



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 14

FIXTURES

Persons who are treated as owners of fixtures

176 Person with interest in relevant land having fixture for purposes of qualifying activity

- (1) If—
- (a) a person incurs capital expenditure on the provision of plant or machinery for the purposes of a qualifying activity carried on by him,
 - (b) the plant or machinery becomes a fixture, and
 - (c) that person has an interest in the relevant land at the time the plant or machinery becomes a fixture,
- that person is to be treated, on and after that time, as the owner of the fixture as a result of incurring the expenditure.
- (2) If there are two or more persons with different interests in the relevant land who would be treated as the owner of the same fixture as a result of subsection (1), one interest only is taken into account under that subsection.
- (3) The interest to be taken into account is given by the following rules—

Rule 1

If one of the interests is an easement or servitude or any agreement to acquire an easement or servitude, that interest is the interest to be taken into account.

Changes to legislation: *There are currently no known outstanding effects for the Capital Allowances Act 2001, Cross Heading: Persons who are treated as owners of fixtures. (See end of Document for details)*

Rule 2

If Rule 1 does not apply, but one of the interests is a licence to occupy land, that interest is the interest to be taken into account.

Rule 3

In any other case—

- (a) except in Scotland, the interest to be taken into account is the interest which is not in reversion (at law or in equity and whether directly or indirectly) on any other interest in the relevant land which is held by any of the persons referred to in subsection (2), and
- (b) in Scotland, the interest to be taken into account is the interest of whichever of the persons referred to in subsection (2) has, or last had, the right of use of the relevant land.

(4) Subsection (1) is subject to [^{F1}sections 177(4) and 180A(4)] .

Textual Amendments

- F1** Words in s. 176(4) substituted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 3](#)

177 Equipment lessors

(1) If—

- (a) the conditions in—
 - (i) section 178 (equipment lessee has qualifying activity etc.),
 - (ii) section 179 (equipment lessor has right to sever fixture that is not part of building), or
 - (iii) section 180 (equipment lease is part of affordable warmth programme),
 are met in relation to an equipment lease,
- (b) the equipment lessor and the equipment lessee are not connected persons, and
- (c) they elect that this section should apply,

the equipment lessor is to be treated, on and after the relevant time, as the owner of the fixture as a result of incurring the capital expenditure on the provision of the plant or machinery that is the subject of the equipment lease.

(2) The relevant time for the purposes of subsection (1) is (unless subsection (3) applies) the time when the equipment lessor incurs the expenditure.

(3) If—

- (a) the conditions in section 178 are met in relation to an equipment lease (but the conditions in sections 179 and 180 are not), and
- (b) the equipment lessor incurs the capital expenditure before the equipment lessee begins to carry on the qualifying activity,

the relevant time is the time when the equipment lessee begins to carry on the qualifying activity.

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- (4) If an election is made under this section, the equipment lessee is not to be treated under section 176 as the owner of the fixture.
- (5) An election under this section must be made by notice to the [^{F2}an officer of Revenue and Customs]—
 - (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
 - (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.
- (6) “The relevant chargeable period” means the chargeable period in which the capital expenditure was incurred.

Textual Amendments

- F2** 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)

178 Equipment lessee has qualifying activity etc.

The conditions referred to in section 177(1)(a)(i) are that—

- (a) the equipment lease is for the lease of the plant or machinery for the purposes of a qualifying activity which is, or is to be, carried on by the equipment lessee,
- (b) if the equipment lessee had incurred the capital expenditure incurred by the equipment lessor on the provision of the plant or machinery that is the subject of the equipment lease, he would, as a result of section 176, have been entitled to an allowance in respect of it, and
- (c) the equipment lease is not for the lease of the plant or machinery for use in a dwelling-house.

179 Equipment lessor has right to sever fixture that is not part of building

(1) The conditions referred to in section 177(1)(a)(ii) are that—

- (a) the plant or machinery becomes a fixture by being fixed to land that is neither a building nor part of a building,
- (b) the equipment lessee has an interest in the land when taking possession of the plant or machinery under the equipment lease,
- (c) under the terms of the equipment lease, the equipment lessor is entitled to sever the plant or machinery, at the end of the period for which it is leased, from the land to which it is fixed at that time,
- (d) under the terms of the equipment lease, the equipment lessor will own the plant or machinery on its severance in accordance with the equipment lease,
- (e) the nature of the plant or machinery and the way in which it is fixed to land are such that its use on one set of premises does not, to any material extent, prevent it from being used, once severed, for the same purposes on a different set of premises,
- (f) the equipment lease is one which under [^{F3}generally accepted accounting practice] falls (or would fall) to be treated in the accounts of the equipment lessor as an operating lease, and

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- (g) the equipment lease is not for the lease of the plant or machinery for use in a dwelling-house.

