



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 2

#### PLANT AND MACHINERY ALLOWANCES

### CHAPTER 20

#### SUPPLEMENTARY PROVISIONS

#### *<sup>F1</sup>Co-ownership authorised contractual schemes*

---

#### **Textual Amendments**

**F1** Ss. 262AA-262AF and cross-heading inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 40](#)

#### **262AA Co-ownership schemes: carrying on qualifying activity**

- (1) This section applies where the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity.
- (2) Each participant in the scheme is for the purposes of this Part to be regarded as carrying on the qualifying activity.
- (3) Subsection (2) applies in relation to a participant only to the extent that the profits or gains arising to the participant from the qualifying activity are, or (if there were any) would be, chargeable to tax.
- (4) But in determining for the purposes of subsection (1) whether or to what extent the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity, assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

## **262AB Co-ownership schemes: election**

- (1) The operator of a co-ownership authorised contractual scheme may make an election under this section.
- (2) The election must specify an accounting period of the scheme as the first accounting period in relation to which the election has effect.
- (3) That first accounting period must not—
  - (a) be longer than 12 months, or
  - (b) begin before 1 April 2017.
- (4) The election has effect for that first accounting period and all subsequent accounting periods of the scheme.
- (5) The election is irrevocable [<sup>F2</sup>(subject to section 262AEA)].
- (6) The election is made by notice to an officer of Revenue and Customs.

[ See sections 262AC to 262AE and sections 270ID and 270IE for provision about the <sup>F3</sup>(7) effect of an election.]

### **Textual Amendments**

- F2** Words in s. 262AB(5) inserted (5.7.2019) by [The Capital Allowances \(Structures and Buildings Allowances\) Regulations 2019 \(S.I. 2019/1087\)](#), regs. 1, **3(7)(a)**
- F3** S. 262AB(7) inserted (5.7.2019) by [The Capital Allowances \(Structures and Buildings Allowances\) Regulations 2019 \(S.I. 2019/1087\)](#), regs. 1, **3(7)(b)**

## **262AC Co-ownership schemes: calculation of allowance after election**

- (1) This section applies where an election under section 262AB has effect for an accounting period of a co-ownership authorised contractual scheme (“the relevant period”).
- (2) The operator of the scheme is to calculate the allowances that would be available to the scheme under this Part in relation to the relevant period on the basis of the assumptions in subsection (3).
- (3) The assumptions are—
  - (a) the scheme is a person;
  - (b) the relevant period is a chargeable period for the purposes of this Act;
  - (c) any qualifying activity carried on by the participants in the scheme together is carried on by the scheme;
  - (d) property which was subject to the scheme at the beginning of the first accounting period for which the election has effect—
    - (i) ceased to be owned by the participants at that time, and
    - (ii) was acquired by the scheme at that time;
  - (e) the disposal value to be brought into account in relation to the cessation of ownership and the acquisition referred to in paragraph (d) is the tax written-down value;

---

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

---

- (f) any property which became subject to the scheme at a time during an accounting period for which the election has effect was acquired by the scheme at that time;
  - (g) property which ceased to be subject to the scheme at any such time ceased to be owned by the scheme at that time;
  - (h) the disposal value to be brought into account in relation to the cessation of ownership referred to in paragraph (g) is the tax written-down value;
  - (i) the scheme is not entitled to a first-year allowance or an annual investment allowance in respect of any expenditure.
- (4) The operator of the co-ownership authorised contractual scheme must allocate to each participant in the scheme a proportion (which may be zero) of the allowances calculated under this section.
- (5) The allocation is to be on the basis of what is just and reasonable.
- (6) In determining what is just and reasonable—
- (a) regard is to be had in particular to the relative size of each participant's holding of units in the scheme;
  - (b) no regard is to be had to—
    - (i) whether or to what extent a participant is liable to income tax or corporation tax, or
    - (ii) any other circumstances relating to a participant's liability to tax.
- (7) If the participants in the scheme together carry on more than one qualifying activity, the calculation and allocation under this section are to be made separately for each activity.
- (8) The proportion of an allowance allocated by the operator to a participant under this section for a qualifying activity is the total amount of the allowance available to the participant under this Part in relation to the relevant period by virtue of carrying on that activity as a participant in the scheme.
- (9) In this section “tax written-down value”, in relation to any cessation of ownership or acquisition, means such amount as would give rise to neither a balancing allowance nor a balancing charge.
- (10) For the purposes of subsection (9) assume that expenditure to which the disposal value relates is in its own pool.
- (11) For the purposes of subsections (3)(c) and (9), assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

