
SALE OF LESSOR COMPANIES: ANTI-AVOIDANCE AND FAIRNESS

Who is likely to be affected?

1. Companies carrying on a trade of leasing plant or machinery either alone or in partnership.

General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to make changes to Schedule 10 to the Finance Act (FA) 2006 ("Sale of Lessor Companies") to ensure that it operates appropriately in complex transactions involving partnerships and consortia.
3. It will also extend the period over which losses arising as a consequence of Schedule 10 can be utilised by the wider purchasing group.

Operative date

4. The legislation will have effect where the transaction takes place on or after 22 April 2009 and, in relation to losses, it will have effect where those losses are incurred in accounting periods ending on or after 22 April 2009.

Current law and proposed revisions

5. Schedule 10 to FA 2006 prevents a loss of tax when a lessor company changes hands. It achieves this by calculating a charge and relief designed to recoup the tax timing advantage gained from a claim to capital allowances. The legislation ensures that the charge affects the selling group and the relief benefits the buying group.
6. Complex transactions involving leasing businesses carried on by companies owned by consortia and by companies in partnership have exposed areas where the legislation may not give the expected result.
7. Changes will be made to ensure that companies carrying on a leasing business in partnership benefit from the full amount of relief due as a consequence of an increase in their interest in the business and to prevent a charge being calculated when a partnership is dissolved or ceases to

carry on a leasing business. Where there is an intra-group transfer involving a lessor company owned by a consortium the measure similarly prevents the calculation of a charge.

8. Other changes address the calculation of a charge when an asset has been transferred between connected parties prior to 5 December 2005 when the sale of lessor companies legislation was brought into effect. The changes ensure that the calculation takes into account only assets transferred between parties connected on or after that date.
9. The measure also extends the period over which a loss derived from the relief can be surrendered to other group companies and preserves the value of that relief when it remains unutilised over the same period.

Further advice

10. Draft legislation and an explanatory note have been published today and are available on the HM Revenue & Customs website at www.hmrc.gsi.gov.uk.
11. If you have any questions about this change, please contact Jo Brindley on 020 7147 2571 (email: jo.brindley@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk