



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 2

#### PLANT AND MACHINERY ALLOWANCES

#### CHAPTER 17

#### [<sup>F1</sup>OTHER ANTI-AVOIDANCE]

#### *Restrictions on allowances*

#### 214 Connected persons

Allowances under this Part are restricted under sections 217 and 218 [<sup>F1</sup>(or, as the case may be, 218ZA(3))] if—

- (a) B enters into a relevant transaction with S, and
- (b) B and S are connected with each other.

#### Textual Amendments

- F1** Words in s. 214 inserted (with effect in accordance with Sch. 9 para. 9(1)(3) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 9 para. 3](#)

#### [<sup>F2</sup>215 Transactions to obtain tax advantages

(1) Allowances under this Part are restricted [<sup>F3</sup>, and balancing charges are imposed or increased,] under the applicable sections if [<sup>F4</sup>B and S enter into a relevant transaction] that either—

- (a) has an avoidance purpose, or
- (b) is part of, or occurs as a result of, a scheme or arrangement that has an avoidance purpose.

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*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Cross Heading: Restrictions on allowances. (See end of Document for details)*

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- (2) Subsection (1)(b) may be satisfied—
- (a) whether the scheme or arrangement was made before or after the relevant transaction was entered into, and
  - (b) whether or not the scheme or arrangement is legally enforceable.
- (3) A transaction, scheme or arrangement has an “avoidance purpose” if the main purpose, or one of the main purposes, of a party in entering into the transaction, scheme or arrangement is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.
- (4) The reference in subsection (3) to obtaining a tax advantage that would not otherwise be obtained includes<sup>[F5]</sup>—
- (a) obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained<sup>[F6]</sup>, and
  - (b) avoiding liability for the whole or part of a balancing charge to which a person would otherwise be liable.]
- [F7(4A) If the tax advantage relates to the disposal value of the plant or machinery under the relevant transaction (whether by obtaining a more favourable allowance or by avoiding the whole or part of a balancing charge) then—
- (a) the applicable section is section 218ZB, and
  - (b) the tax advantage is to be disregarded for the purposes of subsection (6) and (8)(b).]

(5) If the tax advantage is of a kind described in subsection (7), “the applicable sections” are sections 217 and 218ZA(5).

(6) Otherwise, “the applicable sections” are sections 217 and 218ZA(1) or, as the case may be, 218ZA(3).

(7) The kinds of tax advantage are—

    - (a) that an allowance to which B is entitled for a chargeable period is calculated using a percentage rate that is higher than the one that would otherwise be used, or
    - (b) that B is entitled to an allowance in respect of an amount of capital expenditure sooner than B would otherwise be entitled to it.

(8) If a transaction, scheme or arrangement involves—

    - (a) a tax advantage of a kind described in subsection (7), and
    - (b) a tax advantage not of such a kind,

subsections (5) and (6) have effect separately in relation to each tax advantage.]

#### Textual Amendments

- F2** S. 215 substituted (with effect in accordance with Sch. 9 para. 9(1)(3) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 9 para. 1](#)
- F3** Words in s. 215(1) inserted (with effect in accordance with s. 70(11) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 70\(6\)\(a\)](#)
- F4** Words in s. 215(1) substituted (with effect in accordance with s. 70(11) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 70\(6\)\(b\)](#)
- F5** Word in s. 215(4) inserted (with effect in accordance with s. 70(11) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 70\(7\)\(a\)](#)

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- F6** S. 215(4)(b) and preceding word inserted (with effect in accordance with s. 70(11) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 70\(7\)\(b\)](#)
- F7** S. 215(4A) inserted (with effect in accordance with s. 70(11) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 70\(8\)](#)

## 216 Sale and leaseback, etc.

(1) Allowances under this Part are restricted under sections 217 and 218 [<sup>F8</sup>(or, as the case may be, 218ZA(3))] if—

- (a) B enters into a relevant transaction with S, and
- (b) the plant or machinery—
- (i) continues to be used for the purposes of a qualifying activity carried on by S [<sup>F9</sup>or by a person (other than B) who is connected with S], or
- (ii) is used after the date of the transaction for the purposes of a qualifying activity carried on by S or by a person (other than B) who is connected with S, without having been used since that date for the purposes of any other qualifying activity except that of leasing the plant or machinery.