## **262AD Co-ownership schemes: effect of election for participants**

- (1) This section has effect where an election under section 262AB is made by the operator of a co-ownership authorised contractual scheme.
- (2) For the purposes of sections 61(1) and 196(1) (disposal events and values)—
- (a) a participant in the scheme is to be regarded as ceasing to own the participant's interest in the property subject to the scheme at the beginning of the first accounting period of the scheme for which the election has effect, and

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

- (b) the disposal value to be brought into account in relation to that cessation of ownership is the tax written-down value.
- (3) In subsection (2)(b) “tax written-down value” means such amount as would give rise to neither a balancing allowance nor a balancing charge.
- (4) For the purposes of subsection (3) assume that—
  - (a) expenditure to which the disposal value relates is in its own pool;
  - (b) profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

### **262AE Co-ownership schemes: effect of election for purchasers**

- (1) This section has effect where—
  - (a) an election under section 262AB is made by the operator of a co-ownership authorised contractual scheme,
  - (b) property consisting of a fixture ceased to be subject to the scheme at any time in an accounting period for which the election has effect,
  - (c) in a calculation made by the operator of the scheme under section 262AC(2) the assumption in section 262AC(3)(g) was made in relation to that fixture, and
  - (d) a person (“the current owner”) is treated as the owner of the fixture as a result of incurring capital expenditure on its provision (“the new expenditure”).
- (2) In determining the current owner's qualifying expenditure—
  - (a) if the disposal value statement requirement is not satisfied, the new expenditure is to be treated as nil, and
  - (b) in any other case, any amount of the new expenditure which exceeds the assumed disposal value is to be left out of account (or, if such an amount has already been taken into account, is to be treated as an amount that should never have been taken into account).
- (3) The disposal value statement requirement is that—
  - (a) the operator of the scheme has, no later than 2 years after the date when the fixture ceased to be property subject to the scheme, made a written statement of the assumed disposal value, and
  - (b) the current owner has obtained that statement or a copy of it (directly or indirectly) from the operator of the scheme.
- (4) Sections 185 (fixture on which a plant and machinery allowance has been claimed) and 187A (effect of changes in ownership of fixture) do not apply in relation to the new expenditure.
- (5) In this section “assumed disposal value” means the disposal value that, in making the calculation referred to in subsection (1)(c), was assumed to be brought into account pursuant to section 262AC(3)(h).

### **Co-ownership schemes: withdrawal of election**

**F4262AEA**

- (1) This section applies if—
  - (a) an election under section 262AB has been made in relation to the scheme before the relevant date (within the meaning of section 270ID(8)), and

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

- (b) an allowance under Part 2A (structures and buildings allowances) is available by reference to a building or structure which is subject to the scheme.
- (2) The operator of the scheme may, by notice to an officer of Revenue and Customs, withdraw the election.
- (3) The notice of withdrawal may not be given more than 12 months after the end of the accounting period in which the building or structure mentioned in subsection (1)(b) is first brought into qualifying use for the purposes of that Part.
- (4) The election ceases to have effect for the accounting period in which the notice of withdrawal is given and all subsequent accounting periods of the scheme.
- (5) If an election is withdrawn under this section—
  - (a) the property which was subject to the scheme at the beginning of the accounting period in which the notice of withdrawal is given is treated for the purposes of this Part—
    - (i) as ceasing to be owned by the scheme at that time, and
    - (ii) as being acquired by the participants at that time in such proportions as are just and reasonable, and
  - (b) the disposal value to be brought into account in relation to the cessation of ownership is the tax written-down value.
- (6) Subsections (6) and (9) to (11) of section 262AC apply for the purposes of this section as they apply for the purposes of that section.]

