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Mr Chancellor of the Exchequer

Amendment 24

Page **209**, line **7** [Schedule 8], at end insert—

‘(6) A plant or machinery lease is not a funding lease in the case of the lessor if—

(a) before 1st April 2006, the plant or machinery had, for a period or periods totalling at least 10 years, been the subject of one or more leases, and

(b) the lessor under the plant or machinery lease was also lessor of the plant or machinery on the last day before 1st April 2006 on which the plant or machinery was the subject of a lease.’.

Amendment 25

Page **212**, line **43** [Schedule 8], at end insert ‘(but see also subsection (4A))’.

Amendment 26

Page **213**, line **23** [Schedule 8], at end insert—

‘(4A) A lease is not excluded by virtue of subsection (2) if—

(a) the inception of the lease is before 28th June 2006, and

(b) by virtue only of section 70J(6), the lease is not a funding lease in the case of the lessor.’.

SUMMARY

1. These amendments ensure that assets that have been leased out for at least 10 years prior to the introduction of the new regime for leasing plant or machinery are not affected by the new rules.

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DETAILS

2. Amendment 24 adds new subsection (6) to new section 70J of the Capital Allowances Act 2001 (CAA). This subsection ensures that, in the case of a lessor, where plant or machinery has been leased out for at least 10 years prior to 1 April 2006, subsequent leases will not be funding leases.
3. Amendment 25 inserts a ‘flag’ into subsection (1) of section 70Q CAA to draw the reader's attention to new subsection (4A).
4. Amendment 26 inserts new subsection (4A) into section 70Q CAA. This subsection ensures that lessees are not disadvantaged retrospectively where a lessor becomes entitled to capital allowances solely because of new subsection 70J(6).

BACKGROUND NOTE

5. Schedule 8 introduces the new regime for taxing long funding leases of plant or machinery.
6. New section 70J(4) is intended to ensure that the new regime does not apply where plant or machinery approaches the end of its useful life and has been leased out under a succession of leases that are not long funding leases.
7. This rule did not work as intended in the case of some assets that were approaching the end of their useful lives. The introduction of new subsection 70J(6) eases the transition into the new regime by ensuring that, in the case of lessors, assets that have been leased out for at least 10 years prior to 1 April 2006 are not affected by the introduction of the new regime.
8. The rule in new subsection 70J(6) will ensure lessors remain entitled to capital allowances. This has retrospective effect to 1 April 2006 and in such cases, section 70Q CAA could have prevented lessees from being treated as party to a long funding

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lease. New subsection 70Q(4A) ensures section 70Q will not apply where the lease was entered into before 28 June 2006.