



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 12

#### SUPPLEMENTARY PROVISIONS

### CHAPTER 1

#### LIFE ASSURANCE BUSINESS

#### **544 Management assets**

- (1) No allowances are to be given or charges imposed in respect of management assets of any life assurance business carried on by a company except under Part 2 (plant and machinery allowances).
- (2) An asset is a management asset of any life assurance business carried on by a company if it is provided for use, or used, for the management of that business of that company.
- (3) The management of any life assurance business consists of pursuing those purposes expenditure on which would, on the assumption below, be treated as expenses of management under section 75 of ICTA as applied by 76 of ICTA.
- (4) The assumption is that section 76(1)(d) (exclusion from expenses of management of expenses referable to pension business, ISA business, life reinsurance business and overseas life assurance business) is disregarded.
- (5) In this Act “life assurance business” has the meaning given by section 431(2) of ICTA.

#### **545 Investment assets**

- (1) This section applies if a company which is carrying on any life assurance business holds an asset for purposes other than the management of that business.
- (2) “Investment asset” means an asset that is within subsection (1).

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- (3) If the company is carrying on more than one category of life assurance business, any allowance under this Act in respect of an investment asset must be apportioned between the categories in the same way that income from the asset would, under section 432A of ICTA, be treated as referable to different categories of business in the case of an insurance company.
- (4) If the company is charged to tax in respect of its life assurance business under Case I of Schedule D, no allowance in respect of an investment asset is to be taken into account in calculating the company's profits from that business.
- (5) If the company is charged to tax under—
  - (a) section 436 of ICTA (pension business and ISA business),
  - (b) section 439B of ICTA (life reinsurance business), or
  - (c) section 441 of ICTA (overseas life assurance business),
 no allowance in respect of an investment asset is to be taken into account in calculating the company's profits from the category of life assurance business in question.

## CHAPTER 2

### ADDITIONAL VAT LIABILITIES AND REBATES: INTERPRETATION, ETC.

#### 546 Introduction

This Chapter has effect for the interpretation of, and for otherwise supplementing—

- (a) Chapter 18 of Part 2 (plant and machinery allowances: additional VAT liabilities and rebates),
- (b) Chapter 10 of Part 3 (industrial buildings allowances: additional VAT liabilities and rebates), and
- (c) Chapter 4 of Part 6 (research and development allowances: additional VAT liabilities and rebates).

#### 547 “Additional VAT liability” and “additional VAT rebate”

- (1) “Additional VAT liability” means an amount which a person becomes liable to pay by way of adjustment under the VAT capital items legislation in respect of input tax.
- (2) “Additional VAT rebate” means an amount which a person becomes entitled to deduct by way of adjustment under the VAT capital items legislation in respect of input tax.

#### 548 Time when additional VAT liability or rebate is incurred or made

- (1) The time when a person incurs an additional VAT liability or an additional VAT rebate is made to a person is the last day of the period—
  - (a) which is one of the periods making up the VAT period of adjustment applicable to the asset in question under the VAT capital items legislation, and
  - (b) in which the increase or decrease in use giving rise to the liability or rebate occurs.
- (2) “VAT period of adjustment” means a period specified under the VAT capital items legislation by reference to which adjustments are made in respect of input tax.

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## **549 Chargeable period in which, and time when, additional VAT liability or rebate accrues**

- (1) The chargeable period in which, and the time when, an additional VAT liability or additional VAT rebate accrues is set out in the Table.

Table

### ACCRUAL OF VAT LIABILITIES AND REBATES

<i>Circumstances</i>	<i>Chargeable period</i>	<i>Time of accrual</i>
The liability or rebate is accounted for in a VAT return.	The chargeable period which includes the last day of the period to which the VAT return relates.	The last day of the period to which the VAT return relates.
The Commissioners of Customs and Excise assess the liability or rebate as due before a VAT return is made.	The chargeable period which includes the day on which the assessment is made.	The day on which the assessment is made.
The relevant activity is permanently discontinued before the liability or rebate is accounted for in a VAT return or assessed by the Commissioners.	The chargeable period in which the relevant activity is permanently discontinued.	The last day of the chargeable period in which the relevant activity is permanently discontinued.