#### Textual Amendments

- F4** S. 262AEA inserted (5.7.2019) by [The Capital Allowances \(Structures and Buildings Allowances\) Regulations 2019 \(S.I. 2019/1087\)](#), regs. 1, 3(8)

### 262AF Co-ownership schemes: definitions relating to schemes

In sections 262AA to 262AE and this section—

“co-ownership authorised contractual scheme” means a co-ownership scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 261D(1) of that Act;

“co-ownership scheme” has the same meaning as in Part 17 of that Act (see section 235A(2) of that Act);

“operator” and “units”, in relation to a co-ownership authorised contractual scheme, have the meanings given by section 237(2) of that Act;

“participant”, in relation to such a scheme, is to be read in accordance with section 235 of that Act.]

#### *Partnerships and successions*

### 263 Qualifying activities carried on in partnership

- (1) This section applies if—

---

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

---

- (a) a qualifying activity has been set up and is at any time carried on in partnership,
- (b) there has been a change in the persons engaged in carrying on the qualifying activity, and
- [<sup>F5</sup>(c) if the qualifying activity is a trade or property business, the condition in subsection (1A) or (1B) (whichever is appropriate) is met.]

[<sup>F6</sup>(1A) For income tax purposes, the condition is that a person carrying on the trade or property business immediately before the change continues to carry it on after the change.

(1B) For corporation tax purposes, the condition is that a company carrying on the trade or property business in partnership immediately before the change continues to carry it on in partnership after the change.]

(2) In this section—

“the present partners” means the person or persons for the time being carrying on the qualifying activity,

“the partners at the time of the event” means the person or persons carrying on the qualifying activity at the time of the event in question,

“predecessors”—

(a) in relation to the present partners, means their predecessors in carrying on the qualifying activity, and

(b) in relation to the partners at the time of the event, means their predecessors in carrying on the qualifying activity, and

“qualifying activity”—

(a) does not include an employment or office, but

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

(3) Any [<sup>F7</sup>annual investment allowance,] first-year allowance or writing-down allowance under this Part is to be made to the present partners.

(4) The amount of any allowance arising under subsection (3) is to be calculated as if—

(a) the present partners had at all times been carrying on the qualifying activity, and

(b) everything done to or by their predecessors in carrying on the qualifying activity had been done to or by the present partners.

(5) If any event occurs which gives rise or may give rise to a balancing allowance or a balancing charge under this Part, the allowance or charge is to be made to or on the partners at the time of the event.

(6) The amount of any allowance or charge arising under subsection (5) is to be calculated as if—

(a) the partners at the time of the event had at all times been carrying on the qualifying activity, and

(b) everything done to or by their predecessors in carrying on the qualifying activity had been done to or by the partners at the time of the event.

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

### Textual Amendments

- F5** S. 263(1)(c) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 495\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F6** S. 263(1A)(1B) substituted for s. 263(1A) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 495\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F7** Words in s. 263(3) inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 24 para. 13](#)

## 264 Partnership using property of a partner

- (1) Subsection (2) applies if—
- a qualifying activity is carried on in partnership,
  - plant or machinery is used for the purposes of the qualifying activity, and
  - the plant or machinery is owned by one or more of the partners but is not partnership property.
- (2) The same allowances, deductions and charges are to be made under this Part in respect of the plant or machinery as would fall to be made if—
- the plant or machinery had at all material times been owned by all the partners and been partnership property, and
  - everything done by or to any of the partners in relation to that plant or machinery had been done by or to all the partners.
- (3) The disposal value of plant or machinery is not required to be brought into account if—
- the plant or machinery is used for the purposes of a qualifying activity carried on in partnership,
  - a sale or gift of the plant or machinery is made by one or more of the partners to one or more of the partners, and
  - the plant or machinery continues to be used after the sale or gift for the purposes of the qualifying activity.
- (4) The references in this section to use for the purposes of a qualifying activity do not include use—
- as a result of a letting by the partner or partners in question to the partnership, or
  - in consideration of the making to the partner or partners in question of any payment which may be deducted in calculating the profits of the qualifying activity.

## 265 Successions: general

- (1) This section applies if—
- a person (“the successor”) succeeds to a qualifying activity which until that time was carried on by another person (“the predecessor”), and
  - <sup>[F8]</sup>(b) if the qualifying activity is a trade or property business, the condition in subsection (1A) or (1B) (whichever is appropriate) is met.]

