



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 12

#### SUPPLEMENTARY PROVISIONS

#### CHAPTER 5

#### MISCELLANEOUS

#### *Apportionment*

#### **562 Apportionment where property sold together**

- (1) Any reference in this Act to the sale of property includes the sale of that property together with any other property.
- (2) For the purposes of subsection (1), all property sold as a result of one bargain is to be treated as sold together even though—
  - (a) separate prices are, or purport to be, agreed for separate items of that property, or
  - (b) there are, or purport to be, separate sales of separate items of that property.
- (3) If an item of property is sold together with other property, then, for the purposes of this Act—
  - (a) the net proceeds of the sale of that item are to be treated as being so much of the net proceeds of sale of all the property as, on a just and reasonable apportionment, is attributable to that item, and
  - (b) the expenditure incurred on the provision or purchase of that item is to be treated as being so much of the consideration given for all the property as, on a just and reasonable apportionment, is attributable to that item.

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- (4) This section applies, with the necessary modifications, to other proceeds (consisting of insurance money or other compensation) as it applies in relation to the net proceeds of a sale.
- (5) This section applies in relation to Part 5 as if expenditure on the provision or purchase of an item of property included expenditure on the acquisition of—
- (a) a mineral asset (as defined by section 397), or
  - (b) land outside the United Kingdom.

*Procedure for determining certain questions*

**563 Procedure for determining certain questions affecting [<sup>F1</sup>one] or more persons**

- (1) This section applies in relation to the determination of a question if—
- (a) at the time when the question falls to be determined, it appears that the determination is material to the liability to tax (for whatever period) of [<sup>F2</sup>one] or more persons, and
  - (b) section 564 provides for this section to apply.

<sup>F3</sup>(2) .....

<sup>F3</sup>(3) .....

<sup>F3</sup>(4) .....

<sup>F3</sup>(5) .....

- [<sup>F4</sup>(6) An application for the tribunal to determine the question is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act), and each of the persons concerned is entitled to be a party to the proceedings on the application.]

**Textual Amendments**

- F1** Word in s. 563 heading substituted (with effect in accordance with Sch. 10 para. 11 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 10 para. 5(2)**
- F2** Word in s. 563(1)(a) substituted (with effect in accordance with Sch. 10 para. 11 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **Sch. 10 para. 5(1)**
- F3** S. 563(2)-(5) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 299(2)**
- F4** S. 563(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 299(3)**

**Modifications etc. (not altering text)**

- C1** S. 563(2)-(6) applied (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), **ss. 607**, (with Sch. 2)
- C2** S. 563(2)-(6) applied (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **ss. 177(5)**, 1329(1) (with Sch. 2 Pts. 1, 2)
- C3** S. 563(2)-(6) applied (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), **ss. 930**, 1329(1) (with Sch. 2 Pts. 1, 2)

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## 564 Questions to which procedure in section 563 applies

- (1) Section 563 applies in relation to the determination for the purposes of any of Parts [F53A] to 11 or this Part of any question about the way in which a sum is to be apportioned.
- (2) Section 563 applies in relation to any determination of the market value of property for the purposes of—
  - (a) any provision of Part 2 (plant and machinery allowances),
  - (b) section 423 (mineral extraction allowances: amount of disposal value to be brought into account),
  - (c) section 559 (effect of successions),
  - (d) section 568 or 569 (sales treated as being for alternative amount), or
  - (e) section 573 (transfers treated as sales).
- <sup>F6</sup>(3) . . . . .
- (4) If section 561 ([F7transfer or division of UK business]) applies, section 563 applies—
  - (a) for the purposes of the tax of both company A and company B referred to in that section, and
  - (b) in relation to the determination of any question of apportionment of expenditure under section 561(3).

### Textual Amendments

- F5** Word in s. 564(1) substituted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 13\(a\)](#)
- F6** S. 564(3) omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 13\(b\)](#)
- F7** Words in s. 564(4) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [10\(6\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

## *Tax agreements for income tax purposes*

### 565 Tax agreements for income tax purposes

- (1) This section applies if—
  - (a) a person is entitled to an allowance for income tax purposes,
  - (b) that person enters into a tax agreement with [F8an officer of Revenue and Customs] for the tax year in which the allowance would be given effect, and
  - (c) no assessment giving effect to the allowance is made for that tax year.
- (2) In this section “ tax agreement ” means an agreement in writing as to the extent to which the allowance in question is to be given effect for the tax year in question.
- (3) If this section applies, the allowance is to be treated as if it had been given effect under an assessment—
  - (a) for the tax year for which the tax agreement is made, and
  - (b) to the extent set out in the tax agreement.
- (4) A tax agreement may relate to any method by which allowances are given effect under this Act.

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#### Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 83\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

### *Companies not resident in the United Kingdom*

#### **566 Companies not resident in the United Kingdom**

- (1) This section applies if a company not resident in the United Kingdom is—
  - (a) within the charge to corporation tax in respect of one source of income, and
  - (b) within the charge to income tax in respect of another source.
- (2) Allowances related to any source of income are to be given effect against income chargeable to the same tax as is chargeable on income from that source.

