

SCHEDULES

SCHEDULE 1

CAPITAL ALLOWANCES

PART 3

AMENDMENTS OF PART 2 OF CAA 2001: PLANT AND MACHINERY ALLOWANCES

- 3 (1) Section 12 (expenditure incurred before qualifying activity carried on) is amended as follows.
- (2) The existing provision becomes subsection (1) of the section.
- (3) After that subsection insert—
- “(2) Subsection (3) applies if—
- (a) a company that does not have a Northern Ireland regional establishment incurs expenditure for the purposes of a trade,
 - (b) the activities for the purposes of which the expenditure is incurred would, if the company were a NIRE company, be an NI rate activity treated as a separate trade, and
 - (c) the company subsequently becomes a NIRE company.
- (3) The expenditure is to be treated as incurred on the first day of the first chargeable period in which the company is a NIRE company.
- (4) Subsection (5) applies if—
- (a) a partnership that does not have a Northern Ireland regional establishment incurs expenditure for the purposes of a trade,
 - (b) the activities for the purposes of which the expenditure is incurred would, if the partnership were a Northern Ireland Chapter 7 firm, be an NI rate activity treated as a separate trade, and
 - (c) the partnership subsequently becomes a Northern Ireland Chapter 7 firm.
- (5) The expenditure is to be treated for the purposes of this Part so far as relating to the corporate partner calculation as incurred on the first day of the first chargeable period in which the partnership is a Northern Ireland Chapter 7 firm.
- (6) In this section “Northern Ireland regional establishment” has the same meaning as in Part 8B of CTA 2010 (see Chapter 5 of that Part as read, in relation to a partnership, with section 357WA(4) of that Act).”
- 4 In section 15 (qualifying activities), after subsection (2) insert—

“(2ZA) Where an activity of a company is treated by subsection (1) of section 6D (NI rate activity treated as separate trade) as a separate trade, that activity is an activity separate from any other activity of the company.

(2ZB) Where an activity of a Northern Ireland firm is treated by subsection (2) of section 6D as a separate trade for the purposes of the corporate partner calculation, that activity is for the purposes of this Part, so far as relating to the corporate partner calculation, an activity separate from every other activity of the Northern Ireland firm.”

5 After section 51J insert—

“51JA Sixth restriction: allocation where profits chargeable at NI rate

(1) This section applies if—

- (a) section 51B, 51C, 51D or 51E applies, and
- (b) the relevant AIA qualifying expenditure for the purposes of the section in question includes expenditure incurred in a low-rate year in respect of an NI rate activity.

(2) For the purposes of this section expenditure is “incurred in a low-rate year” if it is incurred in a financial year for which the Northern Ireland rate is lower than the main rate.

(3) The maximum annual investment allowance that may be allocated under section 51B, 51C, 51D or 51E to AIA qualifying expenditure incurred in a low-rate year in respect of qualifying activities other than NI rate activities is determined by the formula—

$$A \times \frac{T - NI}{T}$$

where—

A is the amount of the single annual investment allowance that would otherwise be available for allocation;

T is so much of the relevant AIA qualifying expenditure for the purposes of the section in question as is incurred in a low-rate year;

NI is so much of the relevant AIA qualifying expenditure for the purposes of the section in question as is expenditure incurred in a low-rate year in respect of an NI rate activity.”

6 (1) Section 61 (disposal events and disposal values) is amended as follows.

(2) In the Table in subsection (2)—

- (a) in item 1, in the first column, after “item 2” insert “or 2A”, and
- (b) after item 2 insert—

“2A. Sale of the plant or machinery where—

- (a) the sale is at less than market value,
- (b) the condition in subsection (4A) is met by the seller, and
- (c) the condition in subsection (4B) is met by the buyer.

The market value of the plant or machinery at the time of the sale.”

(3) After subsection (4) insert—

“(4A) The condition referred to in paragraph (b) of item 2A in the Table is met by the seller if—

- (a) the seller is—
 - (i) a company, or
 - (ii) a partnership whose partners include one or more companies, and
- (b) before the sale the plant or machinery is used wholly or partly for the purposes of a qualifying activity that is not an NI rate activity.

(4B) The condition referred to in paragraph (c) of item 2A in the Table is met by the buyer if—

- (a) the buyer is a Northern Ireland SME company, a NIRE company or a Northern Ireland firm in the chargeable period of the buyer in which the plant or machinery is bought,
- (b) the buyer’s expenditure on the acquisition of the plant or machinery is qualifying expenditure under this Part or Part 6 (research and development allowances), and
- (c) the plant or machinery is used by the buyer wholly or partly for the purposes of an NI rate activity.”

