



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 18

ADDITIONAL VAT LIABILITIES AND REBATES

Introduction

234 Introduction

For the purposes of this Chapter—

- (a) “additional VAT liability” and “additional VAT rebate” have the meaning given by section 547,
- (b) the time when—
 - (i) a person incurs an additional VAT liability, or
 - (ii) an additional VAT rebate is made to a person,is given by section 548, and
- (c) the chargeable period in which an additional VAT liability or an additional VAT rebate accrues is given by section 549.

Additional VAT liability

235 Additional VAT liability treated as qualifying expenditure

(1) This section applies if a person—

- (a) has incurred qualifying expenditure (“the original expenditure”), and

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- (b) incurs an additional VAT liability in respect of the original expenditure at a time when the plant or machinery is provided for the purposes of the qualifying activity.
- (2) The additional VAT liability is to be treated as qualifying expenditure—
- (a) which is incurred on the same plant or machinery as the original expenditure, and
 - (b) which may be taken into account in determining the person's available qualifying expenditure for the chargeable period in which the additional VAT liability accrues.
- 236 Additional VAT liability generates first-year allowance [^{F1} or annual investment allowance]**
- (1) Subsection (2) applies if—
- (a) the original expenditure was first-year qualifying expenditure, and
 - (b) the additional VAT liability is incurred at a time when the plant or machinery is provided for the purposes of the qualifying activity.
- (2) The additional VAT liability is to be regarded for the purposes of this Part as first-year qualifying expenditure which—
- (a) is incurred on the same plant or machinery and is the same type of first-year qualifying expenditure as the original expenditure, and
 - (b) entitles the person incurring the liability to a first-year allowance for the chargeable period in which the liability accrues.
- (3) Subsections (3) and (4) of section 52 apply to first-year qualifying expenditure constituted by the additional VAT liability as they apply to other first-year qualifying expenditure.
- [^{F2}(3A) Subsection (3B) applies if—
- (a) the original expenditure was AIA qualifying expenditure, and
 - (b) the additional VAT liability is incurred at a time when the plant or machinery is provided for the purposes of the qualifying activity.
- (3B) The additional VAT liability is to be regarded for the purposes of this Part as AIA qualifying expenditure incurred on the same plant or machinery as the original expenditure in the chargeable period in which the liability accrues.
- (3C) Section 51A(7) applies to AIA qualifying expenditure constituted by the additional VAT liability as it applies to other AIA qualifying expenditure.]
- (4) This section is subject to sections 237 and 241.

Textual Amendments

- F1** Words in s. 236 heading inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 10\(3\)](#)
- F2** S. 236(3A)-(3C) inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 10\(2\)](#)

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237 Exceptions to section 236

- (1) An additional VAT liability is not [^{F3}AIA qualifying expenditure or] first-year qualifying expenditure if at the time when the liability is incurred the plant or machinery is used for overseas leasing which is not protected leasing.

^{F4}(2)

Textual Amendments

- F3** Words in s. 237(1) inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 11](#)
- F4** S. 237(2) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [s. 76\(5\)\(e\)](#) (with [s. 76\(7\)\(8\)](#))

Additional VAT rebate

238 Additional VAT rebate generates disposal value

- (1) This section applies if—
- (a) a person has incurred qualifying expenditure (“the original expenditure”),
 - (b) an additional VAT rebate is made to the person in respect of the original expenditure, and
 - (c) the person owns the plant or machinery on which the original expenditure was incurred at any time in the chargeable period in which the rebate is made.
- (2) If (apart from this section) there would not be a disposal value to be brought into account in respect of the plant or machinery for the chargeable period in which the rebate accrues, the amount of the rebate must be brought into account as a disposal value for that chargeable period.
- (3) If (apart from this section) there would be a disposal value to be brought into account in respect of the plant or machinery for the chargeable period in which the rebate accrues, the amount of the rebate must be brought into account as an addition to that disposal value.

239 Limit on disposal value where additional VAT rebate

- (1) Subsection (2) applies if—
- (a) a person is required to bring a disposal value into account in respect of any plant or machinery, and
 - (b) any additional VAT rebate or rebates has or have been made to him in respect of the original expenditure.
- (2) The amount of the disposal value is limited to the amount of the original expenditure reduced by the total of any additional VAT rebates accruing in previous chargeable periods in respect of that expenditure.
- But this is subject to subsections (3) to (6).
- (3) Subsection (4) applies if the disposal value is required to be brought into account by section 238(2) (disposal value for additional VAT rebate on its own).

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- (4) The amount of the disposal value to be brought into account is limited to the amount of the original expenditure reduced by the amount of any disposal values brought into account in respect of the plant or machinery as a result of any earlier event.
- (5) If—
- (a) the person required to bring the disposal value into account has acquired the plant or machinery as a result of a transaction which was, or a series of transactions each of which was, between connected persons, and
 - (b) an additional VAT rebate has been made to any party to the transaction, or to any of the transactions,
- the amount of the disposal value is limited to the greatest relevant expenditure of any of the parties.
- (6) The relevant expenditure of a party is that party's qualifying expenditure on the provision of the plant or machinery, less any additional VAT rebate made to that party.

Short-life assets: balancing allowance

240 Additional VAT liability

- (1) This section applies if a person—
- (a) was entitled to a balancing allowance for the final chargeable period for a short-life asset pool for a qualifying activity,
 - (b) has incurred, after the end of that period, an additional VAT liability in respect of the original expenditure on the provision of the short-life asset, and
 - (c) has not brought the liability into account in determining the amount of the balancing allowance.
- (2) The person is entitled to a further balancing allowance, of an amount equal to the additional VAT liability, for the chargeable period of the qualifying activity in which the additional VAT liability accrues.

