HM Revenue
& Customs

Lease Accounting Changes: Tax Response

A Discussion Document
Publication date: 9 August 2016
Closing date for comments: 30 October 2016

Subject of this discussion:	Options for tax responses to the International Accounting Standards Board's new lease accounting standard (IFRS16)
Scope of this discussion:	We are asking for comments on the impact of the new lease accounting standard on the taxation of leases of plant or machinery and possible options to address those impacts.
Who should read this:	Customers which lease plant or machinery for use in their business, lessors of plant or machinery, agents and representative bodies.
Duration:	From 9 August 2016 to 30 October 2016
Lead official:	Paul Hindley, HMRC
How to respond or enquire about this discussion:	By email: paul.hindley@hmrc.gsi.gov.uk By post to: Paul Hindley, HM Revenue and Customs, Room 3/64, 100 Parliament Street, London SW1A 2BQ If you have any enquiries about the content or scope of the consultation, requests for hard copies, information about events, etc. please contact Paul Hindley on the email address shown above or by telephone on 03000 585576.
Additional ways to be involved:	We will be arranging meetings with representatives of, and advisors to, businesses and organisations representing those with leasing interests. We are keen to reach and engage with all people who have an interest. If you are interested in discussing the issues at a meeting or by teleconference please send an email to paul.hindley@hmrc.gsi.gov.uk
After the discussion:	We will publish a summary of our discussions and use it to develop our approach further.
Getting to this stage:	We have had meetings with business, their advisors and representative bodies during the course of the development of the IASB's new lease accounting standard.
Previous engagement:	Those meetings were in the context of proposals for the new lease accounting standard which changed significantly during development. The new lease accounting standard was published by the IASB on 13 January 2016. This document considers possible tax responses to the accounting changes introduced by that new standard for parties to a lease of plant or machinery.

Contents

On request this document can be produced in Welsh and alternate formats including large print, audio and Braille

1. Introduction

1.1. Leasing offers businesses of all sizes, from sole traders to multinational corporations, access to a wide range of assets from office printers to power stations. The scope and value of the leasing market[1] means that lease taxation must be robust to avoid loss of revenues but, at the same time, aim to be user friendly to cater for such a wide range of stakeholders.

The link between lease accounting and tax

1.2. Prior to the introduction of the long funding lease regime in 2006 the taxation of leasing of plant or machinery had followed the legal form of the arrangement with capital allowances available to the lessor as owner of the plant or machinery.

1.3. For some leases the Long Funding Lease regime changed this. The Long Funding Lease regime allocates capital allowances to lessees under longer term leases[2] where the arrangement results in the lessee having substantially all the benefits and obligations associated with ownership. These leases were identified with the help of accounting concepts and classifications derived from accounting rules. The effect was to bring tax and accounting treatment together in most respects for long funding finance leases. The same accounting rules are used elsewhere for lease taxation, particularly in anti-avoidance provisions.

What is changing?

1.4. In January 2016 the International Accounting Standards Board (IASB) published their new standard for lease accounting (IFRS 16). The new standard has effect for periods of account beginning on or after 1 January 2019 for leases of both property and plant or machinery. This discussion document is concerned only with the impacts for plant or machinery leases.

Who will be affected?

1.5. In the UK, International Financial Reporting Standards (IFRS) are used principally by publically quoted companies and by those companies who report under the UK Financial Reporting Standard 101 (FRS101).

1.6. Businesses accounting under UK Generally Accepted Accounting Practice (UK GAAP), other than FRS101, will not be affected unless UK GAAP changes its lease accounting to fall in line with IFRS 16. There is no firm information presently whether this will happen and it would be in 2022 at the earliest.

The nature of the tax changes

1.7. For lessees adopting the new standard, the link between the accounting and tax treatment will be broken and changes will need to be made to the tax legislation.

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[1] FLA members lent in excess of £29 billion through asset finance to UK businesses for the year to 31.12.2015 of which just over £15 billion was through Lease/Hire Purchase.

