



Corporation Tax Act 2010

2010 CHAPTER 4

PART 9

LEASING PLANT OR MACHINERY

CHAPTER 3

SALES OF LESSORS: LEASING BUSINESS CARRIED ON BY A COMPANY ALONE

Introduction

382 Introduction to Chapter

- (1) This Chapter applies if there is a [^{F1}relevant change in the relationship between] a company carrying on a business of leasing plant or machinery otherwise than in partnership with other persons [^{F2}and a principal company of the company].
- (2) For the meaning of “business of leasing plant or machinery”, see sections 387 to 391.
- (3) For the meaning of [^{F3}“relevant change in the relationship between a company and a principal company of the company”, see sections 392 to 394.]
- (4) As to cases where there is a qualifying change of ownership in relation to a company carrying on a business of leasing plant or machinery in partnership with other persons, see Chapter 4.

Textual Amendments

- F1** Words in s. 382(1) substituted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by Finance Act 2010 (c. 13), [Sch. 18 para. 2\(2\)\(a\)](#)
- F2** Words in s. 382(1) inserted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by Finance Act 2010 (c. 13), [Sch. 18 para. 2\(2\)\(b\)](#)

Status: Point in time view as at 18/11/2015.

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F3 Words in s. 382(3) substituted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by Finance Act 2010 (c. 13), **Sch. 18 para. 2(3)**

Income and matching expense in different accounting periods

383 Income and matching expense in different accounting periods

- (1) This section applies if on any day (“the relevant day”)—
- (a) a company carries on a business of leasing plant or machinery otherwise than in partnership,
 - (b) the company is within the charge to corporation tax in respect of the business, and
 - (c) there is a qualifying change of ownership in relation to the company.

[^{F4}(1A) For the meaning of “qualifying change of ownership”, see sections 394A to 398A.]

- (2) On the relevant day—
- (a) the company is treated as receiving an amount of income, and
 - (b) the accounting period of the company ends.
- (3) The income—
- (a) is treated as a receipt of the business, and
 - (b) is brought into account in calculating for corporation tax purposes the profits of the business for that accounting period.
- (4) On the day following the relevant day—
- (a) the company is treated as incurring an expense, and
 - (b) a new accounting period of the company begins.
- (5) The expense—
- (a) is treated as an expense of the business, and
 - (b) is allowed as a deduction in calculating for corporation tax purposes the profits of the business for that new accounting period.
- (6) This section is supplemented by sections 384 to 386.

Textual Amendments

F4 S. 383(1A) inserted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by Finance Act 2010 (c. 13), **Sch. 18 para. 3**

384 Amount of income and expense

- (1) The amount of the income under section 383 is calculated in accordance with sections 399 to 407.
- (2) The amount of the expense under section 383 is the same as the amount of the income.

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385 [F5] **No carry back of loss against the income**

- (1) This section applies if the business carried on by the company is a trade carried on wholly or partly in the United Kingdom the profits of which are chargeable to corporation tax under Chapter 2 of Part 3 of CTA 2009 (trading income).
- [F6](2) No part of a loss may be deducted under section 37(3)(b) (relief for trade losses against total profits of earlier accounting periods) from so much of the company's total profits as derive from the income.
- (3) For the purpose of determining how much of those profits derive from the income, those profits are to be calculated on the basis that the income is the final amount to be added.]

Textual Amendments

- F5** Words in s. 385 heading substituted (with effect in accordance with s. 24(9) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 24\(2\)\(b\)](#)
- F6** S. 385(2)(3) substituted (with effect in accordance with s. 24(9) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 24\(2\)\(a\)](#)

386 **Relief for expense otherwise giving rise to carried forward loss**

- (1) This section applies if—
 - (a) there is a qualifying change of ownership in relation to a company on any day (“the relevant day”),
 - (b) on the following day the company is treated under section 383 as incurring an expense of a business and an accounting period of the company (“period 1”) begins,
 - (c) the company makes a loss in period 1 or a later accounting period,
 - (d) apart from this section some or all of that loss (“the carried forward loss”) would be carried forward to the next accounting period of the company after the accounting period in which the loss is made (“the subsequent period”),
 - (e) some or all of the carried forward loss (“the derived loss”) derives from—
 - (i) the expense under section 383, or
 - (ii) an expense treated as arising under subsection (2) and allowed as a deduction for the accounting period in which the loss is made, and
 - (f) the subsequent period starts within the period of 5 years beginning immediately after the relevant day and does not start as a result of section 383 or 425.
- (2) Instead of being so carried forward, the derived loss is to be treated for corporation tax purposes as giving rise to an expense of an amount equal to—

$$DL + \frac{DL \times D \times R}{365}$$

where—

DL is the derived loss,

D is the number of days in the accounting period in which the loss is made, and

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R is the percentage rate applicable to section 826 of ICTA under section 178 of FA 1989.

- (3) The amount of the expense under this section is allowed as a deduction in calculating for corporation tax purposes the profits of the business for the subsequent period.
- (4) For the purpose of determining how much of the carried forward loss derives from the expense under section 383 or an expense within subsection (1)(e)(ii), the loss is to be calculated on the basis that that expense is the final amount to be deducted.