- (2) In the Table—
- (a) “VAT return” means a return made to the Commissioners of Customs and Excise for the purposes of value added tax, and
  - (b) “the relevant activity” means the trade or, in relation to Part 2, the qualifying activity to which the additional VAT liability or additional VAT rebate relates.

## **550 Apportionment of additional VAT liabilities and rebates**

- (1) This section applies if—
- (a) any provision of this Act requires an allowance or charge to which a person is entitled or liable in respect of any qualifying expenditure to be determined by reference to—
    - (i) a proportion only of that expenditure, or
    - (ii) a proportion only of what that allowance or charge would have been apart from that provision, and
  - (b) the person incurs an additional VAT liability or an additional VAT rebate is made to the person in respect of that expenditure.
- (2) The additional VAT liability or rebate is subject to the same apportionment as the original expenditure, allowance or charge.

## 551 Supplementary

- (1) In this Chapter, “the VAT capital items legislation” means any Act or instrument (whenever passed or made) providing for the proportion of input tax on an asset of a specified description which may be deducted by a person from his output tax to be adjusted from time to time as a result of—
  - (a) an increase, or
  - (b) a decrease,
 in the extent to which the asset is used by him for making taxable supplies (or taxable supplies of a specified class or description) during a specified period.
- (2) In this Chapter “the VAT capital items legislation” also includes any other Act or instrument (whenever passed or made) which provides for Article 20(2) to (4) of the Sixth VAT Directive to be given effect.
- (3) “The Sixth VAT Directive” means the Sixth Directive ([77/388/EEC](#)) of the Council of the European Communities on Value Added Tax, dated 17th May 1977.
- (4) In this Chapter “input tax”, “output tax” and “taxable supply” have the same meaning as in VATA 1994.

## CHAPTER 3

### DISPOSALS OF OIL LICENCES: PROVISIONS RELATING TO PARTS 5 AND 6

#### *Introduction*

## 552 Meaning of “oil licence” and “interest in an oil licence”

- (1) In this Chapter “oil licence” means a UK oil licence or a foreign oil concession.
- (2) In this Chapter “UK oil licence” means a licence under—
  - (a) Part I of the Petroleum Act 1998 ([c. 17](#)) (“the 1998 Act”), or
  - (b) the Petroleum (Production) Act (Northern Ireland) 1964 ([c. 28 \(N.I.\)](#)) (“the 1964 Act”),
 authorising the winning of oil.
- (3) In this Chapter “foreign oil concession” means any right which—
  - (a) is a right to search for or win oil that exists in its natural condition in a place to which neither the 1998 Act nor the 1964 Act applies, and
  - (b) is conferred or exercisable (whether or not under a licence) in relation to a particular area.
- (4) In this Chapter “interest in an oil licence” includes, if there is an agreement which—
  - (a) relates to oil from the whole or a part of the licensed area, and
  - (b) was made before the extraction of the oil to which it relates,
 any entitlement under the agreement to, or to a share of, that oil or the proceeds of its sale.

### *Oil licences relating to undeveloped areas*

#### **553 Consideration to be treated as nil**

- (1) This section applies if—
  - (a) there is a material disposal of an oil licence which, at the time of the disposal, relates to an undeveloped area, and
  - (b) any of the consideration for the disposal consists of—
    - (i) another oil licence, or an interest in another oil licence, which at that time relates to an undeveloped area, or
    - (ii) an obligation to undertake exploration work or appraisal work in an area which is or forms part of the licensed area in relation to the licence disposed of.
- (2) The value of the consideration within subsection (1)(b) is to be treated as nil for the purposes of—
  - (a) Part 5 (mineral extraction allowances),
  - (b) Part 6 (research and development allowances), and
  - (c) section 555 (disposal of oil licence with exploitation value).
- (3) A “material disposal” of an oil licence means any disposal (including a part disposal and a disposal of an interest in an oil licence) other than a disposal in relation to which section 568 or 569 (sales treated as being for alternative amount) has effect.
- (4) If—
  - (a) the material disposal is part of a larger transaction under which one party makes to another material disposals of two or more licences, and
  - (b) at the time of disposal, each of those licences relates to an undeveloped area, the licensed area for the purposes of subsection (1)(b) is the totality of the licensed areas in relation to those licences.
- (5) In relation to a material disposal of a licence under which the buyer acquires an interest in the licence only so far as it relates to part of the licensed area, any reference in this section and section 554 to the licensed area is to be read as a reference only to that part of the licensed area to which the buyer’s acquisition relates.
- (6) In subsection (1)(b)—