<sup>[F9]</sup>(1A) For income tax purposes, the condition is that no person carrying on the trade or property business immediately before the succession continues to carry it on after the succession.

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

- (1B) For corporation tax purposes, the condition is that no company carrying on the trade or property business in partnership immediately before the succession continues to carry it on in partnership after the succession.]
- (2) Relevant property is to be treated for the purposes of this Part as if—
- (a) it had been sold to the successor when the succession takes place, and
  - (b) the net proceeds of the sale were the market value of the property.
- (3) “Relevant property” means any property which—
- (a) immediately before the succession, was owned by the predecessor and was either in use or provided and available for use for the purposes of the discontinued qualifying activity, and
  - (b) immediately after the succession, and without being sold, is either in use or provided and available for use for the purposes of the new qualifying activity.
- (4) No entitlement to [<sup>F10</sup>an annual investment allowance or] a first-year allowance arises under this section.
- (5) In this section “qualifying activity”—
- (a) does not include an employment or office, but
  - (b) includes any other activity listed in section 15(1) even if any profits or gains from it are not chargeable to tax.

#### Textual Amendments

- F8** S. 265(1)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 496\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F9** S. 265(1A)(1B) substituted for s. 265(1A) (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 496\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F10** Words in s. 265(4) inserted (with effect in accordance with Sch. 24 para. 23 of the amending Act) by [Finance Act 2008 \(c. 9\), Sch. 24 para. 14](#)

## 266 Election where predecessor and successor are connected persons

- (1) This section applies if a person (“the successor”) succeeds to a qualifying activity which was until that time carried on by another person (“the predecessor”) and—
- (a) the two persons are connected with each other,
  - (b) each of them is within the charge to tax on the profits of the qualifying activity, and
  - (c) the successor is not a dual resident investing company.
- (2) If this section applies, the predecessor and the successor may jointly elect for the provisions of section 267 to have effect.
- (3) The election may be made whether or not any plant or machinery has actually been sold or transferred.
- (4) The election must be made by notice to the [<sup>F11</sup>an officer of Revenue and Customs] within 2 years after the date on which the succession takes effect.
- (5) For the purposes of this section, the predecessor and the successor are connected with each other if any of the following conditions is met—



*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

- (a) they would be treated as connected persons under <sup>F12</sup> section 575];
  - (b) one of them is a partnership and the other has the right to a share in that partnership;
  - (c) one of them is a body corporate and the other has control over that body;
  - (d) both of them are partnerships and another person has the right to a share in both of them;
  - (e) both of them are bodies corporate, or one of them is a partnership and the other is a body corporate, and (in either case) another person has control over both of them.
- (6) In subsection (5) any reference to a right to a share in a partnership is to be read as a reference to a right to a share of the assets or income of the partnership.
- (7) Sections <sup>F13</sup> 104E], 108 and 265 (disposal value <sup>F14</sup>in connection with special rate expenditure], effect of disposal to connected person on overseas leasing pool and general provisions about successions) do not apply if an election is made under this section <sup>F15</sup>(but see section 267A)].
- (8) This section does not apply if section 561 applies (<sup>F16</sup>transfer or division of UK business]).

#### Textual Amendments

- F11** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 83\(1\)](#); S.I. 2005/1126, art. 2(2)(h)
- F12** Words in s. 266(5)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 405](#) (with [Sch. 2](#))
- F13** Word in s. 266(7) substituted (with effect in accordance with Sch. 26 para. 14 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 26 para. 12\(a\)](#)
- F14** Words in s. 266(7) substituted (with effect in accordance with Sch. 26 para. 14 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 26 para. 12\(b\)](#)
- F15** Words in s. 266(7) inserted (with effect in accordance with s. 85(5) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 85(2)
- F16** Words in s. 266(8) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [10\(3\)](#) (with regs. 39-41); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## 267 Effect of election

- (1) If an election is made under section 266, the following provisions have effect.
- (2) For the purposes of making allowances and charges under this Part, relevant plant or machinery is treated as sold by the predecessor to the successor—
- (a) when the succession takes place, and
  - (b) at a price which gives rise to neither a balancing allowance nor a balancing charge.
- (3) “Relevant plant or machinery” means any plant or machinery which—
- (a) immediately before the succession, was owned by the predecessor, and was either in use or provided and available for use for the purposes of the qualifying activity, and

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

- (b) immediately after the succession, is owned by the successor, and is either in use or provided and available for use for the purposes of the qualifying activity.
- (4) Allowances and charges are to be made under this Part to or on the successor as if everything done to or by the predecessor had been done to or by the successor.
- (5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to the election.
- [<sup>F17</sup>(6) This section is subject to section 267A.]