“Business of leasing plant or machinery”

387 “Business of leasing plant or machinery”

- (1) This section determines for the purposes of this Chapter whether, on any day (“the relevant day”), a company (“the relevant company”) carries on a business of leasing plant or machinery.
- (2) A business carried on by the relevant company is a business of leasing plant or machinery on the relevant day if condition A or B is met.
- (3) Condition A is that at least half of the relevant plant or machinery value relates to [^{F7}plant or machinery falling within subsection (7)].
- (4) Subsection (3) is supplemented by section 388.
- [^{F8}(5) Condition B is that at least half of the relevant company's income in the past 12 months derives from plant or machinery falling within subsection (7).]
- (6) Subsection (5) is supplemented by section 391.
- [^{F9}(7) Plant or machinery falls within this subsection if—
 - (a) it is or at any time in the past 12 months has been leased out by the relevant company or a qualifying associate,
 - (b) the lease under which it is or has been leased out is a plant or machinery lease but not an excluded lease of background plant or machinery for a building (see section 437(3)), and
 - (c) if the plant or machinery satisfies paragraph (a) only because it is or has been leased out by a qualifying associate, the lessee under the lease is or was someone other than the relevant company.
- (8) For the purposes of subsection (7)—
 - (a) plant or machinery is “leased out” by a person if it is subject to a plant or machinery lease under which that person is a lessor,
 - (b) “ associate ” means a person connected with the relevant company (see also subsection (9)), and
 - (c) a person is a “qualifying associate” if the person is an associate at the start of the relevant day or at any earlier time in the past 12 months (whether or not a time when the plant or machinery was leased out by the person).
- (9) If the relevant company is owned by a consortium or is a qualifying 75% subsidiary of a company owned by a consortium, the reference in subsection (8)(b) to a person connected with the relevant company also includes—
 - (a) any member of the consortium, and

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(b) any person connected with such a member.

(10) A reference in this section to the past 12 months is to the period of 12 months ending with the relevant day.]

Textual Amendments

- F7** Words in s. 387(3) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#) , [Sch. 6 para. 2\(2\)](#)
- F8** S. 387(5) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#) , [Sch. 6 para. 2\(3\)](#)
- F9** S. 387(7)-(10) substituted for s. 387(7)(8) (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#) , [Sch. 6 para. 2\(4\)](#)

388 “Relevant plant or machinery value” for condition A in section 387

- (1) This section applies for the purposes of condition A in section 387.
- (2) The relevant plant or machinery value is the sum of the amounts in subsection (3), but subject to section 390 (relevant plant or machinery value where relevant company lessee under long funding lease etc).
- (3) The amounts are—
- (a) the amounts (if any) that would be shown in respect of plant or machinery in the appropriate balance sheet of the relevant company drawn up as at the start of the relevant day, and
 - (b) the amounts (if any) that would be shown in the appropriate balance sheet of the relevant company drawn up as at the end of the relevant day in respect of relevant transferred plant or machinery.
- (4) For the purposes of subsection (3)(b) plant or machinery is “relevant transferred plant or machinery” if an amount in respect of it would be shown in the appropriate balance sheet of an associated company drawn up as at the start of the relevant day.
- (5) This section is supplemented by section 389.

389 Provision supplementing section 388

- (1) For the purposes of section 388 and this section the amounts shown in the appropriate balance sheet of any company in respect of any plant or machinery are—
- (a) the amounts shown in that balance sheet as the net book value (or carrying amount) in respect of the plant or machinery, and
 - (b) the amounts shown in that balance sheet as the net investment in respect of finance leases of the plant or machinery.
- (2) If—
- (a) any of the plant or machinery is a fixture in any land (see section 437(5)), and
 - (b) the amount which falls (or would fall) to be shown in an appropriate balance sheet as the net book value (or carrying amount) of the land includes (or would include) an amount in respect of the fixture,
- the amount of the net book value (or carrying amount) in respect of the fixture is determined on a just and reasonable basis.

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- (3) If—
- (a) any of the plant or machinery is subject to a finance lease (see section 437(4)), and
 - (b) any land or other asset which is not plant or machinery is subject to that lease, the amount of the net investment in respect of the finance lease of that plant or machinery is determined on a just and reasonable basis.
- (4) In section 388 and this section any reference to any amount shown in the appropriate balance sheet of a company is to the amount which, on the assumptions in subsection (5), falls (or would fall) to be shown in a balance sheet of the company.
- (5) The assumptions are—
- (a) that the balance sheet is drawn up in accordance with generally accepted accounting practice, and
 - (b) that, if the company acquired any plant or machinery in circumstances in which this paragraph applies, the plant or machinery had been acquired for an amount equal to its [^{F10}ascribed value] as at the relevant day.
- (6) Paragraph (b) of subsection (5) applies if—
- (a) the relevant day falls on or after 22 March 2006,
 - (b) the plant or machinery was acquired directly or indirectly from a person who was connected with the company when the acquisition took place, and
 - (c) either the acquisition took place on or after 5 December 2005 or the person from whom the plant or machinery was so acquired was also connected with the company on that date.

