

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 2: Plant and machinery allowances

Chapter 17: Anti-avoidance

History

781. [Section 78](#) of, and Schedule 7 to, CAA 1968 contained anti-avoidance rules in respect of plant and machinery transactions. These related to, among other things, sales between connected persons and “sole or main benefit” transactions.
782. FA 1971 included, in paragraph 3 of Schedule 8, new anti-avoidance rules intended to prevent the artificial acceleration of allowances. They form the basis of section 75 of CAA 1990.
783. Section 68(3) to (7) and (10) of FA 1972 introduced further anti-avoidance rules. These form the basis of section 76 of CAA 1990. They deal mainly with:
- sale and leaseback transactions if the leaseback was not to the seller but to a person connected with the seller; and
 - cases in which there was no continuity of use for the purposes of the seller’s business before and after the sale and leaseback.
784. The 1972 provisions worked by extending the 1971 rules. This approach was preserved in sections 75 and 76 of CAA 1990.
785. [Section 59](#) of, and paragraph 11 of Schedule 14 to, FA 1991 made further changes. These ensured that the rules worked properly when the expenditure concerned carried an additional VAT liability.
786. Further provisions to prevent tax loss arising from certain finance leasing arrangements were enacted in paragraph 11 of Schedule 12 to FA 1997 and in sections 44 to 47 of F(No.2)A 1997. Those relevant to this Chapter are:
- a definition of “finance lease” (section 82A of CAA 1990);
 - a rule to restrict writing-down allowances on expenditure on plant and machinery for finance leasing in the chargeable period in which it is incurred (section 25(5A) to (5C) of CAA 1990);
 - extensions to the rules in sections 75 and 76 to apply in cases of sale and leaseback if the leaseback is under a finance lease (section 76A of CAA 1990); and
 - a rule modifying the provision on hire-purchase type arrangements in section 60 if plant or machinery is acquired for finance leasing (section 60(2A) of CAA 1990).

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

787. Finally, further rules were added by section 77(1) of FA 2000. That inserted section 76B of CAA 1990. It applies, on election, only in cases of sale and leaseback. It relaxes some of the restrictions on the lessor's entitlement to writing-down allowances. It applies whether or not a finance lease is involved.