[2] Basically 5 years or more with possible extension to 7 years or more for finance leases

Those changes could simply preserve the effects of the current regime or could introduce a new regime for the tax treatment of leases of plant or machinery.

1.8. Up to 2006 the banks were the major force in the leasing market, particularly in big ticket leasing, driven largely by the tax benefits that could be derived from capital allowances. Subsequently, three factors in conjunction had changed this position. Firstly, after 2008 the world economic crisis leading to a lack of liquidity and tax capacity. Secondly, the introduction of the long funding lease regime and the sale of lessor company provisions. Thirdly, the fall in rates of both capital allowances and tax.

1.9. Over the last few years many banks have largely withdrawn from leasing being replaced by different types of investors, for example investment funds seeking a steady stream of income. There is now a more specialised asset financing marketplace together with a move towards hire purchase. At the smaller end of the leasing market, the lessees could now be using the cash basis for tax purposes where capital allowances and the complexities of accounting are not relevant.

1.10. These changes put different demands on the tax system which some may consider indicate a need for more extensive changes to the regime rather than simply preserving the status quo. This discussion document sets out a number of possible approaches to the taxation of leasing ranging from necessary adaptations which maintain the effect of the current rules to various options for full regime change.

Aim of this discussion

1.11. Some of the key factors that need to be taken into account in taking the issue forward are:

- the current and expected future commercial environment,
- simplification where possible,
- strong protection of revenue for the Exchequer.

This discussion document considers how this might be done in response to the known accounting changes but also with the aim of future proofing against subsequent accounting changes. We want feedback from businesses, advisers and representative bodies so it can influence our thinking for the next stage of the policy design process.

Discussion Point

Do you think the criteria in 1.11 are the right criteria to use and are there any other criteria that the government should take into account?

2. Current Lease Accounting and Tax

2.1 Accounting under the existing IASB leasing standard and under UK GAAP is very similar.

2.2 A lease is classified, separately by the lessor and the lessee, as either a finance lease or an operating lease. If the lease transfers substantially all the risks and rewards incidental to ownership of the asset to the lessee then it is classified as a finance lease. All other leases are operating leases.

2.3 The classification of the lease determines how the lease is presented in the accounts of the lessor and the lessee. In certain circumstances there may a different classification by the lessor and the lessee of the same lease.

Accounting for finance leases

2.4 A finance lease is accounted for as if it were the provision of finance rather than as a contract for use of an asset over an agreed period of time for an agreed consideration.

2.5 A lessor under a finance lease will replace the fixed asset on its balance sheet with a financial asset that records the value of the lease – the "net investment in the lease". That asset reduces as the rentals are received. The lessor recognises through its income statement the finance charge element of the lease rentals at a constant rate of return on the remaining net investment in the lease.

2.6 A lessee under a finance lease records the fixed asset on its balance sheet together with the liability to make payments under the lease. The lessee recognises through its income statement both the finance charge element of the rentals, at a constant rate on the outstanding liability, and depreciation of the asset.

Accounting for operating leases

2.7 An operating lease is accounted for as a contract for use of an asset over an agreed period of time for an agreed consideration.

2.8 A lessor under an operating lease records the plant or machinery which has been leased on its balance sheet as a fixed asset and depreciates it in the normal way. The rents from the lease are taken in full to the income statement usually on a straight line basis over the term of the lease, irrespective of when payable, together with depreciation.

2.9 A lessee under an operating lease does not record anything related to the lease on its balance sheet. The rentals payable are charged to the income statement usually on a straight line basis, irrespective of when payable.

Current Tax Treatment of Plant and Machinery Leases

2.10 The current tax treatment of a lease of plant or machinery depends upon whether or not the lease in question is a long funding lease.

2.11 The determination of whether or not a lease is a long funding lease will be made separately by the lessor and the lessee.[3]

The lease is not a long funding lease

2.12 A lessor is chargeable to tax on the full amount of rents receivable and is entitled to claim capital allowances on its qualifying expenditure on purchasing the plant or machinery that becomes the subject of the lease.

