

SCHEDULES

SCHEDULE 9

Section 42

CAPITAL ALLOWANCES FOR PLANT AND MACHINERY: ANTI-AVOIDANCE

Transactions to obtain allowances

1 For section 215 of CAA 2001 substitute—

“215 Transactions to obtain tax advantages

- (1) Allowances under this Part are restricted under the applicable sections if B enters into a relevant transaction with S 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.
- (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 obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.
- (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.”

Restrictions on writing-down allowances

- 2 In section 57(3) of CAA 2001 (available qualifying expenditure), after
 “section 218(1),” insert “218ZA(1) or (3),”.
- 3 In section 214 of that Act (connected persons), after “218” insert “(or, as the case
 may be, 218ZA(3))”.
- 4 In section 216 of that Act (sale and leaseback, etc), in subsection (1), after “218”
 insert “(or, as the case may be, 218ZA(3))”.
- 5 (1) Section 218 of that Act (restriction on B’s qualifying expenditure) is amended as
 follows.
- (2) In subsection (1), for “section 214, 215 or 216” substitute “section 214 or 216”.
- (3) At the end insert—
- “(5) This section is subject to section 218ZA(3).”
- (4) Accordingly, in the heading of that section, insert at the end “: **section 214 or 216**”.
- 6 After section 218 of that Act insert—

“218ZA 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—

Status: This is the original version (as it was originally enacted).

- (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.”

Restriction of exception for manufacturers and suppliers

7 (1) Section 230 of CAA 2001 (exception for manufacturers and suppliers), as amended by section 41 of this Act, is amended as follows.

(2) For subsection (1) substitute—

“(1) The restrictions in sections 217 and 218 do not apply in relation to any plant or machinery if—

- (a) the relevant transaction is within section 213(1)(a) or (b),
- (b) the case does not fall within section 215, and
- (c) the conditions in subsection (3) are met.”

(3) Omit subsection (2).

Relevant transactions

8 After section 268D of CAA 2001 insert—

“268E Meaning of “assigns”

(1) For the purposes of this Part—

- (a) a person (“A”) is taken to assign the benefit of a contract, or rights under a contract, to another person (“B”) whenever B becomes entitled, and A ceases to be entitled, to the benefit or rights (whether by assignment, novation, variation or replacement of the contract, by operation of law or otherwise), and
- (b) references to an assignment are to be read accordingly.

(2) Any reference in this Part to the benefit of a contract or to rights under a contract includes a reference to part of the benefit of a contract or to part of the rights under a contract.”

Commencement

9 (1) The amendments made by paragraphs 1 to 7 of this Schedule have effect in relation to expenditure of B’s that is incurred on or after the start date (regardless of when the relevant transaction was entered into).

(2) The amendment made by paragraph 8 of this Schedule has effect in relation to expenditure that is incurred on or after the start date.

(3) The start date is—

Status: This is the original version (as it was originally enacted).

- (a) 1 April 2012, for corporation tax purposes, and
- (b) 6 April 2012, for income tax purposes.