Textual Amendments

F10 Words in s. 389(5)(b) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 3](#)

390 Relevant plant or machinery value where relevant company lessee under long funding lease etc

- (1) Any amount included in the amounts mentioned in section 388(2) in respect of plant or machinery to which this section applies is to be deducted from the sum mentioned in that section.
- (2) But the [^{F11}ascribed value] as at the relevant day of any plant or machinery to which this section applies is to be added to that sum or, if that sum is nil, is the relevant plant or machinery value.
- (3) This section applies to plant or machinery if—
 - (a) condition A or B is met at the start of the relevant day, or
 - (b) the plant or machinery is acquired by the relevant company from an associated company on the relevant day and condition A or B is met at the end of that day.
- (4) Condition A is that the relevant company is the lessee of the plant or machinery under a long funding finance lease or a long funding operating lease.
- (5) Condition B is that the relevant company is treated as the owner of the plant or machinery under section 67 of CAA 2001 (hire purchase and similar contracts).

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Textual Amendments

- F11** Words in s. 390(2) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 4](#)

391 Relevant company's income for condition B in section 387

- (1) This section applies for the purposes of condition B in section 387.
- (2) The reference to the relevant company's income is to its income as calculated for corporation tax purposes.
- (3) Any apportionment necessary to determine the amount of the relevant company's income attributable to the period of 12 months ending with the relevant day is to be made on a time basis.
- (4) But—
 - (a) that basis does not apply if it would work in an unjust or unreasonable way in relation to any person, and
 - (b) in that case the apportionment is to be made instead on a just and reasonable basis.
- (5) The proportion of the income that derives from [^{F12}plant or machinery falling within section 387(7)] is to be determined on a just and reasonable basis.

Textual Amendments

- F12** Words in s. 391(5) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 5](#)

[^{F13} “Relevant change in relationship”]

Textual Amendments

- F13** S. 392 and cross-heading substituted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 18 para. 4](#)

^{F13}392 “Relevant change in relationship”

For the purposes of the sales of lessors Chapters there is a relevant change in the relationship between a company (“A”) and a principal company of A on any day in any of the circumstances in section 393 or 394 (qualifying 75% subsidiaries and consortium relationships) [^{F14}or section 394ZA (company joining tonnage tax group)].

Textual Amendments

- F14** Words in s. 392 inserted (with effect in accordance with s. 24(10) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [s. 24\(3\)](#)

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393 Qualifying 75% subsidiaries

- (1) A company (“B”) is a principal company of A if—
 - (a) A is a qualifying 75% subsidiary of B, and
 - (b) B is not a qualifying 75% subsidiary of another company.
- (2) There is a relevant change in the relationship between A and B (as a principal company) on any day if A ceases to be a qualifying 75% subsidiary of B on that day.
- (3) A company (“C”) is a principal company of A if—
 - (a) A is a qualifying 75% subsidiary of B,
 - (b) B is a qualifying 75% subsidiary of C, and
 - (c) C is not a qualifying 75% subsidiary of another company.
- (4) There is a relevant change in the relationship between A and C (as a principal company) on any day if—
 - (a) A ceases to be a qualifying 75% subsidiary of B on that day, or
 - (b) B ceases to be a qualifying 75% subsidiary of C on that day.
- (5) If C is a qualifying 75% subsidiary of another company (“D”), D is a principal company of A unless D is a qualifying 75% subsidiary of another company, and so on.
- (6) Accordingly, there is a relevant change in the relationship between A and a principal company of A on any day if—
 - (a) in determining which company is a principal company, regard is had to any company which is a qualifying 75% subsidiary of another, and
 - (b) that company ceases to be a qualifying 75% subsidiary of the other on that day.
- (7) This section is supplemented by section 398 (“qualifying 75% ^{F15} ... subsidiary” etc).

Textual Amendments

F15 Words in s. 393(7) omitted (with effect in accordance with s. 29(8) of the amending Act) by virtue of Finance Act 2010 (c. 13), s. 29(2)

394 Consortium relationships

- (1) A company (“E”) is a principal company of A if—
 - (a) A is owned by a consortium of which E is a member, or
 - (b) A is a qualifying [^{F16}75%] subsidiary of a company owned by a consortium of which E is a member,
 and E is not a qualifying 75% subsidiary of another company.
- (2) There is a relevant change in the relationship between A and E (as a principal company) on any day if the ownership proportion at the end of the day is less than the ownership proportion at the start of the day.
- (3) In this section “the ownership proportion” is whichever is the lowest of the following percentages—
 - (a) the percentage of the ordinary share capital of A that is beneficially owned by E,