2.13 A lessee is entitled to deduct the full amount of the rents payable under the lease in computing its taxable income.

The lease is a long funding lease

2.14 The long funding lease rules work differently depending upon whether the lease in question is a finance or operating lease, but with the same overall outcome.

2.15 A lessor under a long funding lease is not entitled to claim capital allowances on its expenditure in purchasing the leased asset but is only chargeable to tax on an amount broadly equivalent to the finance element of the lease rental received.

2.16 A lessee under a long funding lease[4] is entitled to claim capital allowances by reference to part of the rent that it will pay over the term of the lease. The remainder of the rent, the finance charge element, is claimed as a deduction in calculating taxable income.

[3] Rules for determining whether a lease is a long funding lease are in Chapters 6 and 6A of Part 2 of the Capital Allowances Act 2001

[4] Except in certain defined circumstances a lease is only a long funding lease for a lessee provided the lessee returns it as such for the period in which the lease commences, i.e. the lessee has the choice whether to claim capital allowances or get deductions for the full rents

3. New Lease Accounting and Tax Impacts

3.1 On 13 January 2016 the IASB published their new lease accounting standard for leases (IFRS16). The new standard is mandatory for users of IFRSs for periods of account beginning on or after 1 January 2019. Early adoption is permitted if the user has also adopted IFRS15 “Revenue from Contracts with Customers”.

3.2 The main driver of the changes was to improve reporting in the financial statements of lessees. The only significant changes that the new standard makes for lessors are around the disclosure requirements in their accounts. The changes for lessees are far more substantial.

New IASB accounting - Lessees

3.3 Under the new standard lessees will use only one form of accounting and so, unlike lessors, will no longer classify their leases as being ‘finance’ or ‘operating’ leases.

3.4 All lessees will record at the outset a *right of use* asset and a liability to pay rentals under the lease. Both are valued at commencement of the lease by reference to the present value of the payments under the lease. The *right of use* asset is depreciated, normally on a straight line basis over the term of the lease. The finance charge element of the rental is recognised so as to maintain a constant rate on the outstanding liability. Costs therefore reflect the finance charge element of the rentals and the depreciation of the right to use the asset.

3.5 There are two exceptions to this approach. Where a lease has a term of 12 months or less (short leases) and where low value assets (guidance suggests less than $5,000) are leased, the lessee is not required to record a right to use the asset or a liability to pay. Instead the lessee will charge the rents payable to its income statement, usually on a straight line basis.

UK GAAP

3.6 Companies which use FRS101 effectively follow IAS, with reduced reporting requirements, and so will be impacted by the introduction of IFRS 16. For other users of UK GAAP there will be no immediate changes and currently it is not known whether or when such changes might be introduced.

Impact of IFRS 16 on current UK tax legislation

3.7 The tax legislation relies in parts on the accounting treatment of the transaction to determine, firstly, whether the arrangement involves a lease and, secondly, how it should be treated for tax purposes.

3.8 The long funding lease rules apply differently, though with the same overall outcome, according to whether the lease in question is a finance lease or an operating lease.

3.9 There are a number of anti-avoidance provisions, for example in relation to sale or lease and finance leasebacks, which operate by reference to the person in question having classified the lease in question as a finance lease rather than an operating lease.

3.10 There are also references to different classifications of a lease in other tax legislation, e.g. loan relationships, controlled foreign companies, permanent establishments. These may not continue to work as intended, either on their own or in conjunction with any necessary changes to the leasing legislation.

3.11 Clearly, changes to the existing tax legislation are necessary to cater for the new IASB accounting by lessees. However, the majority of businesses in the UK will continue to use the unchanged UK GAAP. To avoid complexity any changes to existing rules will need to function for all types of accounting permitted for UK tax purposes[5].