(2) In this section—

“the date of the transaction” means the date of the sale, the making of the contract or the assignment referred to in section 213(1)(a) to (c), and

“qualifying activity” includes any activity listed in section 15(1) even if any profits or gains from it are not chargeable to tax.

### Textual Amendments

- F8** Words in s. 216(1) inserted (with effect in accordance with Sch. 9 para. 9(1)(3) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 9 para. 4](#)
- F9** Words in s. 216(1)(b)(i) inserted (with effect in accordance with Sch. 32 para. 25 to the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 32 para. 23](#)

## 217 No [<sup>F10</sup>annual investment allowance or] first-year allowance for B’s expenditure

(1) If this section applies as a result of section 214, 215 or 216, [<sup>F11</sup>no annual investment allowance or first-year allowance is] to be made in respect of B’s expenditure under the relevant transaction.

(2) Any [<sup>F12</sup>annual investment allowance or ] first-year allowance which is prohibited by subsection (1), but which has already been made, is to be withdrawn.

[<sup>F13</sup>(3) This section does not apply if plant or machinery is the subject of a sale and finance leaseback (as defined in section 221).]

### Textual Amendments

- F10** Words in s. 217 heading inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 24 para. 8\(4\)](#)
- F11** Words in s. 217(1) substituted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 24 para. 8\(2\)](#)

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- F12** Words in s. 217(2) inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 24 para. 8(3)**
- F13** S. 217(3) substituted (with effect in accordance with Sch. 20 para. 6(19) of the amending Act) by Finance Act 2008 (c. 9), **Sch. 20 para. 6(8)**

## **218 Restriction on B's qualifying expenditure<sup>F14</sup>: section 214 or 216]**

- (1) If this section applies as a result of [<sup>F15</sup>section 214 or 216], the amount, if any, by which B's expenditure under the relevant transaction exceeds D is to be left out of account in determining B's available qualifying expenditure.

D is defined in subsections [<sup>F16</sup>(2), (2A) and] (3).

- (2) If S is required to bring a disposal value into account under this Part because of the relevant transaction, D is that disposal value.

[<sup>F17</sup>(2A) D is nil if—

- (a) S is not required to bring a disposal value into account under this Part because of the relevant transaction, and
- (b) at any time before that transaction S or a linked person became owner of the plant or machinery without incurring either capital expenditure or qualifying revenue expenditure on its provision.]

- (3) [<sup>F18</sup>Otherwise,] D is whichever of the following is the smallest—

- (a) the market value of the plant or machinery;
- (b) if S incurred capital expenditure on the provision of the plant or machinery, the amount of that expenditure;
- (c) if a person connected with S incurred capital expenditure on the provision of the plant or machinery, the amount of that expenditure.

[<sup>F19</sup>(3A) “Linked person”, in relation to plant or machinery, means a person—

- (a) who owned the plant or machinery at any time before the relevant transaction, and
- (b) who was connected with S at any time between—
  - (i) the time when the person became owner of the plant or machinery, and
  - (ii) the time of the relevant transaction.

- (3B) Expenditure on the provision of plant or machinery is “qualifying revenue expenditure” if it is expenditure of a revenue nature—

- (a) that is at least equal to the amount of expenditure that would reasonably be expected to have been incurred on the provision of the plant or machinery in a transaction between persons dealing with each other at arm's length in the open market, or
- (b) that is incurred by the manufacturer of the plant or machinery and is at least equal to the amount that it would have been reasonable to expect to have been the normal cost of manufacturing the plant or machinery.]

[<sup>F20</sup>(4) This section does not apply if plant or machinery is the subject of a sale and finance leaseback (as defined in section 221), but see section 225.]

[<sup>F21</sup>(5) This section is subject to section 218ZA(3).]