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- (b) the percentage to which E is beneficially entitled of any profits available for distribution to equity holders of A, and
 - (c) the percentage to which E would be beneficially entitled of any assets of A available for distribution to its equity holders on a winding up.
- (4) But if A is a qualifying [^{F17}75%] subsidiary of a company, subsection (3) is to be read as if references to that company were substituted for references to A.
- (5) A company (“F”) is a principal company of A if, in a case where E is a qualifying 75% subsidiary of F but F is not a qualifying 75% subsidiary of another company—
- (a) A is owned by a consortium of which E is a member, or
 - (b) A is a qualifying [^{F18}75%] subsidiary of a company owned by a consortium of which E is a member.
- (6) There is a relevant change in the relationship between A and F (as a principal company) on any day if—
- (a) the ownership proportion at the end of the day is less than the ownership proportion at the start of the day, or
 - (b) E ceases to be a qualifying 75% subsidiary of F on that day.
- (7) If F is a qualifying 75% subsidiary of another company (“G”), G is a principal company of A unless G is a qualifying 75% subsidiary of another company, and so on.
- (8) Accordingly, there is a relevant change in the relationship between A and a principal company of A on any day if—
- (a) in determining which company is a principal company, regard is had to any company which is a qualifying 75% subsidiary of another, and
 - (b) that company ceases to be a qualifying 75% subsidiary of the other on that day, (as well as if the ownership proportion at the end of the day is less than the ownership proportion at the start of the day).
- (9) This section is supplemented by—
- (a) section 397 (companies owned by consortiums and members of consortiums), and
 - (b) section 398 (“qualifying 75% ^{F19}... subsidiary” etc).

Textual Amendments

- F16** Figure in s. 394(1)(b) substituted (with effect in accordance with s. 29(8) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 29\(3\)\(a\)](#)
- F17** Figure in s. 394(4) substituted (with effect in accordance with s. 29(8) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 29\(3\)\(a\)](#)
- F18** Figure in s. 394(5)(b) substituted (with effect in accordance with s. 29(8) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 29\(3\)\(a\)](#)
- F19** Words in s. 394(9)(b) omitted (with effect in accordance with s. 29(8) of the amending Act) by virtue of [Finance Act 2010 \(c. 13\), s. 29\(3\)\(b\)](#)

[^{F20}394Z] Company joining tonnage tax group

There is a relevant change in the relationship between A and a principal company of A on any day if—

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- (a) on that day A becomes a member of a tonnage tax group for the purposes of Schedule 22 to FA 2000 without entering tonnage tax on that day, or
- (b) the day ends immediately before the day on which, for the purposes of that Schedule, A both becomes a member of a tonnage tax group and enters tonnage tax.]

Textual Amendments

F20 S. 394ZA inserted (with effect in accordance with s. 24(10) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 24\(4\)](#)

[^{F21} “Qualifying change of ownership”

Textual Amendments

F21 S. 394A and cross-heading inserted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\), Sch. 18 para. 5](#)

394A “Qualifying change of ownership”

[For the purposes of the sales of lessors Chapters there is a qualifying change of ^{F22}(1) ownership in relation to a company (“A”) on any day if there is a relevant change in the relationship on that day between A and a principal company of A unless any of the following apply—

- (a) section 395(2),
- (b) section 396(2), or
- (c) section 398A(2) or (5).

[If the qualifying change of ownership would (but for this subsection) occur on any ^{F23}(2) day as a result of—

- (a) section 393 or 394ZA, or
- (b) section 394 or 394ZA,

it is treated instead for the purposes of the sales of lessors Chapters as occurring on that day solely as a result of section 394ZA.]]

Textual Amendments

F22 S. 394A(1) renumbered (with effect in accordance with s. 24(10) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 24\(5\)\(a\)](#)

F23 S. 394A(2) inserted (with effect in accordance with s. 24(10) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 24\(5\)\(b\)](#)

395 No qualifying change of ownership in certain intra-group reorganisations

(1) This section applies if—

- (a) a relevant change in the relationship between a company (“A”) and a principal company of A occurs on any day,

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- (b) that change occurs by reference to A or any other company ceasing to be a qualifying 75% subsidiary on that day, and
 - (c) A, and every company by reference to which that change occurs, are qualifying 75% subsidiaries of the principal company concerned at the start and end of that day.
- (2) For the purposes of the sales of lessors Chapters, there is no qualifying change of ownership in relation to A on that day as a result of that change in the relationship.

396 No qualifying change of ownership where principal company's interest in consortium company unchanged

- (1) This section applies if—
- (a) a company (“A”) is owned by a consortium, and
 - (b) a relevant change in the relationship between A and a principal company of A occurs on any day,
- but the principal company's interest in A remains unchanged.
- (2) For the purposes of the sales of lessors Chapters, there is no qualifying change of ownership in relation to A on that day as a result of that change in that relationship.
- (3) For the purposes of this section the principal company's interest in A remains unchanged if the percentage of the ordinary share capital of A that is beneficially owned directly or indirectly by the principal company is the same at the beginning and end of that day.
- (4) Sections 1155 to 1157 apply for construing subsection (3).

397 Companies owned by consortiums and members of consortiums

- (1) This section defines what a company being owned by, or a member of, a consortium means for the purposes of the sales of lessors Chapters.
- (2) A company is owned by a consortium if—
- (a) it is not a qualifying 75% subsidiary of any company,
 - (b) at least 75% of its ordinary share capital is beneficially owned between them by other companies, and
 - (c) none of those other companies owns less than 5% of that capital.
- (3) Those other companies are the members of the consortium.

398 “Qualifying 75%^{F24} ... subsidiary” etc

- (1) For the purposes of the sales of lessors Chapters, a company (“the subsidiary company”) is a qualifying 75% subsidiary of another company (“the parent company”) if condition A or B is met and condition C is met.
- (2) Condition A is that—
- (a) the subsidiary company has ordinary share capital, and
 - (b) the subsidiary company is a 75% subsidiary of the parent company.
- (3) Condition B is that—
- (a) the subsidiary company does not have ordinary share capital, and

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- (b) the parent company has control of the subsidiary company.
- (4) Condition C is that the parent company—
- (a) is beneficially entitled to at least 75% of any profits available for distribution to equity holders of the subsidiary company, and
 - (b) would be beneficially entitled to at least 75% of any assets of the subsidiary company available for distribution to its equity holders on a winding up.
- ^{F25}(5)
- ^{F26}(6)
- (7) Chapter 6 of Part 5 (equity holders and profits or assets available for distribution)—
- (a) applies for the purposes of section 394(3)(b) and (c) (including that section as applied for the purposes of section 406(5)) and of section 405(5)(b) and (c) as that Chapter applies for the purposes of section 143(3)(b) and (c) (condition 1: surrendering company owned by consortium) and section 144(3)(b) and (c) (condition 1: claimant company owned by consortium), and
 - (b) applies for the purposes of subsection (4)(a) and (b) as that Chapter applies for the purposes of section 151(4)(a) and (b) (meaning of “ 75% subsidiary ^{F27} ...”).
- (8) But in a case where the subsidiary company does not have ordinary share capital, Chapter 6 of Part 5 applies for those purposes as if the members of that company were equity holders of that company for the purposes of that Chapter.

Textual Amendments

- F24** Words in s. 398 heading omitted (with effect in accordance with s. 29(8) of the amending Act) by virtue of [Finance Act 2010 \(c. 13\)](#), [s. 29\(4\)](#)
- F25** S. 398(5) omitted (with effect in accordance with s. 29(8) of the amending Act) by virtue of [Finance Act 2010 \(c. 13\)](#), [s. 29\(4\)\(a\)](#)
- F26** S. 398(6) omitted (with effect in accordance with s. 29(8) of the amending Act) by virtue of [Finance Act 2010 \(c. 13\)](#), [s. 29\(4\)\(a\)](#)
- F27** Words in s. 398(7)(b) omitted (with effect in accordance with s. 29(8) of the amending Act) by virtue of [Finance Act 2010 \(c. 13\)](#), [s. 29\(4\)\(b\)](#)

^{F28}Election out of qualifying change of ownership

Textual Amendments

- F28** Ss. 398A-398G and cross-heading inserted (with effect in accordance with Sch. 18 para. 9 of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 18 para. 6](#) (with [Sch. 18 paras. 11-13](#))

398A Election out of qualifying change of ownership

- (1) This section applies if—
- (a) on any day [^{F29} before 23 March 2011] (“ the relevant day ”) a company (“A”) carries on a business of leasing plant or machinery otherwise than in partnership,

Status: Point in time view as at 18/11/2015.

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- (b) there is a relevant change in the relationship between A and a principal company of A (“P”) on the relevant day, and
 - (c) an election that this section is to apply is made by A.
- (2) For the purposes of the sales of lessors Chapters, there is no qualifying change of ownership in relation to A on the relevant day as a result of the change in the relationship but—
- (a) subsections (2)(b) and (4)(b) of section 383 nevertheless apply,
 - (b) section 398D (and section 398C so far as relating to it) has effect during the relevant period, and
 - (c) sections 398E to 398G (and section 398C so far as relating to section 398E) have effect on the relevant day and during the relevant period.
- (3) “The relevant period” is the period—
- (a) beginning with the day after the relevant day, and
 - (b) ending with the day on which there is next a relevant change in the relationship between A and a principal company of A falling within subsection (4) (or continuing indefinitely if there is not another such relevant change).
- (4) A relevant change in the relationship between A and a principal company of A falls within this subsection if, as a result of it, the (unadjusted) basic amount (see section 399) is (or, but for a further election, would be) treated as a receipt of the business of leasing plant or machinery carried on by A.
- (5) Where during the relevant period there is a relevant change in the relationship between A and a principal company of A but the relevant period is not brought to an end by it, for the purposes of the sales of lessors Chapters there is no qualifying change of ownership in relation to A as a result of the change in the relationship.

Textual Amendments

F29 Words in s. 398A(1)(a) inserted (retrospective to 23.3.2011) by [Finance Act 2011 \(c. 11\), s. 54\(1\)\(2\)](#)

398B The election

- (1) The election under section 398A must state the date of the relevant day.
- (2) The election must be made—
 - (a) by notice to an officer of Revenue and Customs, and
 - (b) during the period of two years beginning with the relevant day.
- (3) The election is irrevocable.
- (4) All such assessments and adjustments of assessments are to be made as are necessary to give effect to the election.

