



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 8

#### PATENT ALLOWANCES

#### CHAPTER 3

##### ALLOWANCES AND CHARGES

#### **470 Pooling of expenditure**

- (1) Qualifying expenditure has to be pooled for the purpose of determining a person's entitlement to writing-down allowances and balancing allowances and liability to balancing charges.
- (2) There is a separate pool—
  - (a) for each trade in respect of which the person has qualifying trade expenditure, and
  - (b) for all of the person's qualifying non-trade expenditure.

#### **471 Determination of entitlement or liability**

- (1) Whether a person is entitled to a writing-down allowance or a balancing allowance, or liable to a balancing charge, for a chargeable period is determined separately for each pool of qualifying expenditure and depends on—
  - (a) the available qualifying expenditure in that pool for that period ("AQE"), and
  - (b) the total of any disposal receipts to be brought into account in that pool for that period ("TDR").
- (2) If AQE exceeds TDR, the person is entitled to a writing-down allowance or a balancing allowance for the period.
- (3) If TDR exceeds AQE, the person is liable to a balancing charge for the period.

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- (4) The entitlement under subsection (2) is to a writing-down allowance except for the final chargeable period when it is to a balancing allowance.
- (5) The final chargeable period for a pool to which qualifying trade expenditure has been allocated is the chargeable period in which the trade is permanently discontinued.
- (6) The final chargeable period for a pool to which qualifying non-trade expenditure has been allocated is the chargeable period in which the last of the patent rights on which the person has incurred qualifying non-trade expenditure—
  - (a) comes to an end without any of those rights being revived, or
  - (b) is wholly disposed of.

#### **472 Amount of allowances and charges**

- (1) The amount of the writing-down allowance to which a person is entitled for a chargeable period is 25% of the amount by which AQE exceeds TDR.
- (2) If the chargeable period is more or less than a year, the amount is proportionately increased or reduced.
- (3) If in the case of qualifying trade expenditure the trade has been carried on for part only of the chargeable period, the amount is proportionately reduced.
- (4) A person claiming a writing-down allowance may require the allowance to be reduced to a specified amount.
- (5) The amount of the balancing charge to which a person is liable for a chargeable period is the amount by which TDR exceeds AQE.
- (6) The amount of the balancing allowance to which a person is entitled for the final chargeable period is the amount by which AQE exceeds TDR.

#### **473 Available qualifying expenditure**

A person's available qualifying expenditure in a pool for a chargeable period consists of—

- (a) any qualifying expenditure allocated to the pool for that period in accordance with section 474, and
- (b) any unrelieved qualifying expenditure carried forward in the pool from the previous chargeable period under section 475.

#### **474 Allocation of qualifying expenditure to pools**

- (1) The following rules apply to the allocation of a person's qualifying expenditure to a pool.
- (2) An amount of qualifying expenditure is not to be allocated to the pool for a chargeable period if that amount has been taken into account in determining the person's available qualifying expenditure for an earlier chargeable period.
- (3) Qualifying expenditure is not to be allocated to the pool for a chargeable period before that in which the expenditure is incurred.

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- (4) Qualifying expenditure incurred on patent rights is not to be allocated to the pool for a chargeable period if in any earlier period those rights—
- (a) have come to an end without any of them having been revived, or
  - (b) have been wholly disposed of.

#### **475 Unrelieved qualifying expenditure**

- (1) A person has unrelieved qualifying expenditure to carry forward from a chargeable period if for that period AQE exceeds TDR.
- (2) The amount of the unrelieved qualifying expenditure is—
- (a) the excess less the writing-down allowance made for the period, or
  - (b) if no writing-down allowance is claimed for the period, the excess.
- (3) No amount may be carried forward as unrelieved qualifying expenditure from the final chargeable period.

