



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 13

PROVISIONS AFFECTING MINING AND OIL INDUSTRIES

[^{F1}Restrictions on allowances: anti-avoidance

[^{F1}165E Transaction to obtain tax advantage

- (1) Allowances under this Part are restricted under subsection (5) if—
 - (a) a person (“R”) who is carrying on, or has ceased to carry on, a ring fence trade enters into a transaction with another person (“S”),
 - (b) S receives from R consideration for services provided in pursuance of the transaction,
 - (c) all or part of that consideration is decommissioning expenditure, and
 - (d) the transaction either has an avoidance purpose, or is part of, or occurs as a result of, a scheme or arrangement that has an avoidance purpose.
- (2) Subsection (1)(d) may be satisfied—
 - (a) whether the scheme or arrangement was made before or after the 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—
 - (a) entering into the transaction, scheme or arrangement, or

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Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Section 165E. (See end of Document for details)

- (b) agreeing an amount of consideration, or a method of determining an amount of consideration, to be paid in pursuance of 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) All or part of R's expenditure under the transaction is to be left out of account in determining R's available qualifying expenditure.
- (6) 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 subsection (3) (whether that advantage is obtained by R or another person and whether it relates to the transaction or something else), or
 - (b) if the amount found under paragraph (a) exceeds the whole of R's expenditure under the transaction, the whole of that expenditure.]

Textual Amendments

- F1** [Ss. 165A-165E](#) and cross-heading inserted (with effect in accordance with Sch. 32 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 32 para. 2](#)

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