7 After section 66A insert—

*“Effect of changes in Northern Ireland
status of SME company or SME partnership*

66B SME company entering NI corporation tax regime

- (1) This section applies if—
 - (a) in a chargeable period beginning after the commencement day (“the relevant period”) a company is a Northern Ireland SME company,
 - (b) the company was neither a Northern Ireland SME company nor a NIRE company in the previous chargeable period, and
 - (c) the company has not become a Northern Ireland SME company in the relevant period as a result of an election under section 357KB(2) of CTA 2010 (back-office activities of financial trades).
- (2) The fact that assets which continue to be used in the relevant period for the purposes of the trade actually carried on by the company are as a result of section 15(2ZA) treated as ceasing to be used for the purposes of a main rate activity and beginning to be used for the purposes of an NI rate activity does not give rise to a disposal event within 61(1)(e) or (f).
- (3) If during the relevant period the only qualifying activity carried on by the company is an NI rate activity, the amount of any unrelieved qualifying expenditure in any main pool or special rate pool falling to be carried forward to the relevant period is to be treated as relating to plant and machinery used for the purposes of the NI rate activity.
- (4) If during the relevant period the company carries on both an NI rate activity and a main rate activity—

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- (a) the amount of any unrelieved qualifying expenditure in any main pool falling to be carried forward under section 59 to the relevant period is to be apportioned on a just and reasonable basis to become—
 - (i) a main pool that is to be treated as relating to plant and machinery used for the purposes of the NI rate activity, and
 - (ii) a main pool that is to be treated as relating to plant and machinery used for the purposes of the main rate activity, and
 - (b) the amount of any unrelieved qualifying expenditure in any special rate pool falling to be carried forward under section 59 to the relevant period is to be apportioned on a just and reasonable basis to become—
 - (i) a special rate pool that is to be treated as relating to plant and machinery used for the purposes of the NI rate activity, and
 - (ii) a special rate pool that is to be treated as relating to plant and machinery used for the purposes of the main rate activity.
- (5) “Main rate activity” means the company’s trade except so far as it is an NI rate activity.
- (6) “The commencement day” has the meaning given by section 5(4) of the Corporation Tax (Northern Ireland) Act 2015.

66C SME partnership entering NI corporation tax regime

For the purposes of the corporate partner calculation, section 66B applies in relation to a partnership as if—

- (a) references to a company were references to a partnership,
- (b) references to a Northern Ireland SME company were references to a Northern Ireland Chapter 6 firm,
- (c) the reference to a NIRE company were a reference to a Northern Ireland Chapter 7 firm,
- (d) the reference to section 357KB(2) of CTA 2010 were a reference to section 357WB(2) of that Act, and
- (e) the reference to section 15(2ZA) were a reference to section 15(2ZB).

66D SME company leaving NI corporation tax regime

- (1) This section applies if—
 - (a) in a chargeable period beginning after the commencement day (“the relevant period”) a company is neither a Northern Ireland SME company nor a NIRE company,
 - (b) the company was a Northern Ireland SME company in the previous chargeable period, and
 - (c) during the relevant period the company carries on a qualifying activity.
- (2) The fact that assets which continue to be used in the relevant period for the purposes of the trade actually carried on are as a result of section 15(2ZA)

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treated as ceasing to be used for the purposes of an NI rate activity and beginning to be used for the purposes of the qualifying activity mentioned in subsection (1)(c) does not give rise to a disposal event within 61(1)(e) or (f).

- (3) Any unrelieved qualifying expenditure which—
- (a) relates to plant or machinery used for the purposes of an NI activity, and
 - (b) falls to be carried forward to the relevant period,
- is to be treated as relating to the qualifying activity that the company carries on in the relevant period.
- (4) “The commencement day” has the meaning given by section 5(4) of the Corporation Tax (Northern Ireland) Act 2015.

66E SME partnership leaving NI corporation tax regime

For the purposes of the corporate partner calculation, section 66D applies in relation to a partnership as if—

- (a) references to a company were references to a partnership,
- (b) references to a Northern Ireland SME company were references to a Northern Ireland Chapter 6 firm,
- (c) the reference to a NIRE company were a reference to a Northern Ireland Chapter 7 firm, and
- (d) the reference to section 15(2ZA) were a reference to section 15(2ZB).”

