part “period of account” does not include a period that begins before 26 November 1996.
- (3) But this Part applies in relation to a period of account that begins before 26 November 1996 and ends on or after that date as if—
 - (a) so much of the period as falls before that date, and
 - (b) so much of the period as falls on or after that date,

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were separate periods of account.

- (4) For the purposes of this Part, a tax year is related to a period of account if the tax year consists of or includes the whole or any part of the period of account.
- (5) For the purposes of this Part a period of account is related to a tax year if the tax year is related to the period of account.

614DC Connected persons

- (1) For the purposes of this Part in its application as a result of any leasing arrangements, if a person (“A”) is connected with another (“B”) at some time during the relevant period A is treated as being connected with B throughout that period.
- (2) The relevant period is the period that—
 - (a) begins at the earliest time at which any of the arrangements were made, and
 - (b) ends when the current lessor finally ceases to have an interest in the asset or any arrangements relating to it.

Modifications etc. (not altering text)

- C1** S. 614DC applied by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 37A\(11\)](#) (as inserted (with effect in accordance with s. 381(1)) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 3 para. 7](#) (with [Sch. 9 paras. 1-9, 22](#)))

614DD Assets which represent the leased asset

- (1) For the purposes of this Part, the assets described in subsection (2) are treated as representing the leased asset.
- (2) Those assets are—
 - (a) any asset derived from the leased asset or created out of it,
 - (b) any asset from which the leased asset was derived or out of which the leased asset was created,
 - (c) any asset derived from or created out of an asset within paragraph (b), and
 - (d) any asset that derives the whole or a substantial part of its value from the leased asset or an asset that itself represents the leased asset.

614DE Parent undertakings and consolidated group accounts

- (1) This Part has effect in relation to a body corporate that—
 - (a) is a parent undertaking, but
 - (b) for accounting purposes is not required to prepare consolidated group accounts in accordance with generally accepted accounting practice, as if it were so required.
- (2) For the purposes of subsection (1) it does not matter where the body corporate is incorporated.
- (3) In subsection (1) “parent undertaking” is to be read in accordance with section 1162 of the Companies Act 2006.

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614DF Assessments and adjustments

All such assessments and adjustments must be made as are necessary to give effect to this Part.

614DG Interpretation

In this Part, unless the context otherwise requires—

“accountancy rental earnings” has the meaning given by section 614AB(1),

“accountancy rental excess” is to be read—

(a) for the purposes of Chapter 2, in accordance with section 614BH(1) to (4), and

(b) for the purposes of Chapter 3, in accordance with section 614BH(1) to (4) as it has effect as a result of section 614CD,

“asset” means any form of property or rights,

“asset representing the leased asset” is to be read in accordance with section 614DD,

“cumulative accountancy rental excess” is to be read—

(a) for the purposes of Chapter 2, in accordance with section 614BH(5), and

(b) for the purposes of Chapter 3, in accordance with section 614BH(5) as it has effect as a result of section 614CD,

“cumulative normal rental excess” is to be read—

(a) for the purposes of Chapter 2, in accordance with section 614BJ(5), and

(b) for the purposes of Chapter 3, in accordance with section 614BJ(5) as it has effect as a result of section 614CD,

“the current lessor”, in relation to a lease of an asset, means the person who is for the time being entitled to the lessor's interest under the lease,

“finance lessor” means a person who for accounting purposes is treated, in accordance with generally accepted accounting practice, as the person with—

(a) the grantor's interest in relation to a finance lease, or

(b) the lender's interest in relation to a loan,

“for accounting purposes” means for the purposes of—

(a) accounts of companies incorporated in any part of the United Kingdom, or

(b) consolidated group accounts for groups all the members of which are companies so incorporated,

“lease”—

(a) in relation to land, includes an underlease, sublease, tenancy or licence, and any agreement for a lease, underlease, sublease, tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined, and

(b) in relation to any form of property or right other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, an asset,

and “rent” is to be read accordingly,

“the leasing arrangements”, in relation to a lease of an asset, means—

(a) the lease,

(b) any arrangements relating to or connected with the lease, and

(c) any other arrangements of which the lease forms part,

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and includes a reference to any of the leasing arrangements,

“the lessee”, in relation to a lease of an asset, means (except in the expression “the lessee's interest under the lease”) the person entitled to the lessee's interest under the lease,

“the lessor”, in relation to a lease of an asset, means (except in the expression “the lessor's interest under the lease”) the person entitled to the lessor's interest under the lease,

“major lump sum” is to be read in accordance with section 614BC(5),

“normal rent” is to be read in accordance with section 614AA,

“normal rental excess” is to be read—

(a) for the purposes of Chapter 2, in accordance with section 614BJ(1) to (4), and

(b) for the purposes of Chapter 3, in accordance with section 614BJ(1) to (4) as it has effect as a result of section 614CD,

“period of account” is to be read in accordance with section 614DB(1) to (3),

“post-25 November 1996 scheme” is to be read in accordance with section 614D(1)(b),

“pre-26 November 1996 scheme” is to be read in accordance with section 614D(1)(a),

“related period of account” is to be read in accordance with section 614DB(5),

“related tax year” is to be read in accordance with section 614DB(4),

“the rental earnings”, in relation to a lease of an asset and any period, has the meaning given by section 614AC, and

“sum” includes any money or money's worth (and “pay” and related expressions are to be read accordingly).]

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