[5] Only accounts drawn up under IAS or UK GAAP are acceptable for UK tax purposes. Where not drawn up under either of those codes adjustments are required for tax purpose to bring the accounts in line with UK GAAP

4. Options for Tax Changes

Summary of possible approaches

Option 1 - Status quo

Minimal change to the statutory provisions to ensure that the current tax regime continues to function and deliver the same outcome for tax purposes.

Option 2 – Accounts based regime

A new tax regime based on the accounting entries.

Option 3 - Accounts based with leasing allowance

A new tax regime based on the accounting entries but providing an option to the lessee to claim enhanced or accelerated relief based on the value of the *right to use* the leased asset.

Option 4 - Accounts based with capital allowances

A new tax regime based on the accounting entries but providing an option to the lessee to claim capital allowances based on the value of the *right to use* the leased asset.

None of these options would change the total amount brought into charge to tax for a lessor or the amount of relief available to a lessee but options 2, 3 and 4 could affect the timing of the charge and relief.

To give an indication of the likely impact of the option examples have been included. These examples are based on the following facts:

Basic Facts for Examples

Asset Cost	£60,000	Useful Economic Life of Asset	8 years
Lease Term	5 years	Expected residual value in 5 yrs	£20,000
Interest rate implicit in lease	6%	Annual Rent	£9,496

It is assumed that, where applicable, capital allowances writing down allowance are available at a rate of 18% and a “leasing allowance” of x1.1 (up to a maximum of the starting right of use asset) is available.

Option 1 – Status Quo

4.1 The main areas of legislation where amendments would be necessary are in the long funding lease regime and in anti-avoidance provisions where the classification of a lease is relevant in relation to a lessee.

4.2 It may also be necessary to make amendments in other areas of legislation where there is a dependence on classification of a lease and there are impacts directly or indirectly on the lessee, e.g. loan relationships, controlled foreign companies, permanent establishments, tonnage tax.

4.3 As part of such a review it is not anticipated changes would add any complexity to existing legislation but on the other hand any simplifications would likely be fairly minor in nature. .

Example – Option 1

Lessor	Year 1	Year 2	Year 3	Year 4	Year 5
Gross Rents Receivable	£9,496	9,496	9,496	9,495	9,495
Capital Allowances	(10,800)	(8,856)	(7,262)	(5,955)	(4,883)
Taxable Income	£(1,304)	640	2,234	3,540	4,612
Lessee					
Gross Rents Deductible	£(9,496)	(9,496)	(9,946)	(9,945)	(9,945)

Option 1 – Discussion Points

- **Option 1, unlike the other options involves capital allowances still being available to lessors, except under long funding leases. What merits are there in maintaining this current approach to the allocation of capital allowances?**

- **Is the current system of lease taxation well enough understood to override issues around complexity?[6]**

Option 2 – Accounts based regime

4.4 The regime would:

- identify leasing transactions based on the accounting treatment;
- use a system of debits and credits to calculate the tax profit / loss from the lease based on the amounts taken into account in computing the profit or loss arising from a lease;
- have no regard for the revenue / capital divide, disapplying the tax rules that prevent deductions for capital sums;
- not give any entitlement to capital allowances for leased plant and machinery;
- At its simplest, not require any adjustments to figures in accounts drawn up under IAS or UK GAAP.

4.5 A lessee using IFRS16 would calculate profits or losses to include debits for the depreciation of the right of use asset and the finance element of the rents payable, together with credits for any rebates received. Where the lease is a

[6] See for example Office of Tax Simplification Reports OTS Complexity Index June 2015

short or a low value asset lease, debits would be rentals payable and credits would be any rebates received.

4.6 A lessee using UK GAAP would classify each of its leases as a finance or an operating lease. Where the lease is an operating lease debits would be rents payable. Where the lease is a finance lease debits would include the finance charge element of rents payable together with depreciation of the leased asset, and credits would include any rebates received.

