

Treatment of premiums, etc. as rent. ITA67 s83; FA69 s33(1) and Sch4 Ptl; FA75 s20 and Sch2 Ptl pars1 and 2; CTA76 s140(1) and Sch2 Ptl par3 98.—(1) Where the payment of any premium is required under a lease or otherwise under the terms subject to which a lease is granted and the duration of the lease does not exceed 50 years, the lessor shall be treated for the purposes of section 75 as becoming entitled when the lease is granted to an amount as rent (in addition to any actual rent) equal to the amount of the premium reduced by 2 per cent of that amount for each complete period of 12 months, other than the first, comprised in the term of the lease.

(2) (a) Where the terms subject to which a lease of any premises is granted impose on the lessee an obligation to carry out any work on the premises, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the lessor (in addition to any other premium) of an amount equal to the amount by which the value of the lessor's estate or interest immediately after the commencement of the lease falls short of what its then value would have been if the work had been carried out, but otherwise than at the expense of the lessee, and the rent were increased accordingly.

(b) Notwithstanding paragraph (a), this subsection shall not apply in so far as the obligation requires the carrying out of work payment for which, if the lessor and not the lessee were obliged to carry it out, would be deductible from the rent under section 97 (2).

(3) Where under the terms subject to which a lease is granted a sum becomes payable by the lessee in place of the whole or a part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the lessor (in addition to any other premium) of the amount of that sum; but—

(a) in computing tax chargeable by virtue of this subsection in respect of a sum payable in place of rent, the term of the lease shall be treated as not including any period other than that in relation to which the sum is payable, and

(b) notwithstanding subsection (1), rent treated as arising by virtue of this subsection shall be deemed to become due when the sum in question becomes payable by the lessee.

(4) Where as consideration for the variation or waiver of any of the terms of a lease a sum becomes payable by the lessee otherwise than as rent, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the lessor (in addition to any other premium) of the amount of that sum; but—

(a) in computing tax chargeable by virtue of this subsection, the term of the lease shall be treated as not including any period which precedes the time at which the variation or waiver takes effect or falls after the time at which the variation or waiver ceases to have effect, and

(b) notwithstanding subsection (1), rent treated as arising by virtue of this subsection shall be deemed to become due when the contract providing for the variation or waiver is entered into.

(5) Where a payment mentioned in subsection (1), (3) or (4) is due to a person other than the lessor, subsection (1), (3) or (4), as the case may be, shall not apply in relation to that payment, but any amount which would have been treated as rent if the payment had been due to the lessor shall be treated as an annual profit or gain of that other person and chargeable to tax under Case IV of Schedule D; but, where the amount relates to a payment within subsection (4), it shall not be so treated unless the payment is due to a person connected with the lessor.

(6) For the purposes of this section, any sum other than rent paid on or in connection with the granting of a lease shall be presumed to have been paid by means of a premium except in so far as other sufficient consideration for the payment is shown to have been given.

(7) Where subparagraph (iii) of section 96 (2)(a) applies, the premium, or an appropriate part of the premium, payable for or in connection with any lease mentioned in that subparagraph may be treated as having been required under any other lease.

(8) Where an amount by reference to which a person is chargeable to income tax or corporation tax by virtue of this section is payable by instalments, the tax chargeable may, if the person chargeable satisfies the Revenue Commissioners that such person would otherwise suffer undue hardship, be paid at such person's option by such instalments as the Revenue Commissioners may allow over a period not exceeding 8 years and ending not later than the time at which the last of the first-mentioned instalments is payable.

(9) Reference in this section to a sum shall be construed as including the value of any consideration, and references to a sum paid or payable or to the payment of a sum shall be construed accordingly.