“exploration work”, in relation to an area, means work carried out for the purpose of searching for oil anywhere in that area, and

“appraisal work”, in relation to an area, means work carried out for the purpose of ascertaining—

  - (a) the extent or characteristics of any oil-bearing area the whole or part of which lies in that area, or
  - (b) what the reserves of oil of any such oil-bearing area are.

#### **554 Circumstances in which oil licence relates to undeveloped area**

- (1) A UK oil licence relates to an undeveloped area if—
  - (a) no consent for development has been granted to the licensee for any part of the licensed area by the relevant authority, and

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- (b) no programme of development has been served on the licensee or approved for any part of the licensed area by the relevant authority.
- (2) A foreign oil concession relates to an undeveloped area if—
- (a) no development has actually taken place in any part of the licensed area, and
  - (b) no condition for the carrying out of development anywhere in that area has been satisfied—
    - (i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area, or
    - (ii) by the approval or service on the licensee, by any such authorities, of any programme of development.
- (3) Subsections (4) and (5) of section 36 of FA 1983 (meaning of development) apply for the purposes of subsections (1) and (2).
- (4) In subsection (1) “licensee” means—
- (a) the person entitled to the benefit of the licence or, if two or more persons are entitled to the benefit, each of those persons, and
  - (b) a person who has rights under an agreement which is—
    - (i) approved by the Board of Inland Revenue, and
    - (ii) certified by the relevant authority to confer on that person rights which are the same as, or similar to, those conferred by a licence.
- (5) In subsection (2) “licensee” means the person with the concession or any person having an interest in it.

*Disposal of oil licence with exploitation value*

**555 Disposal of oil licence with exploitation value**

- (1) This section applies if—
- (a) a person (“the seller”) disposes of an interest in an oil licence to another (“the buyer”), and
  - (b) part of the value of the interest is attributable to allowable exploration expenditure incurred by the seller.
- (2) For the purposes of Part 6 (research and development allowances) the disposal is to be treated as a disposal by which the seller ceases to own an asset representing the allowable exploration expenditure to which that part of the value of the interest is attributable.
- (3) Part 6 applies as if the disposal value to be brought into account were equal to so much of the buyer’s expenditure on acquiring the interest as it is just and reasonable to attribute to that part of the value of the interest.
- (4) In this section “allowable exploration expenditure” means expenditure which—
- (a) is incurred on mineral exploration and access within the meaning of Part 5 (mineral extraction allowances), and
  - (b) is qualifying expenditure for the purposes of Part 6.

### *Minor definitions*

#### **556 Minor definitions**

- (1) In this Chapter “licensed area” means (subject to section 553(4) and (5))—
  - (a) in relation to a UK oil licence, the area to which the licence applies, and
  - (b) in relation to a foreign oil concession, the area in relation to which the right to search for or win oil is conferred or exercisable under the concession.
- (2) In this Chapter “the relevant authority”, in relation to a UK oil licence means—
  - (a) in the case of a licence under Part I of the 1998 Act, the Secretary of State, and
  - (b) in the case of a licence under the 1964 Act, the Department of Enterprise, Trade and Investment in Northern Ireland.
- (3) In this Chapter “oil”—
  - (a) in relation to a UK oil licence, means any substance won or capable of being won under the authority of a licence granted under Part I of the 1998 Act or the 1964 Act, other than methane gas won in the course of operations for making and keeping mines safe, and
  - (b) in relation to a foreign oil concession, means any petroleum (as defined by section 1 of the 1998 Act).