4.7 A lessor, whether using IAS or UK GAAP, would classify each of its leases as a finance or an operating lease. For a finance lease the lessor would include credits for the finance charge element of the rents receivable and any profit on sale of the asset and debits for any rebates payable and any losses on sale of the asset. For an operating lease the lessor would include credits for the rents receivable, debits for the depreciation of the leased asset and credits / debits for profits / losses on sale of the asset.

4.8 It may prove necessary to make adaptions and exceptions to prevent opportunities for abuse that might arise out of such matters as asymmetry of treatment between lessor and lessee and acceptable rates of depreciation.

Summary

DEBITS	***CREDITS***
Lessee using IFRS 16	
Depreciation of the *right of use* asset	Rebates received
Finance element of rents payable	
Lessee using UK GAAP – Finance Lease	
Finance element of rents payable	Rebates Received
Depreciation of the leased asset	
Lessee using UK GAAP – Operating Lease	
Rents payable	
Lessor using IFRS 16 or UK GAAP – Finance Lease	
Rebates Payable	Finance element of rents receivable
Loss on sale of asset	Profit on sale of asset
Lessor using IFRS 16 or UK GAAP – Operating Lease	
Depreciation of the leased asset	Rents receivable
Loss on sale of asset	Profit on sale of asset

Example – Option 2

Lessor	Year 1	Year 2	Year 3	Year 4	Year 5
Gross Rents Receivable	£9,496	9,496	9,496	9,495	9,495
Depreciation	(7,500)	(7,500)	(7,500)	(7,500)	(7,500)
	£1,996	1,996	1,996	1,995	1,995
Lessee					
Finance element of rentals	£(2,400)	(1,974)	(1,523)	(1,045)	(537)
Right of Use Asset Depreciation	£(8,000)	(8,000)	(8,000)	(8,000)	(8,000)
Tax Deductible	£(10,400)	(9,974)	(9,523)	(9,045)	(8,573)

Option 2 – Discussion Points

- **An accounts based regime would replace for all leased assets current access to capital allowances with accounting depreciation. What impact would this have on financing decisions and on the availability of finance?**
- **There may be circumstances where the tax treatment will need to depart from the accounting treatment to prevent abuses. How much of a burden would this present?**
- **What are the relative merits and disadvantages of this option compared to the existing regimes?**

Option 3 – Accounts based regime with leasing allowance

4.9 An Option 2 approach removes from lessors and lessees access to current tax timing benefits relating to plant or machinery, e.g. Annual Investment Allowance. Such an approach might create an imbalance for the user of plant or machinery between purchase and leasing which could have some impacts on investment and financing decisions.

4.10 A lessee adopting IFRS 16 will include on its balance sheet a *right of use* asset. At the commencement of the lease this is equal to the present value of the lease rentals payable. The *right of use* asset is depreciated, normally on a straight line basis over the term of the lease, with the annual depreciation being charged to the income statement.

4.11 A refinement to an accounts based regime would provide the Government with an opportunity to offer a form of benefit, if it was so minded, by adjustment to the rates or timing of the depreciation of the *right of use* asset. This could be known as a "leasing allowance" or something similar. The allowance could be targeted in the same way that some capital allowances are targeted

4.12 Many lessees will not use IFRS 16. In order to claim any available allowance such a lessee would need to calculate a starting value for the *right of use* asset and depreciate that asset, normally on a straight line basis over the term of the lease. It would be possible to provide online calculators to make such an exercise relatively straightforward.

4.13 The "leasing allowance" would only be available to the ultimate lessee, that is a lessee that is not also a lessor of the asset, so that allowances are available only once in a chain of leases. It would not be available to users of the cash basis.

