



Capital Allowances Act 2001

2001 CHAPTER 2

PART 12

SUPPLEMENTARY PROVISIONS

CHAPTER 4

PARTNERSHIPS, SUCCESSIONS AND TRANSFERS

557 Application of sections 558 and 559

Sections 558 (effect of partnership changes) and 559 (effect of successions) apply for the purposes of this Act other than—

- (a) Part 2 (plant and machinery allowances),
- (b) Part 6 (research and development allowances), and
- (c) Part 10 (assured tenancy allowances).

558 Effect of partnership changes

(1) This section applies if—

- (a) a relevant 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 relevant activity, and

[^{F1}(c) the condition in subsection (1A) or (1B) (whichever is appropriate) is met.]

[^{F2}(1A) For income tax purposes, the condition is that a person carrying on the relevant activity 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 relevant activity in partnership immediately before the change continues to carry it on in partnership after the change.]

(2) In this section—

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

“ predecessors ”, in relation to the present partners, means their predecessors in carrying on the relevant activity.

- (3) Any allowance or charge is to be made to or on the present partners.
- (4) The amount of any allowance or charge arising under subsection (3) is to be calculated as if—
- (a) the present partners had at all times been carrying on the relevant activity, and
 - (b) everything done to or by their predecessors in carrying on the relevant activity had been done to or by the present partners.
- (5) In this section “ relevant activity ” means a trade, property business, profession or vocation.

Textual Amendments

- F1** S. 558(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. 518\(2\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F2** S. 558(1A)(1B) inserted (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. 518\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))

559 Effect of successions

- (1) This section applies if—
- (a) a person (“the successor”) succeeds to a relevant activity which until that time was carried on by another person (“the predecessor”), and
 - [^{F3}(b) the condition in subsection (1A) or (1B) (whichever is appropriate) is met.]
- [^{F4}(1A) For income tax purposes, the condition is that no person carrying on the relevant activity immediately before the succession continues to carry it on after the succession.
- (1B) For corporation tax purposes, the condition is that no company carrying on the relevant activity in partnership immediately before the succession continues to carry it on in partnership after the succession.]
- (2) The property in question is to be treated 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) The property in question is any property which—
- (a) immediately before the succession, was in use for the purposes of the discontinued relevant activity, and
 - (b) immediately after the succession, and without being sold, is in use for the purposes of the new relevant activity.
- (4) No entitlement to an initial allowance arises under this section.
- (5) In this section “relevant activity” means a trade, property business, profession or vocation.

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Textual Amendments

- F3** S. 559(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. 519\(2\)](#) (with Sch. 2 Pts. 1, 2)
- F4** S. 559(1A)(1B) substituted for s. 559(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. 519\(3\)](#) (with Sch. 2 Pts. 1, 2)

Modifications etc. (not altering text)

- C1** S. 559 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\), Sch. 13 para. 10\(2\)](#)

560 Transfer of insurance company business

- (1) This section applies if—
- (a) assets are transferred as part of, or in connection with, the transfer of the whole or part of the business of an insurance company to another company,
 - (b) the transfer is—
 - (i) in accordance with [^{F5} an insurance business transfer scheme to transfer business which consists of the effecting or carrying out of contracts of long-term insurance, or]
 - (ii) a qualifying overseas transfer within the meaning of paragraph 4A of Schedule 19AC to ICTA (overseas life insurance companies).
- (2) But this section does not apply in relation to any asset transferred to a non-resident company unless the asset will fall to be treated, immediately after the transfer, as an asset which is held for the purposes of the whole or a part of so much of any business carried on by the non-resident company as is carried on through a [^{F6} permanent establishment] in the United Kingdom.
- (3) This section also does not apply if section 561 applies (transfer of a UK trade to a company in another member State).
- (4) If this section applies—
- (a) any allowances and charges that would have been made to or on the transferor are to be made instead to or on the transferee, and
 - (b) the amount of any such allowance or charge is to be calculated as if everything done to or by the transferor had been done to or by the transferee,
- but no sale or transfer of assets made to the transferee by the transferor is to be treated as giving rise to any such allowance or charge.
- (5) In this section—
- ^{F7}(a)
 - ^{F8}(b)
 - ^{F9}(c)
 - ^{F10}(d) “non-resident company” means a company resident outside the United Kingdom.]

Textual Amendments

- F5** Words in s. 560(1)(b)(i) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), art. 108\(2\)\(4\)](#)

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- F6** Words in s. 560(2) substituted (with effect in accordance with s. 153(4) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 153\(1\)\(d\)](#)
- F7** S. 560(5)(a) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 14\(8\)\(c\), Sch. 27 Pt. 2\(10\)](#)
- F8** S. 560(5)(b) repealed (with effect in accordance with Sch. 9 para. 17(1) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 9 para. 1\(2\)\(f\), Sch. 27 Pt. 2\(9\)](#)
- F9** S. 560(5)(c) repealed (with effect in accordance with Sch. 10 para. 17(2) of the amending Act) by [Finance Act 2007 \(c. 11\), Sch. 10 para. 14\(8\)\(c\), Sch. 27 Pt. 2\(10\)](#)
- F10** S. 560(5)(b)-(d) substituted (1.12.2001) for s. 560(5)(b) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\), art. 108\(3\)\(b\)\(4\)](#)