398C Special treatment of A's trade or business that includes leasing

- (1) Sections 398D and 398E make special provision about the trade or property business consisting of or including A's business of leasing plant or machinery.
- (2) In those sections “ the relevant activity ” means—

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- (a) if A's business of leasing plant or machinery constitutes or forms part of a trade, that trade, and
- (b) if it forms part of a property business, that property business.

398D Restrictions on use of losses etc

- (1) No loss may be deducted under—
 - (a) Chapter 2 of Part 4,
 - (b) section 62, or
 - (c) section 189,
 from so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the loss or charge is attributable to the carrying on of the relevant activity.
- (2) Group relief is not to be given under Part 5 against so much of the total profits of A as are attributable to the carrying on of the relevant activity.
- (3) No deficit may be set off under section 461 of CTA 2009 (non-trading deficit from loan relationship) against profits attributable to the carrying on of the relevant activity except to the extent that the deficit is attributable to the carrying on of the relevant activity.
- (4) No loss may be set off under section 753 of CTA 2009 (non-trading loss on intangible fixed assets) against so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the loss or charge is attributable to the carrying on of the relevant activity.
- (5) No deduction is to be allowed under section 1219 of CTA 2009 (expenses of management of investment business) from so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the expenses concerned are attributable to the carrying on of the relevant activity.
- ^{F30}(6)
- ^{F30}(6A)
- (7) If A would otherwise be a tonnage tax company under Schedule 22 to FA 2000 (tonnage tax) it is to be treated as not being such a company.

Textual Amendments

F30 S. 398D(6)(6A) omitted (18.11.2015) (with effect in accordance with s. 36(3)-(5) of the amending Act) by virtue of [Finance \(No. 2\) Act 2015 \(c. 33\)](#), s. [36\(2\)\(a\)](#)

398E Restriction on artificial losses or reductions in profits

- (1) This section applies if any expenditure incurred by A in carrying on the relevant activity has an unallowable purpose.
- (2) In calculating the profits or losses of A for any accounting period for the purposes of corporation tax so much of the expenditure as, on a just and reasonable apportionment, is attributable to the unallowable purpose is to be left out of account.

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- (3) Expenditure has an unallowable purpose if the main purpose, or one of the main purposes, of A in incurring it is to obtain a relevant tax advantage (“the unallowable purpose”).
- (4) A “relevant tax advantage” is—
 - (a) a reduction in the profits which, for the purposes of corporation tax, are attributable to the carrying on of the relevant activity by A,
 - (b) the creation of a loss which, for those purposes, is so attributable, or
 - (c) an increase in losses which, for those purposes, are so attributable.

398F Limit on availability of capital allowances to A

- (1) Expenditure incurred by A in providing plant or machinery is not qualifying expenditure for the purposes of Part 2 of CAA 2001 if the expenditure is incurred on the acquisition or creation of an independent asset.
- (2) An asset is an “independent” asset if, in the normal course of business—
 - (a) it could be used individually (whether or not it could also be used in conjunction with another asset or other assets as a constituent part of a single asset consisting of more than one asset (a “combined asset”)), or
 - (b) it could be used (at different times) as a constituent part of different combined assets.

398G Transfers into and out of A

- (1) Section 948 does not apply where A is the predecessor or the successor.

^{F31}(2)

[^{F32}(3) If any event occurs that requires A to bring the disposal value of plant or machinery into account under Part 2 of CAA 2001, that Part has effect as if the disposal value that A is required to bring into account were the higher of—

- (a) the disposal value determined in accordance with that Part, and
- (b) the ascribed value of the plant or machinery.

- (4) Section 265 of CAA 2001 (successions) is subject to this section.]]

Textual Amendments

F31 S. 398G(2) omitted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 6\(2\)](#)

F32 S. 398G(3)(4) substituted for s. 398G(3) (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 6\(3\)](#)

The amount of the income

399 The amount of the income: the basic amount

- (1) This section determines the amount of the income under section 383 when a qualifying change of ownership in relation to a company carrying on a business of leasing plant or machinery occurs on any day.

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- (2) The amount of the income is found by—
- (a) applying the formula in subsection (3) to give the basic amount, and
 - (b) making any adjustment in accordance with any of sections 404 to 406 to the basic amount.

- (3) The formula is—

PM – TWDV

- (4) For this purpose—
- “ PM ” has the meaning given by sections 400 to 402, and
 - “ TWDV ” has the meaning given by section 403.
- (5) In those sections references to the relevant company and the relevant day are to the company and the day mentioned in subsection (1).