Example - Option 3 Leasing allowance of x1.1

Lessor	Year 1	Year 2	Year 3	Year 4	Year 5
Gross Rents Receivable	£9,496	9,496	9,496	9,495	9,495
Depreciation	(7,500)	(7,500)	(7,500)	(7,500)	(7,500)
	£1,996	1,996	1,996	1,995	1,995
Lessee					
Finance element of rentals	£(2,400)	(1,974)	(1,523)	(1,045)	(537)
Leasing Allowance	£(8,800)	(8,800)	(8,800)	(8,800)	(4,800)
Tax Deductible	£(11,200)	(10,774)	(10,323)	(9,845)	(5,337)

Option 3 – Discussion Points

- **If a leasing allowance were considered, would this have an impact on financing decisions?**
- **Would claiming the leasing allowance present any particular difficulties?**
- **Should a leasing allowance be available where assets of low value are leased and no right of use asset is recorded by the lessee?**
- **What do you consider are the advantages and disadvantages of the accounts based with leasing allowance option compared to maintaining the existing scheme of legislation (Option 1)?**

Option 4 – Accounts based with capital allowances

4.14 The *right of use* asset could also form the basis for a new regime that allows the ultimate lessee (a lessee that is not also a lessor of the asset) the option to claim capital allowances.

4.15 An accounts based capital allowances approach would start with the accounts based regime concept in Option 2. The capital allowances, if the lessee chooses to claim them, would substitute for the depreciation of the *right of use* asset when computing profits for tax purposes. This option could potentially give a lessee access to enhanced capital allowances such as Annual Investment Allowance.

4.16 As with option 3, where the lessee does not account using the new standard then an equivalent of the "right of use" asset would need to be calculated – online calculators would make this a straightforward task.

Example – Option 4 with short life asset election

Lessor	Year 1	Year 2	Year 3	Year 4	Year 5
Gross Rents Receivable	£9,496	9,496	9,496	9,495	9,495
Depreciation	£(7,500)	(7,500)	(7,500)	(7,500)	(7,500)
	£1,996	1,996	1,996	1,995	1,995
Lessee					
Finance element of rentals	£(2,400)	(1,974)	(1,523)	(1,045)	(537)
Capital Allowances	£(7,200)	(5,904)	(4,841)	(3,970)	(18,085)
Tax Deductible	£(9,600)	(7,878)	(6,364)	(5,015)	(18,622)

Example - Option 4 with Annual Investment Allowance claim

Lessor	Year 1	Year 2	Year 3	Year 4	Year 5
Gross Rents Receivable	£9,496	9,496	9,496	9,495	9,495
Depreciation	(7,500)	(7,500)	(7,500)	(7,500)	(7,500)
	£1,996	1,996	1,996	1,995	1,995
Lessee					
Finance element of rentals	£(2,400)	(1,974)	(1,523)	(1,045)	(537)
Capital Allowances	£(40,000)	(0)	(0)	(0)	(0)
Tax Deductible	£(42,400)	(1,974)	(1,523)	(1,045)	(537)

Option 4 – Discussion Points

- **If capital allowances were made available to the lessee based on the right of use asset would this have an effect on a decision to buy or to lease an asset?**

- **If capital allowances were to be made available to lessees should this extend to cover arrangements where no right of use asset is recorded by the lessee?**

- **Should capital allowances be available where assets of low value are leased and no right of use asset is recorded by the lessee?**

- **What do you consider are the advantages and disadvantages of the accounts based capital allowances option compared to maintaining the existing scheme of legislation (Option 1)?**

Discussion Points – General

4.17 **HMRC would like to explore the comparative effect that each of these options might have on:**

- **Investment in plant or machinery**
- **The future of the leasing industry**
- **The costs of lease finance**
- **The choice of asset finance**
- **The administrative burdens imposed by the tax system**

4.18 **Would giving lessees access to elements that affect the timing of relief give rise to new avoidance risks, if so what and how do you consider those issues might be addressed?**

Other Options

4.19 **Finally, HMRC acknowledge that these options are not exhaustive and would be pleased to consider other possible approaches to the taxation of leasing that are suggested.**

5. Summary of Discussion Points

Option 1

- **Option 1, unlike the other options, involves capital allowances still being available to lessors, except under long funding leases. What merits are there in maintaining this current approach to the allocation of capital allowances?**

- **Is the current system of lease taxation well enough understood to override issues around complexity?**[7]

