

SCHEDULES

SCHEDULE 10

Section 43

PLANT AND MACHINERY ALLOWANCES: FIXTURES

Introductory

1 CAA 2001 is amended as follows.

Changes in ownership

2 After section 187 insert—

“187A Effect of changes in ownership of a fixture

(1) This section applies if—

- (a) a person (“the current owner”) is treated as the owner of a fixture as a result of incurring capital expenditure (“new expenditure”) on its provision for the purposes of a qualifying activity carried on by the current owner,
- (b) the plant or machinery is treated as having been owned at a relevant earlier time by a person as a result of incurring other capital expenditure (“historic expenditure”) on its provision for the purposes of a qualifying activity carried on by that person,
- (c) the plant or machinery is within paragraph (b) otherwise than as a result of section 538 (contribution allowances for plant and machinery), and
- (d) a person mentioned in paragraph (b) was entitled to claim an allowance under this Part in respect of the historic expenditure.

(2) In this section—

“the past owner” means—

- (a) the person mentioned in paragraph (d) of subsection (1), or
- (b) if there is more than one amount of historic expenditure in respect of which a person was entitled to claim as mentioned in that paragraph, the person by whom expenditure was incurred most recently;

“relevant earlier time” has the meaning given by section 187B(4) and (5).

(3) In determining the current owner’s qualifying expenditure, the new expenditure is to be treated as nil if—

- (a) the pooling requirement is not satisfied,
- (b) the fixed value requirement applies but is not satisfied, or
- (c) the disposal value statement requirement applies but is not satisfied,

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in relation to the past owner.

- (4) The pooling requirement is that—
- (a) the historic expenditure has been allocated to a pool in a chargeable period beginning on or before the day on which the past owner ceases to be treated as the owner of the fixture, or
 - (b) a first-year allowance has been claimed in respect of that expenditure (or any part of it).
- (5) The fixed value requirement applies if the past owner is or has been required (as a result of having made a claim in respect of the historic expenditure) to bring the disposal value of the plant or machinery into account in accordance with item 1, 5 or 9 of the Table in section 196.
- (6) The fixed value requirement is that either—
- (a) a relevant apportionment of the apportionable sum has been made, or
 - (b) the current owner has obtained the statements mentioned in subsection (8), or copies of them, (directly or indirectly) from the persons who made them and the case is one where the purchaser from the past owner or, as the case may be, lessee was not entitled to claim an allowance under this Part in respect of capital expenditure incurred on the fixture.
- (7) For the purposes of subsection (6)(a) a relevant apportionment of the apportionable sum is made if—
- (a) the tribunal determines the part of the apportionable sum that constitutes the disposal value, on an application made by one of the affected parties before the end of the relevant 2 year period, or
 - (b) an election is made, in respect of the apportionable sum, by the affected parties jointly—
 - (i) before the end of the relevant 2 year period, or
 - (ii) if an application is made as mentioned in paragraph (a) and not determined or withdrawn by the end of that period, before that application is determined or withdrawn.
- (8) The statements referred to in subsection (6)(b) are—
- (a) a written statement made by the purchaser from the past owner or, as the case may be, lessee, that the requirement of subsection (6)(a) has not been met and is no longer capable of being met, and
 - (b) a written statement made by the past owner of the amount of the disposal value that the past owner has in fact brought into account.
- (9) In subsections (6) to (8)—
- (a) in a case falling within item 1 or 9 of the Table in section 196—
 - “affected parties” means the past owner and the purchaser from the past owner;
 - “apportionable sum” means the sale price;
 - “election” means an election under section 198;
 - “relevant 2 year period” means the period of 2 years beginning with the date when the purchaser from the past owner acquires the qualifying interest;

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- (b) in a case falling within item 5 of that Table—
 - “affected parties” means the past owner and the lessee;
 - “apportionable sum” means the capital sum given by the lessee for the lease;
 - “election” means an election under section 199;
 - “relevant 2 year period” means the period of 2 years beginning with the date when the lessee is granted the lease.
- (10) The disposal value statement requirement applies if the past owner is or has been required (as a result of having made a claim in respect of the historic expenditure) to bring the disposal value of the plant or machinery into account in accordance with item 2 or 3 of the Table in section 196 or in accordance with item 7 of the Table in section 61.
- (11) The disposal value statement requirement is—
 - (a) that the past owner has, no later than 2 years after the date when the past owner ceased to own the plant or machinery, made a written statement of the amount of the disposal value that the past owner is or has been required to bring into account, and
 - (b) the current owner has obtained that statement or a copy of it (directly or indirectly) from the past owner.

187B Section 187A: supplementary provision

- (1) It is for the current owner to show—
 - (a) whether the fixed value requirement applies and, if so, is satisfied, and
 - (b) whether the disposal value statement requirement applies and, if so, is satisfied,and, for this purpose, to provide an officer of Revenue and Customs, on request, with a copy of any tribunal decision, election or statement by reason of which a requirement mentioned in paragraph (a) or (b) is satisfied.
- (2) Where—
 - (a) the fixed value requirement applies and is met by reason of section 187A(6)(b) being satisfied, or
 - (b) the disposal value requirement applies,subsections (2) and (4) of section 200 apply in relation to the making of a statement within section 187A(8)(b) or (11)(a) and an amount specified in such a statement, as they apply in relation to an election and an amount specified in an election.
- (3) For the purposes of section 187A, the current owner and the past owner may be the same person.
- (4) In that section “relevant earlier time” means (subject to subsection (5)) any time which falls before the earliest time when the current owner is treated as owning the plant or machinery as a result of incurring the new expenditure.
- (5) If, before the earliest time when the current owner is treated as owning the plant or machinery as a result of incurring the new expenditure—

