

---

**1 Consideration for taking over payment obligations as lessee under a lease of plant or machinery taxed as income**

- (1) In Part 20 of CTA 2010 (tax avoidance involving leasing plant or machinery), after section 894 insert –

**“CHAPTER 3**

**CONSIDERATION FOR TAKING OVER PAYMENT OBLIGATIONS AS LESSEE TREATED AS INCOME**

**“894A Consideration for taking over payment obligations as lessee treated as income**

- (1) This section applies where under any arrangements –
- (a) a company chargeable to corporation tax (C) agrees to take over obligations of another person (D) as lessee under a lease of plant or machinery,
  - (b) as a result of that agreement C, or a person connected with C, becomes entitled to income deductions (whether deductions in calculating income or from total profits), and
  - (c) a payment is payable to C, or a person connected with C, by way of consideration for that agreement.
- (2) The payment is treated for the purposes of corporation tax as income received by C in the period of account in which C takes over the obligations mentioned in subsection (1)(a).
- (3) Subsection (2) does not apply if and to the extent that the payment is (apart from this section) –
- (a) charged to tax on C, or a person connected with C, as an amount of income,
  - (b) brought into account in calculating for tax purposes any income of C or a person connected with C, or
  - (c) brought into account for the purposes of any provision of CAA 2001 as a disposal receipt, or proceeds from a balancing event or disposal event, of C or a person connected with C.
- (4) It does not matter how C takes over the obligations of D (whether by assignment, novation, variation or replacement of the contract, by operation of law or otherwise).
- (5) In this section –
- “arrangements” include any scheme, arrangement, understanding, transaction or series of transactions (whether or not legally enforceable),

“lease of plant or machinery” means any kind of agreement or arrangement under which sums are paid for the use of, or otherwise in respect of, plant or machinery,

“payment” includes the provision of any benefit, the assumption of any liability or the transfer of money or money’s worth (and “payable” is to be construed accordingly), and

“payment by way of consideration” means any payment made, directly or indirectly, in consequence of or otherwise in connection with, the agreement mentioned in subsection (1)(a), where it is reasonable to assume the agreement would not have been made unless the arrangements included provision for the payment.

- (6) Any priority rule (other than section 212(1) of FA 2013 (general anti-abuse rule to have priority over other rules)) has effect subject to this section, despite the terms of the priority rule.
  - (7) For that purpose “priority rule” is a rule (however expressed) to the effect that particular provisions have effect to the exclusion of, or otherwise in priority to, anything else.
  - (8) Examples of priority rules are section 464 of CTA 2009 (priority of loan relationships rules) and s. 6(1) TIOPA 2010 (effect to be given to double taxation arrangements despite anything in any enactment).”
- (2) In Chapter 6 of Part 13 of ITA 2007 (avoidance involving leases of plant or machinery), after section 809ZF insert –

**“809ZG Consideration for taking over payment obligations as lessee treated as income**

- (1) This section applies where under any arrangements –
  - (a) a person within the charge to income tax (P) agrees to take over obligations of another person (Q) as lessee under a lease of plant or machinery,
  - (b) as a result of that agreement P, or a person connected with P, becomes entitled to income deductions (whether deductions in calculating income or from total profits), and
  - (c) a payment is payable to P, or a person connected with P, by way of consideration for that agreement.
- (2) The payment is treated for the purposes of income tax as income received by P in the tax year in which P takes over the obligations mentioned in subsection (1)(a).
- (3) Subsection (2) does not apply if and to the extent that the consideration is (apart from this section) –
  - (a) charged to tax on P, or a person connected with P, as an amount of income,
  - (b) brought into account in calculating for tax purposes any income of P or a person connected with P, or
  - (c) brought into account for the purposes of any provision of CAA 2001 as a disposal receipt, or proceeds from a balancing event or disposal event, of P or a person connected with P.