### *Sales treated as being for alternative amount*

#### **567 Sales treated as being for alternative amount: introductory**

- (1) Sections 568 to 570 apply for the purposes of Parts <sup>F9</sup>... [<sup>F10</sup>3A,]<sup>F9</sup>... <sup>F11</sup>... 5, 6 and 10.
- (2) For the purposes of sections 568 to 570, the control test is met if—
  - (a) the buyer is a body of persons over whom the seller has control,
  - (b) the seller is a body of persons over whom the buyer has control,
  - (c) both the seller and the buyer are bodies of persons and another person has control over both of them, or
  - (d) the seller and the buyer are connected persons.
- (3) In subsection (2) “body of persons” includes a partnership.
- (4) For the purposes of sections 568 to 570, the tax advantage test is met if it appears that the sole or main benefit which might be expected to accrue from—
  - (a) the sale, or
  - (b) transactions of which the sale is one,
 is the obtaining of a tax advantage by all or any of the parties under any provision of this Act except Part 2.
- (5) Sections 568 to 570 do not apply if section 561 applies ([<sup>F12</sup>transfer or division of UK business]).

#### Textual Amendments

- F9** Word in s. 567(1) omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 14](#)
- F10** Word in s. 567(1) inserted (with effect in accordance with s. 92 of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 6 para. 7](#); S.I. 2007/949, art. 2
- F11** Word in s. 567(1) omitted (with effect in accordance with Sch. 39 para. 40 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 38\(4\)](#) (with [Sch. 39 paras. 41, 42](#))

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**F12** Words in s. 567(5) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **10(7)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

**Modifications etc. (not altering text)**

- C4** Ss. 567-570 excluded (E.W.S.) (8.6.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), **Sch. 10 para. 4(4)**; [S.I. 2005/1444](#), art. 2(1), Sch. 1
- C5** Ss. 567-570 excluded (E.W.S.) (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), **Sch. 10 para. 24(4)**; [S.I. 2005/1909](#), art. 2, Sch.
- C6** Ss. 567-570 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 13 para. 21(6)**
- C7** Ss. 567-570 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 13 para. 38(6)**

**568 Sales treated as being at market value**

- (1) A sale of property that is not at market value is treated as being at market value if—
- (a) the control test is met, or
  - (b) the tax advantage test is met.
- (2) This section is subject to any election under section 569.

**Modifications etc. (not altering text)**

- C4** Ss. 567-570 excluded (E.W.S.) (8.6.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), **Sch. 10 para. 4(4)**; [S.I. 2005/1444](#), art. 2(1), Sch. 1
- C5** Ss. 567-570 excluded (E.W.S.) (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), **Sch. 10 para. 24(4)**; [S.I. 2005/1909](#), art. 2, Sch.
- C6** Ss. 567-570 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 13 para. 21(6)**
- C7** Ss. 567-570 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 13 para. 38(6)**

**569 Election to treat sale as being for alternative amount**

- (1) The parties to a sale of property that is not for the alternative amount may elect for the sale to be treated as being for the alternative amount if—
- (a) the control test is met or section 573 applies (transfers treated as sales), and
  - (b) the tax advantage test is not met.
- (2) Subsection (1) is subject to section 570.
- (3) The alternative amount is the lower of market value and—
- (a) if the sale is relevant for the purposes of Part <sup>F13</sup>...10, the residue of the qualifying expenditure immediately before the sale;
  - (b) if the sale is relevant for the purposes of Part 5, the unrelieved qualifying expenditure immediately before the sale;
  - (c) if the sale is relevant for the purposes of Part 6—
    - (i) in a case where an allowance under Part 6 is given for the expenditure represented by the asset sold, nil;
    - (ii) in any other case, the qualifying expenditure represented by the asset sold.
- (4) In subsection (3) “ residue of qualifying expenditure ”, “ unrelieved qualifying expenditure ” and “ qualifying expenditure ” have the same meaning as in the Part for the purposes of which the sale is relevant.

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- (5) If the sale—
- (a) is relevant for the purposes of Part <sup>F14</sup>...10, and
  - (b) is treated as being for the residue of the qualifying expenditure immediately before the sale,
- no balancing adjustment is to be made as a result of the sale under section <sup>F15</sup>...517 (building not a qualifying dwelling-house throughout).
- (6) If, after the date of the sale, an event occurs as a result of which a balancing charge would have fallen to be made on the seller if—
- (a) he had continued to own the property, and
  - (b) he had done all such things, and been allowed all such allowances, as were done by or allowed to the buyer,
- the balancing charge is to be made on the buyer.
- (7) All such assessments and adjustments of assessments are to be made as are necessary to give effect to the election.
- (8) For the purposes of this section and section 570, a sale is relevant for the purposes of a Part if it is of property of a kind that is relevant for deciding whether an allowance or charge is made under that Part.

