

**BOARD OF INLAND REVENUE
RESOLUTION 47**

**FINANCE BILL 2004
COMMITTEE
CLAUSE 127
SCHEDULE 23**

Amendment	Page	Line
*SC158	112	20
*SC159	112	40

Paul Boateng

(Brent South - Lab)

Amendment 158

Clause 127, page 112, leave out lines 20 to 23 and insert—

'(1) This section applies in relation to the calculation of the lessor's income or profits for a period of account for the purpose of income tax or corporation tax.

(1A) Where—

(a) an amount receivable in respect of the lessor's interest under the leaseback falls to be taken into account in that calculation, and

(b) that amount is reduced by an amount due to the lessee under the leaseback,

that reduction shall be disregarded when taking the amount receivable into account.

(1B) The amounts receivable in respect of the lessor's interest under the leaseback that fall to be taken into account in that calculation may be disregarded to the extent that they exceed the permitted threshold (whether or not subsection (1A) applies).'

Amendment 159

Clause 127, page 112, leave out lines 40 to 44.

EXPLANATORY NOTE

SUMMARY

1. The purpose of these amendments is to ensure that the lessor is taxed on the right measure of income.

DETAILS

2. The amendments, taken together, replace new subsections 228D(1) and (5) with new subsections (1), (1A) and (1B) as the original subsections did not achieve the objective.
3. New subsection (1) explains that, as before, the section is concerned with the calculation of the lessor's profit.
4. New subsection (1A) ensures that where an amount due to a lessor from the lessee is reduced by an amount due to the lessee from the lessor the full amount due to the lessor is treated as income.
5. New subsection (1B) provides that to the extent the lessor's income (whether or not it has previously been increased in accordance with subsection (1A)) exceeds the permitted threshold it may be disregarded. This ensures that where an amount owed to the lessor is set against an amount owed by the lessor the amount taxed by reference to the permitted threshold is unaffected.

BACKGROUND NOTE

6. This clause and Schedule close loopholes in the Capital Allowances legislation that some businesses have used to gain an unintended double benefit.
7. Following publication of the Finance Bill discussions with representatives of, and advisers to, business highlighted a number of areas where the operation of the legislation was uncertain.
8. These amendments will ensure that the legislation delivers the intention of the Budget announcement, is fair to business and works at the technical level.