



Corporation Tax Act 2010

2010 CHAPTER 4

PART 9 U.K.

LEASING PLANT OR MACHINERY

CHAPTER 5 U.K.

SALES OF LESSORS: ANTI-AVOIDANCE PROVISIONS

432 Restrictions on relief for Chapter 3 or 4 expenses: introduction U.K.

- (1) Section 433 applies if—
 - (a) a company is treated as incurring an expense under any provision of Chapter 3 or 4,
 - (b) the expense arises directly or indirectly in consequence of, or otherwise in connection with, any arrangements,
 - (c) the main purpose, or one of the main purposes, of the arrangements is to secure that the company is treated as incurring the expense, and
 - (d) the company makes a loss that wholly or partly derives from the expense.
- (2) The restrictions in section 433 apply in respect of so much of the loss as derives from the expense (in that section referred to as “the restricted loss amount”).
- (3) For the purpose of determining how much of a loss derives from the expense, the loss is to be calculated on the basis that the expense is the final amount to be deducted.
- (4) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions—
 - (a) whether or not legally enforceable, and
 - (b) whether or not the company is a party to the arrangements.

Status: Point in time view as at 08/03/2012.

Changes to legislation: Corporation Tax Act 2010, Chapter 5 is up to date with all changes known to be in force on or before 14 July 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)

433 Restrictions applying to the restricted loss amount U.K.

- (1) The restrictions in subsections (2), (5) and (6) apply to the restricted loss amount.
- (2) Relief is not to be given to the company under any provision specified in subsection (3) in respect of the restricted loss amount, except by way of set off against any relevant leasing income (see subsection (4)).
- (3) Those provisions are—
 - (a) section 45 (carry forward of trade loss against subsequent trade profits),
 - (b) section 62 (relief for losses made in UK property business),
 - (c) section 63 (company with investment business ceasing to carry on UK property business),
 - (d) section 66 (relief for losses made in overseas property business), and
 - (e) section 91 (relief for losses from miscellaneous transactions).
- (4) In subsection (2) “relevant leasing income” means any income deriving from any plant or machinery lease which—
 - (a) is not an excluded lease of background plant or machinery for a building (see section 437(3)), and
 - (b) is entered into before the day on which the company is treated as incurring the expense mentioned in section 432(1)(a).
- (5) If the business carried on by the company is a trade, relief is not to be given to the company under section 37 (relief for trade losses against total profits) in respect of the restricted loss amount.
- (6) The restricted loss amount is not available for set off by way of group relief in accordance with Chapter 2 of Part 5 (surrender of company's losses etc for an accounting period).

434 Introduction to sections 435 and 436 U.K.

- (1) Sections 435 and 436 apply if a question arises as to the application of Chapter 3 or 4.
- (2) For the purposes of this section and sections 435 and 436 “a question as to the application of Chapter 3 or 4” means [^{F1}question A, B or C].
- (3) Question A is whether any company carries on a business of leasing plant or machinery (whether alone or in partnership) for the purposes of any provision of the sales of lessors Chapters.
- (4) Question B is the question of the amount (if any) of any income or expense which any company is treated as receiving or incurring under any provision of the sales of lessors Chapters.
- [^{F2}(5) Question C is the question of the amount of any disposal value to be substituted by section 398G(3).]

Textual Amendments

- F1** Words in s. 434(2) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 6 para. 17(2)**

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F2 S. 434(5) inserted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 17\(3\)](#)

435 Disregard of increases and decreases [^{F3}in certain amounts] **U.K.**

(1) This section applies if—

- [^{F4}(a) an amount mentioned in subsection (1A) is to be ascertained for the purpose of determining a question as to the application of Chapter 3 or 4,]
- (b) apart from this section, there would be a reduction or increase in any such amount,
- (c) the reduction or increase arises directly or indirectly in consequence of, or otherwise in connection with, any arrangements, and
- (d) the main purpose, or one of the main purposes, of the arrangements is to secure that there is a relevant tax advantage.

[^{F5}(1A) The amounts are—

- (a) the relevant plant or machinery value,
- (b) the value of plant or machinery falling within section 387(7) or 410(6),
- (c) the relevant company's or partnership's income in the period of 12 months ending with the relevant day,
- (d) the amount of PM,
- (e) the amount of TWDV,
- (f) the amount of any disposal value to be substituted by section 398G(3), and
- (g) any underlying amount required to calculate or verify an amount mentioned in any of the preceding paragraphs.]

(2) There is a relevant tax advantage if (apart from this section)—

- (a) any company would not be regarded for the purposes of any provision of Chapter 3 or 4 as carrying on a business of leasing plant or machinery (whether alone or in partnership),
- (b) the amount of any income which any company is treated as receiving under any such provision would be reduced, ^{F6}...
- (c) the amount of any expense which any company is treated as incurring under any such provision would be increased [^{F7}, or
- (d) the amount of any disposal value to be substituted by section 398G(3) would be reduced.]

(3) For the purpose of determining the question as to the application of Chapter 3 or 4, the reduction or increase in the amount [^{F8}to be ascertained] must be ignored.

(4) In this section—

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions—

- (a) whether or not legally enforceable, and
- (b) whether or not the company for which the relevant tax advantage is intended to be secured is a party to the arrangements,

“increase” includes an increase from nil, and

“reduction” includes a reduction to nil.

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Textual Amendments

- F3** Words in s. 435 heading substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by **Finance Act 2011 (c. 11), Sch. 6 para. 18(6)**
- F4** S. 435(1)(a) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by **Finance Act 2011 (c. 11), Sch. 6 para. 18(2)**
- F5** S. 435(1A) inserted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by **Finance Act 2011 (c. 11), Sch. 6 para. 18(3)**
- F6** Word in s. 435(2)(b) 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. 18(4)(a)**
- F7** S. 435(2)(d) and word inserted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by **Finance Act 2011 (c. 11), Sch. 6 para. 18(4)(b)**
- F8** Words in s. 435(3) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by **Finance Act 2011 (c. 11), Sch. 6 para. 18(5)**

436 Balance sheet amounts determined on assumption company has no liabilities **U.K.**

- (1) This section applies if—
 - (a) a company owns any plant or machinery at any time on any day (“the relevant day”),
 - (b) for the purpose of determining a question as to the application of Chapter 3 or 4 regard must be had to the amount (if any) which falls (or would fall) to be shown in any balance sheet of the company in respect of the plant or machinery, and
 - (c) condition A or B is met.
- (2) Condition A is met if, apart from this section, there would be no amount which would fall to be shown in the balance sheet of the company in respect of the plant or machinery.
- (3) Condition B is met if the amount which, apart from this section, would fall to be shown in the balance sheet of the company in respect of the plant or machinery is less than the amount which would fall to be so shown on the assumption in subsection (4).
- (4) The assumption is that the company has no liabilities of any kind at any time on the relevant day.
- (5) For the purpose of determining the question as to the application of Chapter 3 or 4, the amount which falls (or would fall) to be shown in any balance sheet of the company in respect of the plant or machinery is to be determined on the assumption in subsection (4) (as well as on the other assumptions applicable under other provisions of those Chapters).
- (6) In this section “liabilities” includes any share capital issued by the company which falls to be treated for accounting purposes as a liability.
- [^{F9}(7) Except for subsection (6), this section applies to a partnership as it applies to a company, and references to “company” are to be read accordingly.]

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Textual Amendments

- F9** S. 436(7) inserted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 6 para. 19](#)

Status:

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