## **CHAPTER 4**

### **PARTNERSHIPS, SUCCESSIONS AND TRANSFERS**

#### **557 Application of sections 558 and 559**

Sections 558 (effect of partnership changes) and 559 (effect of successions) apply for the purposes of this Act other than—

- (a) Part 2 (plant and machinery allowances),
- (b) Part 6 (research and development allowances), and
- (c) Part 10 (assured tenancy allowances).

#### **558 Effect of partnership changes**

- (1) This section applies if—
  - (a) a relevant activity has been set up and is at any time carried on in partnership,
  - (b) there has been a change in the persons engaged in carrying on the relevant activity, and
  - (c) the change is not treated as a permanent discontinuance of the relevant activity under section 113(1) or 337(1) of ICTA (change in persons carrying on a trade etc. and effect of company ceasing to trade etc.).
- (2) In this section—

“the present partners” means the person or persons for the time being carrying on the relevant activity, and

“predecessors”, in relation to the present partners, means their predecessors in carrying on the relevant activity.

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- (3) Any allowance or charge is to be made to or on the present partners.
- (4) The amount of any allowance or charge arising under subsection (3) is to be calculated as if—
  - (a) the present partners had at all times been carrying on the relevant activity, and
  - (b) everything done to or by their predecessors in carrying on the relevant activity had been done to or by the present partners.
- (5) In this section “relevant activity” means a trade, property business, profession or vocation.

### **559 Effect of successions**

- (1) This section applies if—
  - (a) a person (“the successor”) succeeds to a relevant activity which until that time was carried on by another person (“the predecessor”), and
  - (b) the relevant activity is treated as discontinued under section 113(1) or 337(1) of ICTA (change in persons carrying on a trade etc. and effect of company ceasing to trade etc.).
- (2) The property in question is to 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 were the market value of the property.
- (3) The property in question is any property which—
  - (a) immediately before the succession, was in use for the purposes of the discontinued relevant activity, and
  - (b) immediately after the succession, and without being sold, is in use for the purposes of the new relevant activity.
- (4) No entitlement to an initial allowance arises under this section.
- (5) In this section “relevant activity” means a trade, property business, profession or vocation.

### **560 Transfer of insurance company business**

- (1) This section applies if—
  - (a) assets are transferred as part of, or in connection with, the transfer of the whole or part of the business of an insurance company to another company,
  - (b) the transfer is—
    - (i) in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 (c. 50) (transfers of long term business), or
    - (ii) a qualifying overseas transfer within the meaning of paragraph 4A of Schedule 19AC to ICTA (overseas life insurance companies).
- (2) But this section does not apply in relation to any asset transferred to a non-resident company unless the asset will fall to be treated, immediately after the transfer, as an asset which is held for the purposes of the whole or a part of so much of any business carried on by the non-resident company as is carried on through a branch or agency in the United Kingdom.



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- (3) This section also does not apply if section 561 applies (transfer of a UK trade to a company in another member State).
- (4) If this section applies—
- (a) any allowances and charges that would have been made to or on the transferor are to be made instead to or on the transferee, and
  - (b) the amount of any such allowance or charge is to be calculated as if everything done to or by the transferor had been done to or by the transferee,
- but no sale or transfer of assets made to the transferee by the transferor is to be treated as giving rise to any such allowance or charge.
- (5) In this section—
- (a) “insurance company” has the same meaning as in Chapter I of Part XII of ICTA, and
  - (b) “non-resident company” means a company resident outside the United Kingdom.

#### **561 Transfer of a UK trade to a company in another member State**

- (1) This section applies if—
- (a) a qualifying company resident in one member State (“company A”) transfers the whole or a part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (“company B”),
  - (b) section 140A of TCGA 1992 (transfer of assets treated as no-gain no-loss disposal etc.) applies in relation to the transfer, and
  - (c) immediately after the transfer company B—
    - (i) is resident in the United Kingdom, or
    - (ii) carries on in the United Kingdom through a branch or agency a trade which consists of, or includes, the trade or the part of the trade transferred.
- (2) If this section applies—
- (a) the transfer itself does not give rise to any allowances or charges under this Act, and
  - (b) in relation to assets included in the transfer, anything done to or by company A before the transfer is to be treated after the transfer as having been done to or by company B.
- (3) If, for the purposes of subsection (2)(b), expenditure falls to be apportioned between assets included in the transfer and other assets, the apportionment is to be made in a just and reasonable manner.
- (4) In this section “qualifying company” means a body incorporated under the law of a member State.
- (5) If this section applies, section 343(2) of ICTA does not apply (effect of company reconstruction without change of ownership).