400 “PM” in section 399

- (1) For the purposes of this section and sections 401 and 402 references to plant or machinery, in the case of any company, include all plant or machinery, whether or not subject to a lease, except for plant or machinery within subsection (2).
- (2) Plant or machinery is within this subsection if—
 - (a) the company has not incurred expenditure on its provision that is qualifying expenditure for the purposes of Part 2 of CAA 2001,
 - (b) the company is a lessor of it under a long funding lease,
 - (c) as a result of section 67 of that Act (hire-purchase and similar contracts) it is treated for the purposes of that Part as owned by a person other than the company, or
 - (d) it is to be ignored as a result of section 407(2) (migration).
- (3) For the purposes of section 399, “PM” is the sum of—
 - (a) the amounts (if any) which would be shown in respect of plant or machinery in the appropriate balance sheet of the relevant company drawn up as at the start of the relevant day, and
 - (b) the amounts (if any) which would be shown in the appropriate balance sheet of the relevant company drawn up as at the end of the relevant day in respect of relevant transferred plant or machinery.
- (4) For the purposes of subsection (3)(b), plant or machinery is “relevant transferred plant or machinery” if an amount in respect of it would be shown in the appropriate balance sheet of an associated company drawn up as at the start of the relevant day.
- (5) This section is supplemented by section 401 and is subject to section 402 (“PM” where relevant company lessee under long funding lease etc).

401 Provisions supplementing section 400

- (1) For the purposes of section 400 and this section the amounts shown in the appropriate balance sheet of any company in respect of any plant or machinery are—
 - (a) the amounts shown in that balance sheet as the net book value (or carrying amount) in respect of the plant or machinery, and

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- (b) the amounts shown in that balance sheet as the net investment in respect of finance leases of the plant or machinery.
- (2) If—
- (a) any of the plant or machinery is a fixture in any land (see section 437(5)), and
- (b) the amount which falls (or would fall) to be shown in an appropriate balance sheet as the net book value (or carrying amount) of the land includes (or would include) an amount in respect of the fixture,
- the amount of the net book value (or carrying amount) in respect of the fixture is determined on a just and reasonable basis.
- (3) If—
- (a) any of the plant or machinery is subject to a finance lease (see section 437(4)), and
- (b) any land or asset which is not plant or machinery is subject to that lease,
- the amount of the net investment in respect of the finance lease of that plant or machinery is determined on a just and reasonable basis.
- (4) In section 400 and this section any reference to any amount shown in the appropriate balance sheet of a company is to the amount which, on the assumptions in subsection (5), falls (or would fall) to be shown in a balance sheet of the company.
- (5) The assumptions are—
- (a) that the balance sheet is drawn up in accordance with generally accepted accounting practice, and
- (b) that, if the company acquired any plant or machinery in circumstances in which this paragraph applies, the plant or machinery had been acquired for an amount equal to its [^{F33}ascribed value] as at the relevant day.
- (6) Paragraph (b) of subsection (5) applies if—
- (a) the relevant day falls on or after 22 March 2006,
- (b) the plant or machinery was acquired directly or indirectly from a person who was connected with the company when the acquisition took place, and
- (c) either the acquisition took place on or after 5 December 2005 or the person from whom the plant or machinery was so acquired was also connected with the company on that date.

Textual Amendments

F33 Words in s. 401(5)(b) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 7](#)

402 “PM” where relevant company lessee under long funding lease etc

- (1) Any amount included in the amounts mentioned in paragraph (a) or (b) of section 400(3) in respect of plant or machinery to which this section applies is to be deducted from the sum mentioned in that section.
- (2) But the [^{F34}ascribed value] as at the relevant day of any plant or machinery to which this section applies is to be added to that sum or, if that sum is nil, is “PM”.
- (3) This section applies to plant or machinery if—

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- (a) condition A or B is met at the start of the relevant day, or
 - (b) the plant or machinery is acquired by the relevant company from an associated company on the relevant day and condition A or B is met at the end of that day.
- (4) Condition A is that the relevant company is the lessee of the plant or machinery under a long funding finance lease or a long funding operating lease.
- (5) Condition B is that the relevant company is treated as the owner of the plant or machinery under section 67 of CAA 2001 (hire purchase and similar contracts).

Textual Amendments

- F34** Words in s. 402(2) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 8](#)

403 “TWDV” in section 399

- (1) For the purposes of section 399, “ TWDV ” means the sum of—
- (a) the total amount of unrelieved qualifying expenditure in single asset pools for the new chargeable period that is carried forward in the pools from the previous chargeable period under section 59 of CAA 2001,
 - (b) the total amount of unrelieved qualifying expenditure in class pools for the new chargeable period that is carried forward in the pools from the previous chargeable period under that section, and
 - (c) the amount of unrelieved qualifying expenditure in the main pool for the new chargeable period that is carried forward in the pool from the previous chargeable period under that section.
- (2) For the purposes of this section—
- (a) “ the new chargeable period ” means the accounting period of the relevant company that begins on the day following the relevant day (see section 383(4)(b)), and
 - [^{F35}(b) in calculating the amounts of unrelieved qualifying expenditure mentioned in subsection (1)(a) to (c), any part of those amounts that is relevant new expenditure is to be left out of account.]
- [^{F36}(3) Relevant new expenditure” means—
- (a) expenditure attributable to plant or machinery acquired by the relevant company on the relevant day except for plant or machinery acquired on that day from an associated company, and
 - (b) expenditure incurred on the relevant day but attributable to plant or machinery acquired by the relevant company before that day.
- (4) In subsection (3)—
- (a) “ acquired ” includes brought into use or made available for use for the first time for the purposes of the business, and
 - (b) a reference to anything acquired or incurred includes anything treated as acquired or treated as incurred.]