(2) ^{F4}

Textual Amendments

- F3** Words in s. 179(1)(f) substituted (24.7.2002) by [Finance Act 2002 \(c. 23\)](#) , s. [103\(4\)\(g\)](#)
F4 S. 179(2) repealed (with effect as mentioned in s. 107 of the amending Act) by [Finance Act 2002 \(c. 23\)](#), s. [141](#), [Sch. 40 Pt. 3\(16\)](#)

180 Equipment lease is part of affordable warmth programme

- (1) The conditions referred to in section 177(1)(a)(iii) are that—
- (a) the plant or machinery which is the subject of the equipment lease consists of a boiler, heat exchanger, radiator or heating control that is installed in a building as part of a space or water heating system,
 - (b) the expenditure of the equipment lessor is incurred before 1st January 2008, and
 - (c) the equipment lease is approved for the purposes of this section as entered into as part of the affordable warmth programme.
- (2) The approval mentioned in subsection (1)(c) may be given, with the consent of the Treasury—
- (a) by the Secretary of State;
 - (b) in the case of buildings in Scotland, by the Scottish Ministers;
 - (c) in the case of buildings in Wales, by the National Assembly for Wales;
 - (d) in the case of buildings in Northern Ireland, by the Department for Social Development in Northern Ireland.
- (3) If an approval is withdrawn, it is to be treated for the purposes of subsection (1)(c) as never having had effect.

[^{F5}180A Energy services providers

- (1) If—
- (a) an energy services agreement is entered into,
 - (b) the energy services provider incurs capital expenditure under the agreement on the provision of plant or machinery,
 - (c) the plant or machinery becomes a fixture,
 - (d) at the time the plant or machinery becomes a fixture—
 - (i) the client has an interest in the relevant land, and
 - (ii) the energy services provider does not,
 - (e) the plant or machinery—
 - (i) is not provided for leasing, and
 - (ii) is not provided for use in a dwelling-house,
 - (f) the operation of the plant or machinery is carried out wholly or substantially by the energy services provider or a person connected with him,
 - (g) the energy services provider and the client are not connected persons, and

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- (h) they elect that this section should apply,
the energy services provider is to be treated, on and after the time at which he incurs the expenditure, as the owner of the fixture as a result of incurring the expenditure.
- (2) But if the client would not have been entitled to a section 176 allowance in respect of the expenditure if he had incurred it, subsection (1) does not apply unless the plant or machinery belongs to a class of plant or machinery specified by Treasury order.
- (3) In subsection (2) a “ section 176 allowance ” means an allowance to which a person is entitled as a result of section 176.
- (4) If an election is made under this section, the client is not to be treated under section 176 as the owner of the fixture.
- (5) An election under this section must be made by notice to [^{F2}an officer of Revenue and Customs]—
- (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
- (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.
- (6) The “ relevant chargeable period ” means the chargeable period in which the capital expenditure was incurred.]

Textual Amendments

- F2** 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)
- F5** S. 180A inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 4](#)

181 Purchaser of land giving consideration for fixture

- (1) If—
- (a) after any plant or machinery has become a fixture, a person (“the purchaser”) acquires an interest in the relevant land,
- (b) that interest was in existence before the purchaser’s acquisition of it, and
- (c) the consideration which the purchaser gives for the interest is or includes a capital sum that, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture,
- the purchaser is to be treated, on and after the time of the acquisition, as the owner of the fixture as a result of incurring that expenditure.
- [^{F6}(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.]
- (3) For the purposes of [^{F7}subsection (2), a person] has a prior right in relation to the fixture if he—
- (a) is treated as the owner of the fixture immediately before the time referred to in [^{F8}subsection (2)] as a result of incurring expenditure on the provision of the fixture,

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- (b) is not so treated as a result of section 538 (contribution allowances for plant and machinery),
 - (c) is entitled to an allowance in respect of that expenditure, and
 - (d) makes or has made a claim in respect of that expenditure.
- (4) Subsection (1) is subject to [^{F9}sections 182 and 182A] .