#### Textual Amendments

- F13** Words in s. 569(3)(a) omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 15\(a\)](#)
- F14** Words in s. 569(5)(a) omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 15\(a\)](#)
- F15** Words in s. 569(5) omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 15\(b\)](#)

#### Modifications etc. (not altering text)

- C4** Ss. 567-570 excluded (E.W.S.) (8.6.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), [Sch. 10 para. 4\(4\)](#); [S.I. 2005/1444](#), art. 2(1), Sch. 1
- C5** Ss. 567-570 excluded (E.W.S.) (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), [Sch. 10 para. 24\(4\)](#); [S.I. 2005/1909](#), art. 2, Sch.
- C6** Ss. 567-570 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), [Sch. 13 para. 21\(6\)](#)
- C7** Ss. 567-570 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), [Sch. 13 para. 38\(6\)](#)

## 570 Elections: supplementary

- (1) Section 569(1) does not apply to a sale that is relevant for the purposes of [<sup>F16</sup>3A]<sup>F17</sup> ...  
<sup>F18</sup>....
- (2) No election under section 569 may be made if—
- (a) the circumstances of the sale or the parties to it mean that a relevant allowance or charge will not be capable of falling to be made, or
  - (b) the buyer is a dual resident investing company.
- (3) In subsection (2)(a) “ relevant allowance or charge ” means an allowance or charge under Part <sup>F19</sup>... 5, 6, 9 or 10 which (ignoring the circumstances mentioned in

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subsection (2)(a)) would or might fall to be made, as a result of the sale, to or on any of the parties to it.

- (4) If the sale is relevant for the purposes of Part 10, no election under section 569 may be made unless, at the time of the sale or any earlier time, both the seller and the buyer are or have been approved bodies (as defined in section 492).
- (5) An election under section 569 must be made by notice to [<sup>F8</sup>an officer of Revenue and Customs] not later than 2 years after the sale.

#### Textual Amendments

- F8** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 83\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F16** Word in s. 570(1) inserted (with effect in accordance with s. 92 of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 6 para. 8](#); S.I. 2007/949, art. 2
- F17** Word in s. 570(1) omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 16\(a\)](#)
- F18** Words in s. 570(1) omitted (with effect in accordance with Sch. 39 para. 40 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 38\(5\)](#) (with [Sch. 39 paras. 41, 42](#))
- F19** Word in s. 570(3) omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 16\(b\)](#)

#### Modifications etc. (not altering text)

- C4** Ss. 567-570 excluded (E.W.S.) (8.6.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), [Sch. 10 para. 4\(4\)](#); S.I. 2005/1444, art. 2(1), [Sch. 1](#)
- C5** Ss. 567-570 excluded (E.W.S.) (24.7.2005) by [Railways Act 2005 \(c. 14\)](#), s. 60(2), [Sch. 10 para. 24\(4\)](#); S.I. 2005/1909, art. 2, [Sch.](#)
- C6** Ss. 567-570 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), [Sch. 13 para. 21\(6\)](#)
- C7** Ss. 567-570 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), [Sch. 13 para. 38\(6\)](#)

### <sup>F20</sup> *Anti-avoidance*

#### Textual Amendments

- F20** S. 570A and cross-heading inserted (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), s. 164(1) (with s. 164(2))

#### **570A** Avoidance affecting proceeds of balancing event

- (1) This section applies where an event occurs in relation to an asset (a “balancing event”) as a result of which a balancing allowance would (but for this section) fall to be made to a person (“the taxpayer”) under Part <sup>F21</sup>... [<sup>F22</sup>, 3A] <sup>F21</sup>... <sup>F23</sup>... 5 or 10.
- (2) The taxpayer is not entitled to any balancing allowance if, as a result of a tax avoidance scheme, the amount to be brought into account as the proceeds from the event is less than it would otherwise have been.
- (3) In subsection (2) a “tax avoidance scheme” means a scheme or arrangement the main purpose, or one of the main purposes, of which is the obtaining of a tax advantage by the taxpayer.

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- (4) Where this section applies to deny a balancing allowance, the residue of qualifying expenditure immediately after the balancing event is nevertheless calculated as if the balancing allowance had been made.
- (5) In this section as it applies for the purposes of Part 5 (mineral extraction allowances)—
- (a) the references to the proceeds from the balancing event that are to be brought into account shall be read as references to the disposal value to be brought into account, and
  - (b) the reference to the residue of qualifying expenditure shall be read as a reference to the unrelieved qualifying expenditure.]

#### Textual Amendments

- F21** Word in s. 570A(1) omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 17](#)
- F22** Word in s. 570A(1) inserted (with effect in accordance with s. 92 of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 6 para. 9](#); [S.I. 2007/949](#), art. 2
- F23** Word in s. 570A(1) omitted (with effect in accordance with Sch. 39 para. 40 of the amending Act) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 39 para. 38\(6\)](#) (with [Sch. 39 paras. 41, 42](#))



**Changes to legislation:**

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