



Capital Allowances Act 1990

1990 CHAPTER 1

PART II

MACHINERY AND PLANT

CHAPTER VIII

SUPPLEMENTARY PROVISIONS

78 Succession to trades where no election made under section 77

- (1) Where a person succeeds to any trade which until that time was carried on by another person and, by virtue of section 113 or 337(1) of the principal Act (changes in persons carrying on a trade, and special rules for corporation tax), the trade is to be treated as discontinued, any property which, immediately before the succession takes place, was either in use or provided and available for use for the purposes of the discontinued trade and, without being sold, is, immediately after the succession takes place, either in use or provided and available for use for the purposes of the new trade shall, for the purposes of this Part be treated as if—
- (a) it had been sold to the successor when the succession takes place, and
 - (b) the net proceeds of the sale had been the price which that property would have fetched if sold in the open market;
- but no first-year allowance shall be made by virtue of this subsection.
- (2) Where a person succeeds to a trade as a beneficiary under the will or on the intestacy of a deceased person who carried on that trade and the beneficiary by notice to the inspector so elects, then, in relation to any machinery or plant which passes to him together with the trade, being machinery or plant—
- (a) previously owned by the deceased person, and
 - (b) either used or provided and available for use by him for the purposes of that trade,

Status: This is the original version (as it was originally enacted).

the reference in subsection (1) above to the price which the machinery or plant would have fetched if sold in the open market shall, in relation to the succession and any previous succession occurring on or after the death of the deceased, be deemed to be a reference to that price or, if it is less than that price, any excess of qualifying expenditure over disposal value which would have been taken into account under sections 24, 25 and 26 for making an allowance for the chargeable period related to the permanent discontinuance of the deceased person's trade if the machinery or plant had had no disposal value.

- (3) This subsection has effect as respects any allowance under this Part, other than a balancing allowance.

Where, after the setting up and before the permanent discontinuance of a trade which at any time is carried on in partnership, anything is done for the purposes thereof, any such allowance which, if the trade had at all times been carried on by one and the same person, would have fallen to be made to him shall be made to the person or persons from time to time carrying on that trade, and the amount of any such allowance shall be computed as if that person or those persons had at all times been carrying on the trade, and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.

- (4) Where, after the setting up and on or before the permanent discontinuance of a trade which at any time is carried on in partnership, any event occurs which gives rise or may give rise to a balancing allowance or balancing charge under this Part in respect of machinery or plant, any balancing allowance or balancing charge which, if the trade had at all times been carried on by one and the same person, would have fallen to be made to or on him in respect of that machinery or plant by reason of that event shall be made to or on the person or persons carrying on the trade at the time of that event, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the trade and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.
- (5) Notwithstanding section 27(1), this section shall not apply to any employment or office.