Anti-avoidance

241 No [^{F5}annual investment allowance or] first-year allowance in respect of additional VAT liability

- (1) This section applies if—
- (a) one person (“B”) enters into a transaction with another person (“S”) which is a relevant transaction for the purposes of Chapter 17 (anti-avoidance), and
 - (b) [^{F6}an annual investment allowance or] a first-year allowance in respect of B's expenditure under the relevant transaction is prohibited by section 217(1)^{F7}....
- (2) [^{F8}No annual investment allowance or first-year allowance is] to be made in respect of any additional VAT liability incurred by B in respect of his expenditure under the relevant transaction.
- (3) Any [^{F9}annual investment allowance or] first-year allowance which is prohibited by subsection (2), but which has already been made, is to be withdrawn.

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Textual Amendments

- F5** Words in s. 241 heading inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 12\(5\)](#)
- F6** Words in s. 241(1)(b) inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 12\(2\)](#)
- F7** Words in s. 241(1)(b) omitted (with effect in accordance with Sch. 20 para. 6(19) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 20 para. 6\(16\)](#)
- F8** Words in s. 241(2) substituted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 12\(3\)](#)
- F9** Words in s. 241(3) inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 24 para. 12\(4\)](#)

242 Restriction on B's qualifying expenditure: general

- (1) This section applies instead of section 218 (restriction on B's qualifying expenditure in case other than sale and finance leaseback) if—
- apart from this subsection, section 218 would apply, and
 - an additional VAT liability has been incurred by, or an additional rebate has been made to, any of the persons mentioned in that section.

- (2) The amount, if any, by which E exceeds D is to be left out of account in determining B's available qualifying expenditure.

E and D are defined in subsections (3) to (6).

- (3) Except where subsection (6) applies, E is the sum of—
- B's expenditure under the relevant transaction, and
 - any additional VAT liability incurred by B in respect of that expenditure.

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

[^{F10}(4A) D is nil if—

- S is not required to bring a disposal value into account under this Part because of the relevant transaction, and
- 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.]

- (5) [^{F11}Otherwise,] D is whichever of the following is the smallest—

- the market value of the plant or machinery;
- if S incurred capital expenditure on the provision of the plant or machinery, the amount of that expenditure—
 - increased by the amount of any additional VAT liability incurred by S in respect of that expenditure, and
 - reduced by the amount of any additional VAT rebate made to S in respect of that expenditure;
- if a person connected with S incurred capital expenditure on the provision of the plant or machinery, the amount of that expenditure—

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- (i) increased by the amount of any additional VAT liability incurred by that person in respect of that expenditure, and
 - (ii) reduced by the amount of any additional VAT rebate made to that person in respect of that expenditure.
- (6) If—
- ^{F12}(a)
 - (b) [^{F13}subsection (5) applies and the smallest amount under that subsection] is the market value of the plant or machinery, and
 - (c) that value is determined inclusive of value added tax,
- E is the amount of B’s expenditure under the relevant transaction.
- [^{F14}(7) 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.
- (8) 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.]

Textual Amendments

- F10** S. 242(4A) inserted (with effect in accordance with Sch. 10 para. 5(6) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 5\(2\)](#)
- F11** Word in s. 242(5) substituted (with effect in accordance with Sch. 10 para. 5(6) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 5\(3\)](#)
- F12** S. 242(6)(a) omitted (with effect in accordance with Sch. 10 para. 5(6) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 5\(4\)\(a\)](#)
- F13** Words in s. 242(6)(b) substituted (with effect in accordance with Sch. 10 para. 5(6) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 5\(4\)\(b\)](#)
- F14** S. 242(7)(8) inserted (with effect in accordance with Sch. 10 para. 5(6) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 10 para. 5\(5\)](#)

^{F15}243 Restriction on B’s qualifying expenditure: sale and finance leaseback

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Textual Amendments

F15 S. 243 omitted (with effect in accordance with Sch. 20 para. 6(19) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 20 para. 6(17)**

244 B's qualifying expenditure if lessor not bearing non-compliance risk

An additional VAT liability is not qualifying expenditure for the purposes of this Part if—

- (a) section 225 (restriction on B's qualifying expenditure if lessor not bearing compliance risk) applies, and
- (b) the additional VAT liability is incurred—
 - (i) by B, in respect of the expenditure referred to in section 225(2)(a), or
 - (ii) by the lessor, in respect of the expenditure referred to in section 225(2)(b).

245 Effect of election under section 227 on additional VAT liability

- (1) This section applies if—
 - (a) an election is made under section 227 (sale and leaseback or sale and finance leaseback: election for special treatment), and
 - (b) an additional VAT liability is incurred by S in respect of the capital expenditure incurred on the provision of the plant or machinery to which the election relates.
- (2) The effect of the election is—
 - (a) that no allowance is to be made to S under this Act in respect of the additional VAT liability, and
 - (b) that the additional VAT liability must be left out of account in determining Ss' available qualifying expenditure for any period.

246 Miscellaneous

- (1) All such assessments and adjustments of assessments are to be made as are necessary to give effect to sections 241 to 245.
- (2) Section 232 (meaning of connected person) applies for the purposes of sections 242 and 243.

Changes to legislation:

There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 18.