

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—

- (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.