#### Textual Amendments

- F17** S. 267(6) inserted (with effect in accordance with s. 85(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 85\(3\)](#)

#### [<sup>F18</sup>267A Restriction on effect of election

- (1) This section applies for corporation tax purposes if—
- on any day (“the relevant day”) a person (“the predecessor”) carries on a business of leasing plant or machinery,
  - on the relevant day another person (“the successor”) succeeds to the business, and
  - the predecessor and the successor make an election under section 266.
- (2) Neither—
- section 266(7), nor
  - the provisions of section 267,
- have effect in relation to any plant or machinery which, in determining whether the business is a business of leasing plant or machinery on the relevant day, [<sup>F19</sup>falls within section 387(7) of CTA 2010 (if the business is carried on otherwise than in partnership) or within section 410(6) of that Act (if the business is carried on in partnership)].
- (3) In this section “business of leasing plant or machinery”—
- has the same meaning as in [<sup>F20</sup>Chapter 3 of Part 9 of CTA 2010] (if the business is carried on otherwise than in partnership), or
  - has the same meaning as in [<sup>F21</sup>Chapter 4 of that Part] (if the business is carried on in partnership).]

#### Textual Amendments

- F18** S. 267A inserted (with effect in accordance with s. 85(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 85\(4\)](#)
- F19** Words in s. 267A(2) substituted (with effect in accordance with Sch. 6 para. 27 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 6 para. 23](#)
- F20** Words in s. 267A(3)(a) substituted (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. 352\(a\)](#) (with [Sch. 2](#))
- F21** Words in s. 267A(3)(b) substituted (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. 352\(b\)](#) (with [Sch. 2](#))

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

## 268 Successions by beneficiaries

- (1) This section applies if—
  - (a) a person succeeds to a qualifying activity as a beneficiary under the will or on the intestacy of a deceased person who carried on the qualifying activity,
  - [<sup>F22</sup>(b) all of the persons carrying on the qualifying activity before the succession permanently cease to carry it on, and]
  - (c) the beneficiary elects by notice to [<sup>F11</sup>an officer of Revenue and Customs] for this section to apply.
- (2) In relation to the succession and any previous succession occurring on or after the death of the deceased, relevant plant or machinery is treated as if it had been sold to the beneficiary when the succession takes place.
- (3) The net proceeds of the sale are treated as being the lesser of—
  - (a) the market value of the plant or machinery, and
  - (b) the unrelieved qualifying expenditure which would have been taken into account in calculating the amount of a balancing allowance for the appropriate chargeable period if the disposal value of the plant or machinery had been nil.  
“Appropriate chargeable period” means the chargeable period in which the deceased person’s qualifying activity was permanently discontinued.
- (4) “Relevant plant or machinery” means plant or machinery which—
  - (a) was previously owned by the deceased,
  - (b) passes to the beneficiary with the qualifying activity, and
  - (c) is either used or provided and available for use by the beneficiary for the purposes of the qualifying activity.
- (5) Subsections (6) and (7) apply if the beneficiary is required to bring a disposal value into account in respect of relevant plant or machinery.
- (6) The provisions limiting the amount of the disposal value of property, that is—
  - (a) section 62 (limit on disposal value: general), and
  - (b) section 239 (limit on disposal value where additional VAT rebate),apply in relation to the beneficiary to limit the disposal value by reference to expenditure incurred by the deceased or additional VAT rebates made to the deceased.
- (7) Section 73 (limit on disposal value: software and rights to software) applies as if the previous disposal values to be taken into account in determining whether the limit under those provisions is exceeded were those of the deceased.
- (8) In this section “qualifying activity”—
  - (a) does not include an employment or office, but
  - (b) includes any other activity listed in section 15(1) even if any profits or gains from it are not chargeable to tax.

