

*These notes refer to the Capital Allowances Act 2001
(c.2) which received Royal Assent on 22nd March 2001*

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 12: Supplementary provisions

Chapter 5: Miscellaneous

Overview

1949. This Chapter provides miscellaneous provisions which apply to the whole Act or to several Parts of it.
1950. [Section 562](#) deals with apportionments if property is sold together.
1951. [Sections 563](#) and [564](#) provide a procedure for determining certain questions affecting two or more persons.
1952. [Section 565](#) deals with tax agreements for income tax purposes.
1953. [Section 566](#) provides a special rule for companies not resident in the UK.
1954. [Sections 567 to 570](#) provide for market value if sales are between connected persons or are transactions to obtain a tax advantage. They also provide for an election (if the sale is not a transaction to obtain a tax advantage) which will allow the price to be the amount of unused capital allowances.

Section 562: Apportionment where property sold together

1955. This section is based on section 150 of CAA 1990. It provides that if property is sold with other property the net proceeds are apportioned on a just and reasonable basis.
1956. Use of “just and reasonable apportionment” is a change from section 150(1) of CAA 1990 which uses “just apportionment”. See *Change 40* in Annex 1.
1957. All property sold as part of one bargain is treated as sold together.
1958. There is nothing in this section to reflect section 150(5) of CAA 1990. It has not been rewritten. See *Note 72* in Annex 2

Section 563: Procedure for determining certain questions affecting two or more persons

1959. This section and section 564 are based on section 151 of CAA 1990. They provide for apportionments which affect two or more persons to be decided by one body of appeal Commissioners in one hearing.

Section 564 Questions to which procedure in section 563 applies

1960. *Section 564* sets out the general cases in which the procedure in section 563 applies to decide:
- apportionment of a sum for Parts 3 to 12; and
 - market value for Part 2 and the other provisions listed.
1961. The procedure in section 563 is also applied in two other, particular circumstances over and above these general types which it would not be helpful to deal with here. See sections 357(6) and 561(4).
1962. The omission of Part 2 (plant and machinery) from *subsection (1)* might be thought odd. But there is no need for the procedure in section 563 for Part 2 generally. It is only directly relevant for market value – dealt with by subsection (2)(a). The procedure in section 563 could, however, apply to of plant and machinery indirectly. For example on a sale of plant and machinery with other property, the sale proceeds would fall to be apportioned under section 562. That apportionment could affect the tax of both the buyer and seller.
1963. *Subsection (4)* applies section 564 to cases procedures in which section 561(3) applies. This is a change because section 152B of CAA 1990 (which is the origin of section 561) contains its own apportionment arbitration rules. See *Change 63* in Annex 1.

Section 565: Tax agreements for income tax purposes

1964. This section is based on section 143 of CAA 1990. It provides that a tax agreement for income tax purposes, without assessment, treats an allowance as if given effect under an assessment.

Section 566: Companies not resident in the United Kingdom

1965. This section is based on section 149 of CAA 1990. It provides that capital allowances for companies not resident in the UK are given effect against income chargeable from the source of income to which the capital allowances are related.

Section 567: Sales treated as being for alternative amount: introductory

1966. This section is based on section 157(1)(a) of CAA 1990. It applies sections 568 to 570 and defines the tests – control and tax advantage – which decide if they can apply.
1967. *Subsection (2)* defines the “control test”. This is not a term used in this Act outside sections 567 to 570.
1968. *Subsection (3)* clarifies “body or persons” in subsection (2).
1969. *Subsection (4)* defines the “tax advantage test” for the purposes of these sections. This term is also not used elsewhere in the Act.
1970. *Subsection (5)* introduces the rule from section 152B(10) of CAA 1990 that section 157 shall not apply if section 152B applies (transfer of a UK trade, rewritten in section 561).
1971. Section 157(3) of CAA 1990 is not rewritten. This is because this section and sections 569 and 570 clearly apply to non-resident persons without an explicit statement to that effect. See *Note 73* in Annex 2.

Section 568: Sales treated as being at market value

1972. This section is based on section 157(4) of CAA 1990. It treats a sale as being at market value if either the control test or tax advantage test is met.

Section 569: Election to treat sale as being for alternative amount

1973. This section is based on section 158 of CAA 1990. It provides for an election to be made by connected persons to substitute the alternative amount for the market value of an asset given by section 568 if the control test is met but the tax advantage test is not.
1974. *Subsection (2)* makes clear this is subject to section 570 which prevents an election in some circumstances.

Section 570: Elections: supplemental

1975. This section is based on section 158 of CAA 1990. It prevents an election under section 569 in some circumstances.
1976. *Subsection (1)* is based on section 158(5) of CAA 1990. It means an election cannot be made if the sale is a relevant sale for Part 4 (agricultural buildings).
1977. *Subsection (2)* is based on section 158(3)(a) and (b) of CAA 1990. It prevents elections if, broadly speaking, the qualifying expenditure does not stay within the United Kingdom tax net.
1978. *Subsection (3)* is based on section 158(3)(a) of CAA 1990. It defines “relevant allowance or charge” for the purposes of subsection (2). This excludes sales if an allowance or charge is not capable of being made for Parts 3, 5, 6, 9 and 10 (industrial buildings, mineral extraction, research and development, dredging, and assured tenancies).
1979. The inclusion of Part 9 (dredging) in this list may seem odd as sections 567 to 570 do not apply to Part 9. That is because in Part 9 a disposal event does not lead to a disposal value being brought into account. So substituting market value as the disposal value would have no effect.
1980. The scope of this subsection is wider. It prevents an election if, as a result of the sale, any allowances or charges in the Parts listed would no longer be made. This applies whether or not the allowance involved is the subject of the election. For example an election might (but for this section) be made in respect of an industrial building. But if, as a result of the sale, no dredging allowance would fall to be made then the election is prohibited.
1981. *Subsection (4)* is based on section 158(3)(c) of CAA 1990. It is relevant to assured tenancy allowances.