



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 14

FIXTURES

Election to fix apportionment

198 Election to apportion sale price on sale of qualifying interest

- (1) This section applies if the disposal value of a fixture is required to be brought into account in accordance with item 1 [^{F1}or 9] of the Table in section 196 (sale of qualifying interest at not less than market value, etc.).
- (2) The seller and the purchaser may jointly, by an election, fix the amount that is to be treated—
 - (a) for the purposes of item 1 [^{F2}or (as the case may be) 9] of the Table, and
 - (b) for the other purposes of this Part,as the part of the sale price that is expenditure incurred by the purchaser on the provision of the fixture.
- (3) The amount fixed by the election must not exceed—
 - (a) the amount of the capital expenditure which was treated as incurred by the seller on the provision of the fixture or of the plant or machinery which became the fixture, or
 - (b) the actual sale price.
- (4) If an election fixes the amount to be treated as the part of the sale price—

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- (a) the remaining amount (if any) of the sale price is to be treated for the purposes of this Act as expenditure attributable to the acquisition of the property which is not the fixture but is acquired for that amount, and
 - (b) if there is no remaining amount, the expenditure so attributable is to be treated for the purposes of this Act as nil.
- (5) This section is subject to—
- [^{F3}(a) sections 186, 186A and 187 (fixtures on which industrial buildings allowance, business premises renovation allowance or research and development allowance has been made),]
 - (b) section 197 (disposal values in avoidance cases), and
 - (c) sections 200 and 201 (further provisions about elections).

Textual Amendments

- F1** Words in s. 198(1) inserted (with effect in accordance with Sch. 10 para. 11 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 10 para. 3\(a\)](#)
- F2** Words in s. 198(2)(a) inserted (with effect in accordance with Sch. 10 para. 11 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 10 para. 3\(b\)](#)
- F3** S. 198(5)(a) substituted (with effect in accordance with Sch. 10 para. 12 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 10 para. 9](#)

199 Election to apportion capital sum given by lessee on grant of lease

- (1) This section applies if the disposal value of a fixture is required to be brought into account in accordance with item 5 of the Table in section 196 (on acquisition of ownership by incoming lessee under section 183).
- (2) The persons who are the lessor and the lessee for the purposes of section 183 may jointly, by an election, fix the amount that is to be treated—
- (a) for the purposes of item 5 of the Table, and
 - (b) for the other purposes of this Part,
- as the part of the capital sum that is expenditure incurred by the lessee on the provision of the fixture.
- (3) The amount fixed by the election must not exceed—
- (a) the amount of the capital expenditure which was treated as incurred by the lessor on the provision of the fixture or of the plant or machinery which became the fixture, or
 - (b) the actual capital sum.
- (4) If an election fixes the amount to be treated as the part of the capital sum—
- (a) the remaining amount (if any) of the capital sum is to be treated for the purposes of this Act as expenditure attributable to the acquisition of the property which is not the fixture but is acquired for that amount, and
 - (b) if there is no remaining amount, the expenditure so attributable is to be treated for the purposes of this Act as nil.
- (5) This section is subject to—

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- [^{F4}(a) sections 186, 186A and 187 (fixtures on which industrial buildings allowance, business premises renovation allowance or research and development allowance has been made),]
- (b) section 197 (disposal values in avoidance cases), and
- (c) sections 200 and 201 (further provisions about elections).

Textual Amendments

- F4** S. 199(5)(a) substituted (with effect in accordance with Sch. 10 para. 12 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 10 para. 10**

200 Elections under sections 198 and 199: supplementary

- (1) In this section and section 201, references to an election are to an election under section 198 or 199.
- (2) An apportionment made by an election has effect in place of any apportionment that would otherwise be made under sections 562, 563 and 564(1) (apportionment and procedure for determining apportionment).
- (3) An election is irrevocable.
- (4) If, as a result of circumstances arising after the making of an election, the maximum amount which could be fixed by the election is reduced to an amount which is less than the amount specified in the election, the election is to be treated, for the purposes of this Act, as having specified the amount to which the maximum is reduced.

201 Elections under sections 198 and 199: procedure

- (1) An election must be made by notice to [^{F5}an officer of Revenue and Customs] no later than 2 years after the date when—
 - (a) the purchaser acquires the qualifying interest, in the case of an election under section 198, or
 - (b) the lessee is granted the lease, in the case of an election under section 199.

[^{F6}But this is subject to subsection (1A).]

[^{F7}(1A) Where—

- (a) the requirement of subsection (6) of section 187A (effect of changes in ownership of fixture: fixed value requirement) applies, or may in future apply by reason of a person being required to bring the disposal value of plant and machinery into account in accordance with item 1, 5 or 9 of the Table in section 196,
- (b) an application is made to the tribunal for the purposes of section 187A(7)(a), and
- (c) that application is not determined before the end of the period mentioned in subsection (1) of this section,

subsection (1) does not apply and an election within section 187A(7)(b) may be made by notice to an officer of Revenue and Customs at any time before the tribunal determines the application or the application is withdrawn.]

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- (2) The amount fixed by an election must be quantified at the time when the election is made.
- (3) The notice must state—
- (a) the amount fixed by the election,
 - (b) the name of each of the persons making the election,
 - (c) information sufficient to identify the plant or machinery,
 - (d) information sufficient to identify the relevant land,
 - (e) particulars of—
 - (i) the interest acquired by the purchaser, in the case of an election under section 198, or
 - (ii) the lease granted to the lessee, in the case of an election under section 199, and
 - [^{F8}(f) in relation to each of the persons making the election—
 - (i) that person's Unique Taxpayer Reference, or
 - (ii) that the person does not have a Unique Taxpayer Reference.]
- (4) If a person—
- (a) has joined in making an election, and
 - (b) subsequently makes a tax return for a period which is the first period for which he is making a tax return in which the election has an effect for tax purposes in his case,
- a copy of the notice containing the election must accompany the return.
- (5) The following provisions do not apply to the election—
- (a) section 42 of, and Schedule 1A to, TMA 1970 (claims and elections for income tax purposes);
 - (b) paragraphs 54 to 60 of Schedule 18 to FA 1998 (claims and elections for corporation tax purposes).
- (6) References in this section to a tax return, in the case of an election for the purposes of a trade, profession or business carried on by persons in partnership, are to be read, in relation to those persons, as references to a return under section 12AA of TMA 1970 (partnership returns).

Textual Amendments

- F5** 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)
- F6** Words in s. 201(1) inserted (with effect in accordance with Sch. 10 para. 11 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 10 para. 4\(2\)](#)
- F7** S. 201(1A) inserted (with effect in accordance with Sch. 10 para. 11 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 10 para. 4\(3\)](#)
- F8** S. 201(3)(f) substituted (with effect in accordance with Sch. 10 para. 11 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 10 para. 4\(4\)](#)

Changes to legislation:

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