### Textual Amendments

**F11** Words in Act substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 83\(1\)](#); S.I. 2005/1126, art. 2(2)(h)

**F22** S. 268(1)(b) substituted for s. 268(1)(b) (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 551](#) (with Sch. 2)

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

## <sup>F23</sup>Cars etc

### Textual Amendments

**F23** Ss. 268A-268C and cross-heading inserted (with effect in accordance with Sch. 11 paras. 26, 27, 28(1) to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 11](#) (with [Sch. 11 paras. 30-32](#))

### 268A Meaning of “car” and “motor cycle”

- (1) In this Part “car” means a mechanically propelled road vehicle other than—
- (a) a motor cycle,
  - (b) a vehicle of a construction primarily suited for the conveyance of goods or burden of any description, or
  - (c) a vehicle of a type not commonly used as a private vehicle and unsuitable for such use.
- (2) In this Part “motor cycle” has the meaning given by section 185(1) of the Road Traffic Act 1988.

### 268B Electrically-propelled vehicles

For the purposes of this Part a vehicle is electrically-propelled only if—

- (a) it is propelled solely by electrical power, and
- (b) that power is derived from—
  - (i) a source external to the vehicle, or
  - (ii) an electrical storage battery which is not connected to any source of power when the vehicle is in motion.

### 268C Terms relating to emissions

- (1) In this Part “qualifying emissions certificate”, in relation to a vehicle, means [<sup>F24</sup>a certificate or other document on the basis of which the vehicle is registered] that specifies—
- (a) in the case of a vehicle other than a bi-fuel vehicle, a CO<sub>2</sub> emissions figure in terms of grams per kilometre driven, or
  - (b) in the case of a bi-fuel vehicle, separate CO<sub>2</sub> emissions figures in terms of grams per kilometre driven for different fuels.
- (2) For the purposes of this Part, [<sup>F25</sup>and subject to subsection (3A),] in relation to a vehicle other than a bi-fuel vehicle, the applicable CO<sub>2</sub> emissions figure is—
- (a) where the qualifying emissions certificate specifies only one CO<sub>2</sub> emissions figure, that figure, and
  - (b) where the certificate specifies more than one CO<sub>2</sub> emissions figure, the figure specified as the CO<sub>2</sub> emissions (combined) figure.
- (3) For the purposes of this Part, [<sup>F26</sup>and subject to subsection (3A),] in relation to a bi-fuel vehicle, the applicable CO<sub>2</sub> emissions figure is—
- (a) where the qualifying emissions certificate specifies more than one CO<sub>2</sub> emissions figure in relation to each fuel, the lowest CO<sub>2</sub> emissions (combined) figure specified, and

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

(b) in any other case, the lowest CO<sub>2</sub> figure specified by the certificate.

[ For the purposes of determining the vehicle’s CO<sub>2</sub> emissions figure in a case where  
<sup>F27</sup>(3A) the vehicle is first registered on or after IP completion day, ignore any values specified in the qualifying emissions certificate that are not WLTP (worldwide harmonised light vehicle test procedures) values.]

(4) In this section—

“bi-fuel”, in relation to a vehicle, means capable of being propelled by—

(a) petrol and road fuel gas, or

(b) diesel and road fuel gas;

“diesel” means any diesel fuel within the definition in Article 2 of Directive 98/70/EC of the European Parliament and of the Council;

<sup>F28</sup> ...

“petrol” has the meaning given by Article 2 of Directive 98/70/EC of the European Parliament and of the Council;

“road fuel gas” has the same meaning as in section 171(1) of ITEPA 2003;

<sup>F28</sup> ...]

#### Textual Amendments

**F24** Words in s. 268C(1) substituted (with effect in accordance with Sch. 18 para. 1(7) of the amending Act) by Finance Act 2022 (c. 3), **Sch. 18 para. 1(2)**

**F25** Words in s. 268C(2) inserted (with effect in accordance with Sch. 18 para. 1(7) of the amending Act) by Finance Act 2022 (c. 3), **Sch. 18 para. 1(3)**

**F26** Words in s. 268C(3) inserted (with effect in accordance with Sch. 18 para. 1(7) of the amending Act) by Finance Act 2022 (c. 3), **Sch. 18 para. 1(4)**

**F27** S. 268C(3A) inserted (with effect in accordance with Sch. 18 para. 1(7) of the amending Act) by Finance Act 2022 (c. 3), **Sch. 18 para. 1(5)**

**F28** Words in s. 268C(4) omitted (with effect in accordance with Sch. 18 para. 1(7) of the amending Act) by virtue of Finance Act 2022 (c. 3), **Sch. 18 para. 1(6)**

#### [<sup>F29</sup>268DHire cars for disabled persons

(1) For the purposes of this Part a car is a hire car for a disabled person if it is provided wholly or mainly for hire to, or the carriage of, disabled persons in the ordinary course of a trade.