Modifications etc. (not altering text)

- C2** S. 560 modified (1.1.2002) by [S.I. 1997/473, reg. 53D](#) (as inserted by [S.I. 2001/3975, reg. 8](#))
- C3** S. 560 amendment to earlier affecting provision [SI 1997/473 \(8.4.2004\)](#) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 2004 \(S.I. 2004/822\)](#), regs. 1, 40

[^{F11}560A Transfers of trade without a change of ownership]

- (1) This Act has effect subject to Chapter 1 of Part 22 of CTA 2010 (unless section 561 or 561A below applies in relation to the transfer in question).
- (2) See, in particular, section 948 of that Act.]

Textual Amendments

- F11** [S. 560A](#) inserted (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. 359](#) (with [Sch. 2](#))

561 [^{F12}Transfer or division of UK business]

[^{F13}(1) This section applies if and in so far as—

- (a) a qualifying company resident in one member State (“the transferor”) transfers the whole or part of a business carried on by it in the United Kingdom to one or more qualifying companies resident in one or more other member States (“the transferee” or “the transferees”),
- (b) section 140A of TCGA 1992 (transfer of assets treated as no-gain no-loss disposal) applies in relation to the transfer, and
- (c) immediately after the transfer the transferee (or one or more of the transferees) —
 - (i) is resident in the United Kingdom, or
 - (ii) carries on in the United Kingdom through a permanent establishment a business which consists of, or includes, the business or part of the business transferred.]

(2) If this section applies—

- (a) the transfer itself does not give rise to any allowances or charges under this Act, and
- (b) in relation to assets included in the transfer, anything done to or by [^{F14}the transferor] before the transfer is to be treated after the transfer as having been done to or by [^{F15}the transferee (or each transferee)].

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- (3) If, for the purposes of subsection (2)(b), expenditure falls to be apportioned between assets included in the transfer and other assets, the apportionment is to be made in a just and reasonable manner.
- (4) In this section “qualifying company” means a body incorporated under the law of a member State.
- (5) If this section applies, [^{F16}section 948 of CTA 2010 (modified application of CAA 2001 in relation to trade transfers without a change of ownership) does not apply] .

Textual Amendments

- F12** S. 561 heading substituted (with effect in accordance with reg. 3(1) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), [Sch. 1 para. 25\(4\)](#) (as modified by S.I. 2008/1579, regs. 1(2), 4(1))
- F13** S. 561(1) substituted (with effect in accordance with reg. 3(1) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), [Sch. 1 para. 25\(2\)](#) (as modified by S.I. 2008/1579, regs. 1(2), 4(1))
- F14** Words in s. 561(2)(b) substituted (with effect in accordance with reg. 3(1) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), [Sch. 1 para. 25\(3\)\(a\)](#) (as modified by S.I. 2008/1579, regs. 1(2), 4(1))
- F15** Words in s. 561(2)(b) substituted (with effect in accordance with reg. 3(1) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), [Sch. 1 para. 25\(3\)\(b\)](#) (as modified by S.I. 2008/1579, regs. 1(2), 4(1))
- F16** Words in s. 561(5) 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. 360](#) (with [Sch. 2](#))

[^{F17}561A] Transfer of asset by reason of cross-border merger

- (1) This section applies to the transfer of a qualifying asset as part of the process of a merger to which section 140E of TCGA 1992 (mergers: assets within UK tax charge) applies (or would apply but for section 140E(2)(c)).
- (2) Where this section applies to a transfer—
 - (a) the transfer does not give rise to any allowance or charge under this Act,
 - (b) anything done to or by the transferor in relation to assets transferred is to be treated after the transfer as having been done to or by the transferee (with any necessary apportionment of expenditure being made in a reasonable manner), and
 - (c) [^{F18}section 948 of CTA 2010 (modified application of CAA 2001 in relation to trade transfers without a change of ownership) does not apply.]
- (3) For the purposes of subsection (1) an asset is a “qualifying asset” if—
 - (a) it is transferred to the transferee as part of the process of the merger, and
 - (b) subsections (4) and (5) are satisfied in respect of it.
- (4) This subsection is satisfied in respect of an asset if—
 - (a) the transferor is resident in the United Kingdom at the time of the transfer, or
 - (b) the asset is an asset of a permanent establishment in the United Kingdom of the transferor.
- (5) This subsection is satisfied in respect of an asset if—

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- (a) the transferee is resident in the United Kingdom at the time of the transfer, or
- (b) the asset is an asset of a permanent establishment of the transferee in the United Kingdom immediately following the transfer.]

Textual Amendments

- F17** S. 561A substituted (with effect in accordance with reg. 3(2) of the amending S.I.) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2007 \(S.I. 2007/3186\)](#), reg. 1(2), **Sch. 2 para. 14**
- F18** S. 561A(2)(c) 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. 361** (with Sch. 2)

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