
Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Paragraph 4. (See end of Document for details)

SCHEDULES

SCHEDULE 3

LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

PART 1

NEW PART 11A OF ITA 2007

4 After section 614BY insert—

“CHAPTER 3

OTHER FINANCE LEASES

Introduction

614C Introduction to Chapter

- (1) This Chapter applies to arrangements involving the lease of an asset that—
 - (a) fall to be treated, in accordance with generally accepted accounting practice, as a finance lease or loan, but
 - (b) are not arrangements to which Chapter 2 applies.
- (2) It does not matter whether the arrangements are or have been entered into by companies or other persons.

614CA Purpose of this Chapter

- (1) The main purpose of this Chapter where there are arrangements to which this Chapter applies is to charge a person entitled to the lessor's interest under the lease of the asset to income tax on amounts of income determined as mentioned in subsection (2).
- (2) The amounts referred to in subsection (1) are determined by reference to the amounts that fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the income return on and after 26 November 1996 on investment in respect of the finance lease or loan.
- (3) The amounts referred to in subsection (1) are also determined taking into account the substance of the matter as a whole, including, in particular, the state of affairs—
 - (a) as between connected persons, or
 - (b) within a group of companies,

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as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts.

Leases to which this Chapter applies

614CB Leases to which this Chapter applies

- (1) This Chapter applies if—
 - (a) a lease of an asset is or has been granted on or after 26 November 1996,
 - (b) the lease forms part of a post-25 November 1996 scheme,
 - (c) condition A in section 614BC is or has been met at some time on or after 26 November 1996 in relation to the lease in a period of account of the current lessor (“L”), and
 - (d) Chapter 2 does not apply in relation to the lease because of the other conditions in that section not all being, or having been, met as mentioned in section 614BB.
- (2) For the meaning of “forming part of a post-25 November 1996 scheme”, see section 614D.
- (3) This Chapter does not apply so far as, in relation to L, the lease falls to be regarded as a long funding lease for the purposes of Part 2 of CAA 2001 (plant and machinery allowances) in accordance with Chapter 6A of that Part (interpretation of provisions about long funding leases) (see section 70G of that Act).
- (4) If condition A in section 614BC has been met at any time on or after 26 November 1996 in a period of account of the person who was at that time the lessor, it is taken to continue to be met unless and until one of the conditions in subsection (5) is met.
- (5) The conditions are that—
 - (a) the asset ceases to be leased under the lease, or
 - (b) the lessor's interest under the lease is assigned to a person who is not connected with any of the persons specified in subsection (6).
- (6) Those persons are—
 - (a) the assignor,
 - (b) any person who was the lessor at some time before the assignment, and
 - (c) any person who at some time after the assignment becomes the lessor pursuant to arrangements made by a person who was the lessor, or was connected with the lessor, at some time before the assignment.
- (7) If at any time the person who was the lessor at that time was a person within the charge to corporation tax on income—
 - (a) the reference in subsection (4) to condition A in section 614BC having been met at that time includes a reference to condition A in section 902 of CTA 2010 having been so met, and

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- (b) the reference in subsection (1)(d) to the other conditions in section 614BC not having been met as mentioned in section 614BB includes a reference to the other conditions in section 902 of that Act not having been met as mentioned in section 901 of that Act.
- (8) Nothing in subsection (4) prevents this Chapter from applying again in relation to the lease where the lessor's interest is assigned if the conditions for its application are met after the assignment.

Current lessor taxed by reference to accountancy rental earnings

614CC Current lessor taxed by reference to accountancy rental earnings

- (1) This section applies if, in the case of any period of account of the current lessor (“L”)—
 - (a) this Chapter applies in relation to the lease, and
 - (b) the accountancy rental earnings in respect of the lease for that period of account exceed the normal rent for that period.
- (2) For income tax purposes, L is treated as if in that period of account L had been entitled to, and there had arisen to L, rent from the lease of an amount equal to those accountancy rental earnings (instead of the normal rent referred to in subsection (1)(b)).
- (3) Such rent from the lease of an asset is treated for income tax purposes—
 - (a) as if it had accrued at an even rate throughout so much of the period of account as falls within the period for which the asset is leased, and
 - (b) as if L had become entitled to it as it accrued.

Application of provisions of Chapter 2 for purposes of this Chapter

614CD Application of provisions of Chapter 2 for purposes of this Chapter

Sections 614BG to 614BQ apply for the purposes of this Chapter as they apply for the purposes of Chapter 2, but taking the references in sections 614BH(1) and 614BK(1)(a) to section 614BF as references to section 614CC.”

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