## 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.
- (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 two 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 two or more persons, and
  - (b) section 564 provides for this section to apply.
- (2) The Commissioners who are to determine the question, for the purposes of the tax of all the persons concerned, are given in subsections (3) to (5).
- (3) If—
  - (a) the same body of General Commissioners has jurisdiction with respect to all the persons concerned, and

- (b) those persons do not agree that the determination is to be made by the Special Commissioners,  
the determination is to be made by that body of General Commissioners.
- (4) If—
  - (a) different bodies of General Commissioners have jurisdiction with respect to the persons concerned, and
  - (b) those persons do not agree that the determination is to be made by the Special Commissioners,  
the determination is to be made by such of those bodies of General Commissioners as the Board of Inland Revenue may direct.
- (5) In any other case, the determination is to be made by the Special Commissioners.
- (6) The Commissioners must determine the question in the same way as an appeal, but all the persons concerned are entitled—
  - (a) to appear before and be heard by the Commissioners, or
  - (b) to make representations to them in writing.

#### **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 3 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).
- (3) Section 563 applies in relation to any determination of the amount of any sums paid or proceeds for the purposes of section 357 (industrial buildings allowances: arrangements having an artificial effect on pricing).
- (4) If section 561 (transfer of a UK trade to a company in another member State) 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).

#### *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,

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- (b) that person enters into a tax agreement with the Inland Revenue 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.

*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 3, 4, 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 (transfer of a UK trade to a company in another member State).

### **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.

### **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 3 or 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.
- (5) If the sale—
  - (a) is relevant for the purposes of Part 3 or 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 319 (building not an industrial building, etc. throughout) or 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.

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### **570 Elections: supplementary**

- (1) Section 569(1) does not apply to a sale that is relevant for the purposes of Part 4.
- (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 3, 5, 6, 9 or 10 which (ignoring the circumstances mentioned in 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 the Inland Revenue not later than 2 years after the sale.

## **CHAPTER 6**

### **FINAL PROVISIONS**

#### *General interpretation*

### **571 Application of Act to parts of assets**

- (1) In this Act references to an asset of any kind (including a building or structure, plant or machinery or works) include a part of an asset.
- (2) But subsection (1) does not apply if the context otherwise requires.

### **572 References to sale of property and time of sale**

- (1) In this Act references to the sale of property include—
  - (a) the exchange of property, and
  - (b) the surrender for valuable consideration of a leasehold interest (or, in Scotland, the interest of the tenant in property subject to a lease).
- (2) For the purposes of subsection (1), any provision of this Act referring to a sale has effect with the necessary modifications, including, in particular, those in subsection (3).
- (3) The modifications are that—
  - (a) references to the net proceeds of sale and to the price include the consideration for the exchange or surrender, and
  - (b) references to capital sums included in the net proceeds of sale or paid on a sale include so much of the consideration for the exchange or surrender as would have been a capital sum if it had been a money payment.

- (4) Any reference in this Act (except in Part 6) to the time of any sale is to be read as a reference to whichever is the earlier of—
- (a) the time of completion, and
  - (b) the time when possession is given.

### **573 Transfers treated as sales**

- (1) This section applies for the purposes of Parts 3, 4 and 10 and other provisions of this Act relevant to those Parts if—
- (a) there is a transfer of the interest which is the relevant interest for the purposes of the Part in question, and
  - (b) the transfer is not a sale.
- (2) The transfer is treated as a sale of the relevant interest.
- (3) The sale is treated as being at market value, subject to any election under section 569 (election to treat sale as being for alternative amount).
- (4) This section does not apply if section 561 applies (transfer of a UK trade to a company resident in another member State).