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Textual Amendments

- F35** S. 403(2)(b) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 6 para. 9\(2\)](#)
- F36** S. 403(3)(4) inserted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 6 para. 9\(3\)](#)

404 Amount to be nil if basic amount negative

If the basic amount given by the formula in section 399(3) is a negative amount, the amount is taken instead to be nil.

405 Adjustment to the basic amount: qualifying 75% subsidiaries

- (1) This section applies if—
- the qualifying change of ownership occurs on any day as a result of section 393 (qualifying 75% subsidiaries),
 - the change occurs by reference to a company (“A”) ceasing to be a qualifying 75% subsidiary of another company (“B”) on that day, and
 - on that day A meets one of the conditions in subsection (2).
- (2) The conditions are—
- that A becomes owned by a consortium of which B is a member, or
 - that A becomes a qualifying [^{F37}75%] subsidiary of a company owned by a consortium of which B is a member.
- (3) The basic amount is adjusted so that the amount of the income is limited to the appropriate percentage of the basic amount.
- (4) The appropriate percentage is found by subtracting the ownership percentage at the end of the day from 100%.
- (5) For this purpose “the ownership percentage” is whichever is the lowest of the following percentages—
- the percentage of the ordinary share capital of A that is beneficially owned by B,
 - the percentage to which B is beneficially entitled of any profits available for distribution to equity holders of A, and
 - the percentage to which B would be beneficially entitled of any assets of A available for distribution to its equity holders on a winding up.
- (6) But if A becomes a qualifying [^{F38}75%] subsidiary of a company, subsection (5) is to be read as if references to that company were substituted for references to A.

Textual Amendments

- F37** Figure in s. 405(2)(b) substituted (with effect in accordance with s. 29(8) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 29\(5\)](#)
- F38** Figure in s. 405(6) substituted (with effect in accordance with s. 29(8) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 29\(5\)](#)

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406 Adjustment to the basic amount: consortium relationships

- (1) This section applies if the qualifying change of ownership occurs as a result of section 394 (consortium relationships).
- (2) In a case where that change arises only because the ownership proportion at the end of the day on which the change occurs is less than the ownership proportion at the start of the day, the amount of the income is limited to the appropriate proportion of the basic amount.
- (3) The appropriate proportion is found by subtracting the ownership proportion at the end of the day from the ownership proportion at the start of the day.
- (4) In any other case, the amount of the income is limited to the ownership proportion at the start of the day on which the change occurs of the basic amount.
- (5) In this section “ the ownership proportion ” has the same meaning as in section 394 (see section 394(3) and (4)).

407 Migration

- (1) This section applies if on any day (“ the relevant day ”)—
 - (a) a company begins to be within the charge to corporation tax in respect of a business of leasing plant or machinery which it carries on otherwise than in partnership, and
 - (b) a qualifying change of ownership in relation to the company occurs.
- (2) For the purposes of this Chapter, any plant or machinery is to be ignored in calculating the amount of the income treated as received on the relevant day if an amount would be shown in respect of it in a balance sheet of the company drawn up immediately before that day in accordance with generally accepted accounting practice.

“Associated company”

408 “Associated company”

- (1) This section gives the meaning of “ associated company ” for the purposes of this Chapter.
- (2) References to an associated company in any provision other than subsection (6)(b) are to a company which is an associated company of the company that is the relevant company for the purposes of that provision on the day that is the relevant day for those purposes.
- (3) A company is an “associated company” of another company on any day if, at the start of that day—
 - (a) one of the two has control of the other, or
 - (b) both are under the control of the same person or persons,
- (4) Section 450 (meaning of “ control ” for the purposes of Part 10 (close companies)) applies for the purposes of subsection (3).
- (5) Subsection (6) applies if at the start of any day a company (“the consortium company”) —

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- (a) is owned by a consortium, or
 - (b) is a qualifying [^{F39}75%] subsidiary of a company owned by a consortium.
- (6) On that day the following companies are also associated companies of the consortium company—
- (a) any relevant member of the consortium on that day, and
 - (b) any company which is an associated company of any relevant member of the consortium on that day.
- (7) For the purposes of subsection (6) a member of the consortium is a “relevant” member on any day if—
- (a) it is a member of the consortium at the start of the day,
 - (b) one or more qualifying changes of ownership occur in relation to the consortium company on that day, and
 - (c) any of those changes occur in a case where the member of the consortium is regarded as “ E ” for the purposes of section 394 (consortium relationships).

Textual Amendments

F39 Figure in s. 408(5)(b) substituted (with effect in accordance with s. 29(8) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 29\(6\)](#)

Status:

Point in time view as at 18/11/2015.

Changes to legislation:

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