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### Textual Amendments

- F14** Words in s. 218 heading inserted (with effect in accordance with Sch. 9 para. 9(1)(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 9 para. 5\(4\)](#)
- F15** Words in s. 218(1) substituted (with effect in accordance with Sch. 9 para. 9(1)(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 9 para. 5\(2\)](#)
- F16** Words in s. 218(1) substituted (with effect in accordance with Sch. 10 para. 3(6) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 3\(2\)](#)
- F17** S. 218(2A) inserted (with effect in accordance with Sch. 10 para. 3(6) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 3\(3\)](#)
- F18** Word in s. 218(3) substituted (with effect in accordance with Sch. 10 para. 3(6) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 3\(4\)](#)
- F19** S. 218(3A)(3B) inserted (with effect in accordance with Sch. 10 para. 3(6) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 3\(5\)](#)
- F20** S. 218(4) substituted (with effect in accordance with Sch. 20 para. 6(19) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 20 para. 6\(9\)](#)
- F21** S. 218(5) inserted (with effect in accordance with Sch. 9 para. 9(1)(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 9 para. 5\(3\)](#)

### [<sup>F22</sup>218Z]Restrictions on writing-down allowances: section 215

- (1) If this subsection applies as a result of section 215, all or part of B's expenditure under the relevant transaction is to be left out of account in determining B's available qualifying expenditure.
- (2) The amount of expenditure to be left out of account is—
  - (a) such amount as would or would in effect cancel out the tax advantage mentioned in section 215 (whether that advantage is obtained by B or another person and whether it relates to the relevant transaction or something else), or
  - (b) if the amount found under paragraph (a) exceeds the whole of B's expenditure under the relevant transaction, the whole of that expenditure.
- (3) But if subsection (1) applies as a result of section 215 and—
  - (a) section 218 also applies as a result of section 214 or 216, or
  - (b) section 228 also applies by virtue of an election under section 70I(11) or 227, the amount of expenditure to be left out of account is the greater of X and Y.
- (4) For the purposes of subsection (3)—

“X” is the amount found under subsection (2), and

“Y” is the amount by which B's expenditure under the relevant transaction exceeds D (as defined in section 218 or, as the case may be, section 228).
- (5) If this subsection applies as a result of section 215—
  - (a) the allowance mentioned in subsection (7)(a) of that section is to be calculated using the rate that would be used without the tax advantage, or (as the case may be)
  - (b) the entitlement mentioned in subsection (7)(b) of that section is to be available as and when it would be available without the tax advantage.
- (6) Subsection (5) applies whether or not section 218 also applies as a result of section 214 or 216, or section 228 also applies by virtue of an election under section 70I(11) or 227.]

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#### Textual Amendments

**F22** S. 218ZA inserted (with effect in accordance with Sch. 9 para. 9(1)(3) of the amending Act) by Finance Act 2012 (c. 14), [Sch. 9 para. 6](#)

### [<sup>F23</sup> **218ZB** Disposal values: section 215

- (1) If—
- (a) this section applies as a result of section 215,
  - (b) a payment is payable to any person under the transaction, scheme or arrangement mentioned in that section,
  - (c) some or all of the payment would not (apart from this section) be taken into account in determining the disposal value of the plant or machinery under the relevant transaction, and
  - (d) as a result of the matters mentioned in paragraphs (b) and (c) S would otherwise obtain a tax advantage as mentioned in section 215(3) and (4),
- the disposal value of the plant or machinery under the relevant transaction is to be adjusted in a just and reasonable manner so as to include an amount representing so much of the payment as would or would in effect cancel out the tax advantage.
- (2) In subsection (1) “payment” includes the provision of any benefit, the assumption of any liability and any other transfer of money or money's worth, and “payable” is to be construed accordingly.]

#### Textual Amendments

**F23** S. 218ZB inserted (with effect in accordance with s. 70(11) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 70\(9\)](#)

### [<sup>F24</sup> **218A** Further restriction on annual investment allowance

- (1) This section applies where an arrangement is entered into wholly or mainly for a disqualifying purpose.
- (2) Arrangements are entered into for a disqualifying purpose if their main purpose, or one of their main purposes, is to enable a person to obtain an annual investment allowance to which the person would not otherwise be entitled.
- (3) The annual investment allowance mentioned in subsection (2) is not to be made.
- (4) Any annual investment allowance which is prohibited by subsection (3), but which has already been made, is to be withdrawn.]

#### Textual Amendments

**F24** S. 218A inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 24 para. 9](#)

**Changes to legislation:**

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