

SCHEDULES

SCHEDULE 10

PLANT AND MACHINERY ALLOWANCES: FIXTURES

Changes in ownership

2 After section 187 insert—

“187A Effect of changes in ownership of a fixture

- (1) This section applies if—
- (a) a person (“the current owner”) is treated as the owner of a fixture as a result of incurring capital expenditure (“new expenditure”) on its provision for the purposes of a qualifying activity carried on by the current owner,
 - (b) the plant or machinery is treated as having been owned at a relevant earlier time by a person as a result of incurring other capital expenditure (“historic expenditure”) on its provision for the purposes of a qualifying activity carried on by that person,
 - (c) the plant or machinery is within paragraph (b) otherwise than as a result of section 538 (contribution allowances for plant and machinery), and
 - (d) a person mentioned in paragraph (b) was entitled to claim an allowance under this Part in respect of the historic expenditure.
- (2) In this section—
- “the past owner” means—
- (a) the person mentioned in paragraph (d) of subsection (1), or
 - (b) if there is more than one amount of historic expenditure in respect of which a person was entitled to claim as mentioned in that paragraph, the person by whom expenditure was incurred most recently;
- “relevant earlier time” has the meaning given by section 187B(4) and (5).
- (3) In determining the current owner’s qualifying expenditure, the new expenditure is to be treated as nil if—
- (a) the pooling requirement is not satisfied,
 - (b) the fixed value requirement applies but is not satisfied, or
 - (c) the disposal value statement requirement applies but is not satisfied,
- in relation to the past owner.
- (4) The pooling requirement is that—

Status: This is the original version (as it was originally enacted).

- (a) the historic expenditure has been allocated to a pool in a chargeable period beginning on or before the day on which the past owner ceases to be treated as the owner of the fixture, or
 - (b) a first-year allowance has been claimed in respect of that expenditure (or any part of it).
- (5) The fixed value requirement applies if the past owner is or has been required (as a result of having made a claim in respect of the historic expenditure) to bring the disposal value of the plant or machinery into account in accordance with item 1, 5 or 9 of the Table in section 196.
- (6) The fixed value requirement is that either—
- (a) a relevant apportionment of the apportionable sum has been made, or
 - (b) the current owner has obtained the statements mentioned in subsection (8), or copies of them, (directly or indirectly) from the persons who made them and the case is one where the purchaser from the past owner or, as the case may be, lessee was not entitled to claim an allowance under this Part in respect of capital expenditure incurred on the fixture.
- (7) For the purposes of subsection (6)(a) a relevant apportionment of the apportionable sum is made if—
- (a) the tribunal determines the part of the apportionable sum that constitutes the disposal value, on an application made by one of the affected parties before the end of the relevant 2 year period, or
 - (b) an election is made, in respect of the apportionable sum, by the affected parties jointly—
 - (i) before the end of the relevant 2 year period, or
 - (ii) if an application is made as mentioned in paragraph (a) and not determined or withdrawn by the end of that period, before that application is determined or withdrawn.
- (8) The statements referred to in subsection (6)(b) are—
- (a) a written statement made by the purchaser from the past owner or, as the case may be, lessee, that the requirement of subsection (6)(a) has not been met and is no longer capable of being met, and
 - (b) a written statement made by the past owner of the amount of the disposal value that the past owner has in fact brought into account.
- (9) In subsections (6) to (8)—
- (a) in a case falling within item 1 or 9 of the Table in section 196—
 - “affected parties” means the past owner and the purchaser from the past owner;
 - “apportionable sum” means the sale price;
 - “election” means an election under section 198;
 - “relevant 2 year period” means the period of 2 years beginning with the date when the purchaser from the past owner acquires the qualifying interest;
 - (b) in a case falling within item 5 of that Table—
 - “affected parties” means the past owner and the lessee;

Status: This is the original version (as it was originally enacted).

“apportionable sum” means the capital sum given by the lessee for the lease;

“election” means an election under section 199;

“relevant 2 year period” means the period of 2 years beginning with the date when the lessee is granted the lease.

- (10) The disposal value statement requirement applies if the past owner is or has been required (as a result of having made a claim in respect of the historic expenditure) to bring the disposal value of the plant or machinery into account in accordance with item 2 or 3 of the Table in section 196 or in accordance with item 7 of the Table in section 61.
- (11) The disposal value statement requirement is—
- (a) that the past owner has, no later than 2 years after the date when the past owner ceased to own the plant or machinery, made a written statement of the amount of the disposal value that the past owner is or has been required to bring into account, and
 - (b) the current owner has obtained that statement or a copy of it (directly or indirectly) from the past owner.

187B Section 187A: supplementary provision

- (1) It is for the current owner to show—
- (a) whether the fixed value requirement applies and, if so, is satisfied, and
 - (b) whether the disposal value statement requirement applies and, if so, is satisfied,
- and, for this purpose, to provide an officer of Revenue and Customs, on request, with a copy of any tribunal decision, election or statement by reason of which a requirement mentioned in paragraph (a) or (b) is satisfied.
- (2) Where—
- (a) the fixed value requirement applies and is met by reason of section 187A(6)(b) being satisfied, or
 - (b) the disposal value requirement applies,
- subsections (2) and (4) of section 200 apply in relation to the making of a statement within section 187A(8)(b) or (11)(a) and an amount specified in such a statement, as they apply in relation to an election and an amount specified in an election.
- (3) For the purposes of section 187A, the current owner and the past owner may be the same person.
- (4) In that section “relevant earlier time” means (subject to subsection (5)) any time which falls before the earliest time when the current owner is treated as owning the plant or machinery as a result of incurring the new expenditure.
- (5) If, before the earliest time when the current owner is treated as owning the plant or machinery as a result of incurring the new expenditure—
- (a) any person has ceased to own the plant or machinery as a result of a sale,
 - (b) the sale was not a sale of the plant or machinery as a fixture, and

Status: This is the original version (as it was originally enacted).

- (c) the buyer and seller were not connected persons at the time of the sale,
the relevant earlier time does not include any time before the seller ceased to own the plant or machinery.
- (6) Nothing in section 187A(3) affects the disposal value (if any) which falls to be brought into account by the past owner (as a result of having made a claim in respect of the historic expenditure).
- (7) Expressions used in this section have the same meaning as in section 187A.”