#### **[<sup>F1</sup>475A Unrelieved qualifying expenditure: entry to cash basis**

- (1) If a person carrying on a trade enters the cash basis for a tax year, any cash basis deductible amount may not be carried forward as unrelieved qualifying expenditure in the pool for the trade from the chargeable period ending with the basis period for the previous tax year.
- (2) A “cash basis deductible amount” means any amount of unrelieved qualifying expenditure for which a deduction would be allowed in calculating the profits of the trade on the cash basis on the assumption that the expenditure was paid in the tax year for which the person enters the cash basis.
- (3) Any cash basis deductible amount is to be determined on such basis as is just and reasonable in all the circumstances.
- (4) Subsections (9) and (11) of section 1A (capital allowances and charges: cash basis) apply for the purposes of this section as they apply for the purposes of that section.]

#### **Textual Amendments**

**F1** S. 475A inserted (with effect in accordance with Sch. 2 para. 64 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 2 para. 58](#)

#### **Modifications etc. (not altering text)**

**C1** S. 475A(1) excluded by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [s. 240C\(5A\)](#) (as inserted (with effect in accordance with Sch. 2 para. 64 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 2 para. 7\(7\)](#))

#### **476 Disposal value of patent rights**

- (1) In this Chapter “disposal receipt” means a disposal value that a person is required to bring into account in accordance with—
- (a) this section, or

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- (b) [<sup>F2</sup>section 614BS of ITA 2007] or [<sup>F3</sup>section 918 of CTA 2010 (cases where expenditure taken into account under Part 2, 5 or 8 of this Act) or ] any other enactment.
- (2) A person is required to bring a disposal value into account for the chargeable period in which he sells the whole or a part of any patent rights on which he has incurred qualifying expenditure.
- (3) Subject to section 477, the disposal value to be brought into account is the net proceeds of the sale, so far as they consist of capital sums.

#### Textual Amendments

- F2** Words in s. 476(1)(b) substituted (1.4.2010) (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 236](#) (with [Sch. 9 paras. 1-9, 22](#))
- F3** Words in s. 476(1)(b) inserted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 357](#) (with [Sch. 2](#))

#### 477 Limit on amount of disposal value

- (1) The amount of any disposal value, or the total amount of any disposal values, required to be brought into account by a person—
- (a) on the sale of the whole of any patent rights, or
  - (b) on one or more sales of part of any patent rights,
- is limited to the capital expenditure incurred by the person on purchasing the rights.
- (2) But subsection (3) applies if the person acquired the rights as a result of—
- (a) a transaction which was between connected persons, or
  - (b) a series of transactions each of which was between connected persons.
- (3) That amount, or total amount, is limited to the capital expenditure on purchasing the rights incurred by whichever party to the transaction, or to any of the transactions, incurred the greatest such expenditure.

#### [<sup>F4</sup>477A Persons leaving cash basis

- (1) This section applies if—
- (a) a person carrying on a trade leaves the cash basis in a chargeable period,
  - (b) the person has incurred expenditure at a time when an election under section 25A of ITTOIA 2005 (cash basis for trades) has effect in relation to the trade,
  - (c) some or all of the expenditure was brought into account in calculating the profits of the trade on the cash basis, and
  - (d) the expenditure would have been qualifying trade expenditure if an election under section 25A of that Act had not had effect at the time the expenditure was incurred.
- (2) In this section the “relieved portion” of the expenditure is the amount of that expenditure for which a deduction was allowed in calculating the profits of the trade.

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- (3) For the purposes of determining the person's available qualifying expenditure in the pool for the trade for the chargeable period (see section 470)—
- (a) the whole of the expenditure must be allocated to the pool for the trade in that chargeable period, and
  - (b) the available qualifying expenditure in that pool is reduced by the relieved portion of that expenditure.
- (4) For the purposes of determining any disposal receipts (see section 476), the expenditure incurred by the person is to be regarded as qualifying trade expenditure.
- (5) For the purposes of this section a person carrying on a trade leaves the cash basis in a chargeable period if—
- (a) immediately before the beginning of the chargeable period an election under section 25A of ITTOIA 2005 had effect in relation to the trade, and
  - (b) such an election does not have effect in relation to the trade for the chargeable period.]

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**Textual Amendments**

- F4** S. 477A inserted (with effect in accordance with Sch. 2 para. 64 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 2 para. 59](#)

**Changes to legislation:**

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