8 After section 212 insert—

“CHAPTER 16ZA

ASSET PROVIDED OR USED ONLY PARTLY FOR NI RATE ACTIVITY

212ZA Apportionment of expenditure incurred partly for NI rate activity

- (1) If in a chargeable period a company has incurred qualifying expenditure on the provision of plant or machinery—
- (a) partly for the purposes of an NI rate activity, and
 - (b) partly for the purposes of a main rate activity,
- then for the purposes of any annual investment allowance or first year allowance to which the company is entitled the expenditure is to be apportioned between the NI rate activity and the main rate activity on a basis which is just and reasonable having regard to the relevant circumstances.
- (2) The relevant circumstances include, in particular, the extent to which it appears that the plant or machinery is likely to be used for purposes of the NI rate activity and the extent to which it appears that it is likely to be used for the main rate activity.
- (3) If the allowance falls to be reduced under section 205 or 210, it is the reduced amount that is apportioned under subsection (1).

212ZB Single asset pool etc

- (1) Qualifying expenditure to which this subsection applies, if allocated to a pool, must be allocated to a single asset pool.
- (2) Subsection (1) applies to qualifying expenditure incurred by a company carrying on both an NI rate activity and a main rate activity where the expenditure is incurred—
 - (a) partly for the purposes of the NI rate activity, and
 - (b) partly for the purposes of the main rate activity.
- (3) If a company is required to bring a disposal value into account in a pool for a chargeable period because the plant or machinery begins to be used for the purposes of an NI rate activity as well as for the purposes of a main rate activity, or begins to be used for the purposes of a main rate activity as well as for the purposes of an NI rate activity, an amount equal to that disposal value is allocated (as expenditure on the plant or machinery) to a single asset pool for that chargeable period.
- (4) In the case of a single asset pool under subsection (1) or (3), there is no disposal event merely because the plant or machinery begins to be used to a greater extent for the purposes of the NI rate activity or for the purposes of the main rate activity.

212ZC Allowances and charges on expenditure in single asset pool

- (1) This section applies if a company's expenditure is in a single asset pool under section 212ZB(1) or (3).
- (2) The amount of—
 - (a) any writing-down allowance or balancing allowance to which the company is entitled, or
 - (b) any balancing charge to which the company is liable,is to be apportioned between the NI rate activity and the main rate activity on a basis which is just and reasonable having regard to the relevant circumstances.
- (3) The relevant circumstances include, in particular, the extent to which it appears that the plant or machinery was used in the chargeable period in question for the purposes of the NI rate activity and the extent to which it was used in the chargeable period in question for the purposes of the main rate activity.

212ZD Effect of significant change in balance of use

- (1) This section applies if—
 - (a) expenditure is allocated to a single asset pool under this Chapter,
 - (b) there is such a change of circumstances as would make it appropriate for any apportionment falling to be made under section 212ZC—
 - (i) for the chargeable period in which the change takes place (“the relevant chargeable period”), or
 - (ii) for any subsequent chargeable period,

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to be substantially different from the apportionment that would have been appropriate apart from the change,

- (c) no disposal value in respect of the plant and machinery would, apart from this section, fall to be brought into account for the relevant chargeable period, and
- (d) the market value of the plant and machinery at the end of the relevant chargeable period exceeds the available qualifying expenditure by more than £1 million.

(2) If this section applies—

- (a) a disposal value is required to be brought into account in the single asset pool for the relevant chargeable period, and
- (b) section 212ZA applies as if, at the beginning of the following chargeable period, expenditure has been incurred on the provision of the plant or machinery of an amount equal to the disposal value brought into account as a result of paragraph (a).

212ZE Application of Chapter to partnerships

For the purposes of the corporate partner calculation, this Chapter applies in relation to partnerships as if—

- (a) references to a company were references to a partnership,
- (b) references to a Northern Ireland SME company were references to a Northern Ireland Chapter 6 firm,
- (c) references to a NIRE company were references to a Northern Ireland Chapter 7 firm, and
- (d) the reference in section 212ZA(1) to an annual investment allowance were omitted.

212ZF “Main rate activity”

In this Chapter “main rate activity” means an activity other than an an NI rate activity.”

9 In section 247 (giving effect to allowances and charges: trades), after subsection (1) insert—

“(1A) Subsection (1) is subject to section 6E (giving effect to allowances and charges: NI rate activity cases).”

10 In Schedule A1 (first year tax credits), in paragraph 2, after sub-paragraph (3) insert—

“(3A) The Treasury may by order—

- (a) amend sub-paragraph (1) so as to provide for a different percentage to apply where the surrenderable loss relates to a qualifying activity that is an NI rate activity, and
- (b) substitute for any percentage for the time being specified in sub-paragraph (1) such other percentage as the Treasury thinks fit.”