Option 2

- **An accounts based regime would replace for all leased assets current access to capital allowances with accounting depreciation. What impact would this have on financing decisions and on the availability of finance?**
- **There may be circumstances where the tax treatment will need to depart from the accounting treatment to prevent abuses. How much of a burden would this present?**
- **What are the relative merits and disadvantages of this option compared to the existing regimes?**

Option 3

- **If a leasing allowance were considered, would this have an impact on financing decisions?**

- **Would claiming the leasing allowance present any particular difficulties?**

- **Should the leasing allowance be available where assets of low value are leased and no right of use asset is recorded by the lessee?**

- **What do you consider are the advantages and disadvantages of the accounts based incentives option compared to maintaining the existing scheme of legislation (Option 1)?**

Option 4

- **If capital allowances were made available to the lessee based on the right of use asset would this have an effect on a decision to buy or to lease an asset?**
- **If capital allowances were to be made available to lessees should this extend to cover arrangements where no right of use asset is recorded by the lessee?**

[7] See for example Office of Tax Simplification Reports OTS Complexity Index June 2015

- **Should capital allowances be available where assets of low value are leased and no right of use asset is recorded by the lessee?**
- **What do you consider are the advantages and disadvantages of the accounts based capital allowances option compared to maintaining the existing scheme of legislation (Option 1)?**

General

- **Do you think the criteria in 1.11 are the right criteria to use and are there any other criteria that the government should take into account?**
- **HMRC would like to explore the comparative effect that each of these options might have on:**
    - **Investment in plant or machinery**
    - **The future of the leasing industry**
    - **The costs of lease finance**
    - **The choice of asset finance**
    - **The administrative burdens imposed by the tax system**
- **Would giving lessees access to elements that affect the timing of relief give rise to new avoidance risks, if so what and how do you consider those issues might be addressed?**

Other Options

Finally, HMRC acknowledge that these options are not exhaustive and would be pleased to consider other possible approaches to the taxation of leasing that are suggested.

6. Process, How to Respond and Next Steps

This discussion is being conducted in line with the Tax Consultation Framework.

There are 5 stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

This discussion is taking place during stage 1 of the process. The purpose of the discussion is to seek views on the policy design and any suitable possible alternatives, before consulting later on a specific proposal for reform.

How to respond

A summary of the discussion points is included at chapter 5.

Responses should be sent by 30 October 2016, by e-mail to paul.hindley@hmrc.gsi.gov.uk or by post to Paul Hindley, Room 3/64 100 Parliament Street, London SW1A 2BQ

Telephone enquiries 03000 585576 (from a text phone prefix this number with 18001)

Please do not send responses to the Consultation Coordinator.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from HMRC's GOV.UK pages. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this discussion, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentially can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

This discussion is being run in accordance with the Government's Consultation Principles. We are keen to reach and engage with all people who have an interest. If you are interested in discussing the issues at a meeting or by teleconference please send an email to paul.hindley@hmrc.gsi.gov.uk

The Consultation Principles are available on the Cabinet Office website: http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance

If you have any comments or complaints about the process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to this address.

Annex A: Relevant Current Legislation

Part 2 Capital Allowances Act 2001, in particular Chapters 6 and 6A for long funding lease legislation (capital allowances) and Chapter 17 for anti-avoidance rules.

Part 9 Corporation Tax Act 2010, in particular Chapter 2 for long funding leases (income and expenditure) and Chapters 3 – 5 for Sale of Lessor Companies

Part 2 Income Tax (Trading and Other Income) Act 2005, in particular Chapter 10A for long funding leases (income and expenditure)

Part 20 Corporation Tax Act 2010 – Tax Avoidance Involving Leasing Plant or Machinery

Part 13 Income Tax Act 2007, in particular Chapter 6 - Avoidance Involving Leasing Plant or Machinery

Part 21 Corporation Tax Act 2010 – Leasing Arrangements: Finance Leases and Loans

Part 11A Income Tax Act 2007 - Leasing Arrangements: Finance Leases and Loans