Textual Amendments

- F6** S. 181(2) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(1\)](#)
- F7** Words in s. 181(3) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(2\)\(a\)](#)
- F8** Words in s. 181(3) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(2\)\(b\)](#)
- F9** Words in s. 181(4) substituted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 5](#)

Modifications etc. (not altering text)

- C1** S. 181(1) modified (E.W.S.) (8.6.2005) by [Railways Act 2005 \(c. 14\), s. 60\(2\), Sch. 10 para. 14\(2\)\(d\); S.I. 2005/1444, art. 2\(1\), Sch. 1](#)
- C2** S. 181(1) modified (7.8.2015) by [The Housing and Regeneration Transfer Schemes \(Tax Consequences\) Regulations 2015 \(S.I. 2015/1540\), regs. 1, 8\(4\)\(b\) \(with regs. 3, 8\(1\)\(6\)\)](#)

182 Purchaser of land discharging obligations of equipment lessee

- (1) If—
- (a) after any plant or machinery has become a fixture, a person (“the purchaser”) acquires an interest in the relevant land,
 - (b) that interest was in existence before the purchaser’s acquisition of it,
 - (c) before that acquisition, the plant or machinery was let under an equipment lease, and
 - (d) in connection with that acquisition, the purchaser pays a capital sum to discharge the obligations of the equipment lessee under the equipment lease,
- the purchaser is to be treated, on and after the time of the acquisition, as the owner of the fixture as a result of incurring expenditure, consisting of that capital sum, on the provision of the fixture.

[^{F10}(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.

- (3) Section 181(3)(test for whether person has a prior right) applies for the purposes of subsection (2).]

Textual Amendments

- F10** S. 182(2)(3) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(3\)](#)

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Modifications etc. (not altering text)

- C3** S. 182(1) modified (E.W.S.) (8.6.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 10 para. 14(2)(d)**; S.I. 2005/1444, art. 2(1), Sch. 1
- C4** S. 182(1) modified (7.8.2015) by The Housing and Regeneration Transfer Schemes (Tax Consequences) Regulations 2015 (S.I. 2015/1540), regs. 1, **8(4)(b)** (with regs. 3, 8(1)(6))

[^{F11}182A Purchaser of land discharging obligations of client under energy services agreement

- (1) If—
- (a) after any plant or machinery has become a fixture, a person (“the purchaser”) acquires an interest in the relevant land,
 - (b) that interest was in existence before the purchaser’s acquisition of it,
 - (c) before that acquisition, the plant or machinery was provided under an energy services agreement, and
 - (d) in connection with that acquisition, the purchaser pays a capital sum to discharge the obligations of the client under the energy services agreement,
- the purchaser is to be treated, on and after the time of the acquisition, as the owner of the fixture as a result of incurring expenditure, consisting of that capital sum, on the provision of the fixture.
- (2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.
- (3) Section 181(3) (test for whether person has a prior right) applies for the purposes of subsection (2).]

Textual Amendments

- F11** S. 182A inserted (with effect as mentioned in s. 66 of the amending Act) by Finance Act 2001 (c. 9), s. 66, **Sch. 18 para. 6**

183 Incoming lessee where lessor entitled to allowances

- (1) If—
- (a) after any plant or machinery has become a fixture, a person (“the lessor”) who has an interest in the relevant land grants a lease,
 - (b) the lessor is entitled to an allowance in respect of the fixture for the chargeable period in which the lease is granted or would be if he were within the charge to tax,
 - (c) the consideration which the lessee gives for the lease is or includes a capital sum that, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture,
 - (d) the lessor and the lessee are not connected persons, and
 - (e) the lessor and the lessee make an election under this section,
- the lessee is to be treated, on and after the time when the lease is granted, as the owner of the fixture as a result of incurring that expenditure.

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- (2) An election under this section must be made by notice to [^{F2}an officer of Revenue and Customs] within 2 years after the date on which the lease takes effect.

Textual Amendments

- F2** 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)

184 Incoming lessee where lessor not entitled to allowances

- (1) If—
- (a) after any plant or machinery has become a fixture, a person (“the lessor”) who has an interest in the relevant land grants a lease,
 - (b) the lessor is not within section 183(1)(b),
 - (c) before the lease is granted, the fixture has not been used for the purposes of a qualifying activity carried on by the lessor or any person connected with the lessor, and
 - (d) the consideration which the lessee gives for the lease is or includes a capital sum that, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture,

the lessee is to be treated, on and after the time when the lease is granted, as the owner of the fixture as a result of incurring that expenditure.

- [^{F12}(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time when the lease is granted, a person has a prior right in relation to the fixture.

- (3) Section 181(3)(test for whether person has a prior right) applies for the purposes of subsection (2).]

Textual Amendments

- F12** S. 184(2)(3) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 69(1), [Sch. 21 para. 2\(4\)](#)

Changes to legislation:

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