

Income Tax (Income from Finance Leases) Regulations

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INCOME TAX ACT (CHAPTER 134, SECTION 10D)

INCOME TAX (INCOME FROM FINANCE LEASES) REGULATIONS

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Citation and application

1.—(1) These Regulations may be cited as the Income Tax (Income from Finance Leases) Regulations.

(2) These Regulations shall apply to any finance lease entered into on or after 1st April 1990.

Definitions

2. In these Regulations —

“leveraged lease” is a finance lease the parties to which include a lessor, lessee and one or more long-term creditors who provide a substantial part of the financing for the acquisition of the leased machinery or plant without any recourse to the lessor for the repayment of the loan;

“limited use asset” means any machinery or plant —

- (a) for which there is no other user;
- (b) where it is not commercially feasible for the lessor to lease the machinery or plant to another user; or
- (c) where the costs of dismantling and reassembling the machinery or plant are so high as to render a subsequent lease not economically viable;

“sale and lease-back transaction” means a transaction where the asset is sold and subsequently leased back to the seller.

Allowances made to lessee

3. Allowances under section 19, 19A, 20, 21, 22 or 23 of the Act in respect of any machinery or plant which is leased under a finance lease shall be made to the lessee if the finance lease is treated as a sale agreement.

Leases treated as sale agreements

4.—(1) For the purposes of regulation 3, a finance lease shall be treated as a sale agreement if —

- (a) the lessee has an option to purchase the machinery or plant during the term of the lease including any extension or renewal thereof or upon its expiry;
- (b) the machinery or plant which is leased is a limited use asset;
- (c) the machinery or plant in a sale and lease-back transaction has been previously used by the lessee or any other person;
- (d) the lessor and lessee are related to each other and —
 - (i) the lessee or any other person related to the lessee lends to the lessor any of the funds necessary to acquire the leased asset or guarantees any debt of the lessor incurred in connection with the lease;