(2) “Disabled person” means a person in receipt of—

(a) a disability living allowance under—

(i) the Social Security Contributions and Benefits Act 1992, or

(ii) the Social Security Contributions and Benefits (Northern Ireland) Act 1992,

because of entitlement to the mobility component,

[<sup>F30</sup>(aa) personal independence payment under the Welfare Reform Act 2012, or the corresponding provision having effect in Northern Ireland, because of entitlement to the mobility component,

[<sup>F31</sup>(aaa) a category of disability assistance, given in accordance with regulations made under section 31 of the Social Security (Scotland) Act 2018, because of entitlement to a mobility component,]

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

- (ab) armed forces independence payment under a scheme established under section 1 of the Armed Forces (Pensions and Compensation) Act 2004,]
- (b) a mobility supplement under a scheme made under the Personal Injuries (Emergency Provisions) Act 1939,
- (c) a mobility supplement under an Order in Council made under section 12 of the Social Security (Miscellaneous Provisions) Act 1977, or
- (d) a payment that appears to the Treasury to be similar to those mentioned in paragraphs (a) to (c) and that is specified by order made by the Treasury.]

#### Textual Amendments

- F29** S. 268D inserted (with effect in accordance with Sch. 11 paras. 26, 27, 28(1) to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 22](#) (with [Sch. 11 paras. 30-32](#))
- F30** S. 268D(2)(aa)(ab) inserted (with effect in accordance with s. 72(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [s. 72\(1\)](#)
- F31** S. 268D(2)(aaa) inserted (26.7.2021) by [The Social Security \(Scotland\) Act 2018 \(Disability Assistance, Young Carer Grants, Short-term Assistance and Winter Heating Assistance\)](#) (Consequential Provision and Modifications) Order 2021 (S.I. 2021/886), arts. 1(2), [10\(2\)](#)

#### [<sup>F32</sup>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.]

#### Textual Amendments

- F32** S. 268E inserted (with effect in accordance with Sch. 9 para. 9(2)(3) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 9 para. 8](#)

### *Miscellaneous*

#### **269 Use of plant or machinery for business entertainment**

- (1) If—
  - (a) a person carrying on a qualifying activity, or
  - (b) an employee of that person,
 provides business entertainment in connection with that activity, the use of plant or machinery for providing the entertainment is to be treated as use for purposes other than those of that activity.
- (2) For the purposes of this section—

---

*Status: Point in time view as at 24/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20. (See end of Document for details)*

---

- (a) “entertainment” includes hospitality of any kind, and
  - (b) the use of an asset for providing entertainment includes the use of an asset for providing anything incidental to the entertainment.
- (3) “Business entertainment” does not include anything provided by a person for employees unless its provision for them is incidental to its provision for others.
- (4) “Business entertainment” does not include the use of plant or machinery for the provision of anything by a person if—
- (a) it is a function of that person’s qualifying activity to provide it, and
  - (b) it is provided by that person in the ordinary course of that qualifying activity—
    - (i) for payment, or
    - (ii) free of charge with the object of advertising to the public generally.
- (5) For the purposes of this section—
- (a) directors of a company, or
  - (b) persons engaged in the management of a company,
- are to be regarded as employed by the company.

## **270 Shares in plant or machinery**

- (1) This Part applies in relation to a share in plant or machinery as it applies (under section 571) in relation to a part of plant or machinery.
- (2) For the purposes of this Part, a share in plant or machinery is treated as used for the purposes of a qualifying activity so long as, and only so long as, the plant or machinery is used for the purposes of the qualifying activity.

**Status:**

Point in time view as at 24/02/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 20.