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- (a) any person has ceased to own the plant or machinery as a result of a sale,
 - (b) the sale was not a sale of the plant or machinery as a fixture, and
 - (c) the buyer and seller were not connected persons at the time of the sale,
- the relevant earlier time does not include any time before the seller ceased to own the plant or machinery.
- (6) Nothing in section 187A(3) affects the disposal value (if any) which falls to be brought into account by the past owner (as a result of having made a claim in respect of the historic expenditure).
 - (7) Expressions used in this section have the same meaning as in section 187A.”
- 3 In section 198 (election to apportion sale price on sale of qualifying interest)—
- (a) in subsection (1), after “item 1” insert “or 9”, and
 - (b) in subsection (2)(a), after “item 1” insert “or (as the case may be) 9”.
- 4 (1) Section 201 (elections under sections 198 and 199: procedure) is amended as follows.
- (2) In subsection (1), at the end insert—
- “But this is subject to subsection (1A).”
- (3) After that subsection insert—
- “(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.”
- (4) For subsection (3)(f) substitute—
- “(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.”
- 5 (1) In section 563 (procedure for determining certain questions affecting two or more persons), in subsection (1)(a) for “two” substitute “one”.
- (2) Accordingly, in the heading for that section for “**two**” substitute “**one**”.

Fixtures on which business premises renovation allowance has been made

- 6 After section 186 insert—

“186A Fixtures on which a business premises renovation allowance has been made

- (1) This section applies if—
- (a) a person (“the past owner”) has at any time claimed an allowance to which that person was entitled under Part 3A (business premises renovation allowances) in respect of qualifying expenditure under that Part incurred in respect of a qualifying building (“Part 3A expenditure”),
 - (b) there has been a balancing event within section 360N(1) as a result of which an asset representing the whole or part of the Part 3A expenditure (“the Part 3A asset”) ceased to be owned by the past owner,
 - (c) the Part 3A asset was or included plant or machinery, and
 - (d) the current owner makes a claim under this Part in respect of expenditure (“new expenditure”) incurred—
 - (i) on the provision of the plant or machinery, and
 - (ii) at a time when it is a fixture.

(2) If the new expenditure exceeds the maximum allowable amount, the excess is to be left out of account in determining the current owner’s qualifying expenditure.

(3) If the proceeds from the balancing event mentioned in subsection (1)(b) exceed R, the maximum allowance amount is—

$$\frac{F}{T} \times R$$

where—

F is so much of the proceeds from the balancing event as are attributable to the fixture,

T is the total amount of the proceeds from the balancing event, and

R is the qualifying expenditure incurred by the past owner on the Part 3A asset less the net Part 3A allowances in respect of that asset.

(4) Where subsection (3) does not apply, the maximum allowable amount is so much of the proceeds from the balancing event as are attributable to the fixture.

(5) For the purposes of subsection (3) the “net Part 3A allowances” in respect of the Part 3A asset means—

- (a) the total of any allowances made under Part 3A in respect of the past owner’s qualifying expenditure, less
- (b) the total of any balancing charges made under that Part in respect of that expenditure.

(6) For the purposes of this section, the current owner of the plant or machinery is—

- (a) the person who acquired the Part 3A asset from the past owner, or

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- (b) any person who is subsequently treated as the owner of the plant or machinery.”
- 7 In section 9 (interaction between fixtures claims and other claims), in subsection (2)
 —
- (a) in paragraph (a), after “Part 3” insert “, 3A”, and
 (b) in paragraph (b), after “section 186(2)” insert “, 186A(2)”.
- 8 In section 57 (available qualifying expenditure), in subsection (3), after
 “section 186(2)” insert “, 186A(2)”.
- 9 In section 198 (election to apportion sale price on sale of qualifying interest), for
 subsection (5)(a) substitute—
- “(a) sections 186, 186A and 187 (fixtures on which industrial buildings
 allowance, business premises renovation allowance or research and
 development allowance has been made),”.
- 10 In section 199 (election to apportion capital sum given by lessee on grant of lease),
 for subsection (5)(a) substitute—
- “(a) sections 186, 186A and 187 (fixtures on which industrial buildings
 allowance, business premises renovation allowance or research and
 development allowance has been made),”.

Commencement and transitionals

- 11 The amendments made by paragraphs 2 to 5 have effect—
- (a) for income tax purposes, in relation to new expenditure incurred on or after
 6 April 2012, and
 (b) for corporation tax purposes, in relation to new expenditure incurred on or
 after 1 April 2012.
- 12 The amendments made by paragraph 6 to 10 have effect—
- (a) for income tax purposes, in relation to balancing events which occur on or
 after 6 April 2012, and
 (b) for corporation tax purposes, in relation to balancing events which occur
 on or after 1 April 2012.
- 13 (1) Where (ignoring this sub-paragraph) plant or machinery would be treated for the
 purposes of subsection (1)(b) of section 187A of CAA 2001 as having been owned
 by a person for a period which began and ended before the commencement date,
 that period of ownership is, for those purposes, to be regarded as not occurring at a
 relevant earlier time.
- (2) Section 187A(3)(a) of CAA 2001 (imposition of the pooling requirement) does not
 apply if the period for which the plant or machinery is treated as having been owned
 by the past owner as a result of incurring the historic expenditure ends no later than
 the end of the period of 2 years beginning with the commencement date.
- (3) “The commencement date” means—
- (a) for income tax purposes, 6 April 2012, and
 (b) for corporation tax purposes, 1 April 2012.