### **574 Meaning of “control”**

- (1) In this Act “control” is used in the sense given in this section.
- (2) In relation to a body corporate (“company A”), “control” means the power of a person (“P”) to secure—
- (a) by means of the holding of shares or the possession of voting power in relation to that or any other body corporate, or
  - (b) as a result of any powers conferred by the articles of association or other document regulating that or any other body corporate,
- that the affairs of company A are conducted in accordance with P’s wishes.
- (3) In relation to a partnership, “control” means the right to a share of more than half of the assets, or of more than one half of the income, of the partnership.

### **575 Connected persons**

- (1) Section 839 of ICTA (how to tell whether persons are connected) applies for the purposes of this Act.
- (2) Subsection (1) is subject to—
- (a) section 156 (connected persons for purposes of deferring balancing charges in respect of ships),
  - (b) section 232 (connected persons for purposes of Chapter 17 of Part 2—anti-avoidance),
  - (c) section 246(2) (connected persons where additional VAT liability is incurred in anti-avoidance case), and
  - (d) section 266(5) (elections where predecessor and successor are connected persons),
- (which give “connected person” an extended meaning).

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

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## 576 Meaning of “the Inland Revenue” etc.

- (1) Subject to subsection (2), in this Act “the Inland Revenue” means any officer of the Board of Inland Revenue.
- (2) In section 51(1) and (3)(a) (disclosure by or to Inland Revenue of information relating to first-year allowances in Northern Ireland cases) “the Inland Revenue” means the Board of Inland Revenue or any officer of the Board.
- (3) In this Act “the Board of Inland Revenue” means the Commissioners of Inland Revenue (as to which, see in particular the Inland Revenue Regulation Act 1890 (c. 21)).

## 577 Other definitions

- (1) In this Act—
  - “dual resident investing company” has the same meaning as in section 404 of ICTA (limitation of group relief in relation to certain dual resident companies);
  - “market value”, in relation to any asset, means the price the asset would fetch in the open market;
  - “the normal time limit for amending a tax return”, in relation to a tax year, means the first anniversary of the 31st January following the tax year;
  - “notice” means a notice in writing;
  - “property business” means a Schedule A business or an overseas property business;
  - “tax return” has the meaning given by section 3(3);
  - “tax year” means, in relation to income tax, a year for which any Act provides for income tax to be charged;
  - “the tax year 2001—02” means the tax year beginning on 6th April 2001 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way).
- (2) Any reference to the setting up, commencement or permanent discontinuance of—
  - (a) a trade,
  - (b) a property business,
  - (c) a profession, or
  - (d) a vocation,
 includes, except where the contrary is expressly provided, the occurring of an event which, under any provision of the Income Tax Acts or Corporation Tax Acts, is to be treated as equivalent to the setting up, commencement or permanent discontinuance of a trade, property business, profession or vocation.
- (3) Any reference in this Act to an allowance made includes an allowance which would be made but for an insufficiency of profits, or other income, against which to make it.
- (4) For the purposes of this Act a person obtains a tax advantage if he—
  - (a) obtains an allowance or a greater allowance, or
  - (b) avoids a charge or secures the reduction of a charge.
- (5) In Schedule 1—



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

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- (a) Part 1 gives the meaning of abbreviated references in this Act to Acts about tax, and
- (b) Part 2 lists where expressions used in this Act are defined or otherwise explained.

*Amendments, repeals, citation etc.*

**578 Consequential amendments**

Schedule 2 contains consequential amendments.

**579 Commencement and transitional provisions and savings**

- (1) This Act has effect—
  - (a) for income tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 6th April 2001, and
  - (b) for corporation tax purposes, as respects allowances and charges falling to be made for chargeable periods ending on or after 1st April 2001.
- (2) References in this Act to a chargeable period to which this Act applies are to the chargeable periods given in subsection (1).
- (3) Subsection (1) is subject to Schedule 3, which contains transitional provisions and savings.

**580 Repeals**

Schedule 4 contains repeals.

**581 Citation**

This Act may be cited as the Capital Allowances Act 2001.