- 
- (4) It does not matter how P takes over the obligations of Q (whether by assignment, novation, variation or replacement of the contract, by operation of law or otherwise).
- (5) In this section –
- “arrangements” include any scheme, arrangement, understanding, transaction or series of transactions (whether or not legally enforceable),
  - “lease of plant or machinery” means any kind of agreement or arrangement under which sums are paid for the use of, or otherwise in respect of, plant or machinery,
  - “payment” includes the provision of any benefit, the assumption of any liability or the transfer of money or money’s worth (and “payable” is to be construed accordingly), and
  - “payment by way of consideration” includes a payment made, directly or indirectly, in consequence of or otherwise in connection with, the agreement mentioned in subsection (1)(a), where it is reasonable to assume the agreement would not have been made unless the arrangements included provision for the payment.
- (6) Any priority rule (other than section 212(1) of FA 2013 (general anti-abuse rule to have priority over other rules)) has effect subject to this section, despite the terms of the priority rule.
- (7) For that purpose “priority rule” is a rule (however expressed) to the effect that particular provisions have effect to the exclusion of, or otherwise in priority to, anything else.
- (8) An example of a priority rule is section 6(1) of TIOPA 2010 (effect to be given to double taxation arrangements despite anything in any enactment).”
- (3) This section applies to agreements of the kind mentioned in section 894A(1)(a) of CTA 2010 or section 809ZG of ITA 2007 that are made on or after 25 November 2015.

## 2 Capital allowances: anti-avoidance relating to disposals

- (1) Chapter 17 (other anti-avoidance) of Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.
- (2) Section 213 (relevant transactions: sale, hire purchase etc. and assignment) is amended in accordance with subsections (3) and (4).
- (3) In subsection (1) for the words from “enters” to “(“S”)” substitute “and another person (“S”) enter into a relevant transaction”.
- (4) After subsection (3) insert –
- “(4) For the purposes of this Chapter, references to the disposal value of the plant or machinery under a relevant transaction are references to the disposal value that is to be brought into account by S as a result of the sale, contract or assignment in question.”
- (5) Section 215 (transactions to obtain tax advantages) is amended in accordance with subsections (6) to (8).

- (6) In subsection (1) –
- (a) after “restricted” insert “, and balancing charges are imposed or increased,”
  - (b) for the words from “B” to “S” substitute “B and S enter into a relevant transaction”.
- (7) In subsection (4) –
- (a) after “includes” insert “ –
    - (a) ”, and
  - (b) at end insert “, and
    - (b) avoiding liability for the whole or part of a balancing charge to which a person would otherwise be liable.”
- (8) After subsection (4) insert –
- “(4A) If the tax advantage relates to the disposal value of the plant or machinery under the relevant transaction (whether by obtaining a more favourable allowance or by avoiding the whole or part of a balancing charge) then –
- (a) the applicable section is section 218ZB, and
  - (b) the tax advantage is to be disregarded for the purposes of subsection (6) and (8)(b).”
- (9) After section 218ZA (restrictions on writing down allowances: section 215) insert –

**“218ZB Disposal values: section 215**

- (1) If –
- (a) this section applies as a result of section 215,
  - (b) a payment is payable to any person under the transaction, scheme or arrangement mentioned in that section,
  - (c) some or all of the payment would not (apart from this section) be taken into account in determining the disposal value of the plant or machinery under the relevant transaction, and
  - (d) as a result of the matters mentioned in paragraphs (b) and (c) S would otherwise obtain a tax advantage as mentioned in section 215(3) and (4),
- the disposal value of the plant or machinery under the relevant transaction is to be adjusted in a just and reasonable manner so as to include an amount representing so much of the payment as would or would in effect cancel out the tax advantage.
- (2) In subsection (1) “payment” includes the provision of any benefit, the assumption of any liability and any other transfer of money or money’s worth, and “payable” is to be construed accordingly.”
- (10) In section 66 (list of provisions outside this Chapter about disposal values) insert at the appropriate place –

“section 218ZB disposal of plant or machinery in avoidance cases”.

- (11) The amendments made by this section have effect in relation to transactions mentioned in section 213(1)(a), (b) or (c) of CAA 2001 that take place on or after 25 November 2015.