
DRAFT STATUTORY INSTRUMENTS

2019 No.

The Capital Allowances (Structures and Buildings Allowances) Regulations 2019

Further amendments to the Capital Allowances Act 2001

- 3.—(1) The Capital Allowances Act 2001(1) is amended as follows.
- (2) In section 1(2) (capital allowances), in subsection (2), after paragraph (a) insert—
- “(aa) Part 2A (structures and buildings allowances);”.
- (3) In section 2(3) (general means of giving effect to capital allowances), in subsection (3), after the entry in the list for sections 247 to 262A of CAA 2001 (plant and machinery allowances) insert—
- “sections 270HA to 270HI (structures and buildings allowances);”.
- (4) In section 3(4) (claims for capital allowances), after subsection (2) insert—
- “(2ZA) Any claim for an allowance under Part 2A (structures and buildings allowances) must be separately identified as such in the return.”.
- (5) In section 6E(5) (giving effect to allowances and charges: NI rate activity cases), in subsection (1), after paragraph (a) insert—
- “(aa) an allowance under Part 2A (structures and buildings allowances);”.
- (6) In section 7 (no double allowances), after subsection (1) insert—
- “(1A) In subsection (1), the reference to capital expenditure includes a reference to expenditure that is treated as capital expenditure for the purposes of section 270BJ(1) (structures and buildings allowances: expenditure on renovation, conversion and incidental repairs).”.
- (7) In section 262AB (plant and machinery allowances: co-ownership schemes: elections)—
- (a) in subsection (5), at the end insert “(subject to section 262AEA)”, and
- (b) at the end insert—
- “(7) See sections 262AC to 262AE and sections 270ID and 270IE for provision about the effect of an election.”.
- (8) After section 262AE insert—

“262AEA Co-ownership schemes: withdrawal of election

- (1) This section applies if—

-
- (1) 2001 c. 2.
- (2) Section 1 was relevantly amended by paragraph 2 of Schedule 27 to the Finance Act 2008 (c. 9) and paragraph 38(2) of Schedule 39 to the Finance Act 2012 (c. 14).
- (3) Section 2 was amended by paragraph 3 of Schedule 6 to the Finance Act 2005 (c. 7), paragraph 2 of Schedule 25, and paragraph 3 of Schedule 27, to the Finance Act 2008, paragraph 475 of Schedule 1 to the Corporation Tax Act 2009 (c. 4) and paragraph 38(3) of Schedule 39 to the Finance Act 2012.
- (4) Section 3 was amended by paragraph 4 of Schedule 6 to the Finance Act 2005 and paragraph 3 of Schedule 25, and paragraph 4 of Schedule 27, to the Finance Act 2008.
- (5) Section 6E is prospectively inserted by paragraph 2 of Schedule 1 to the Corporation Tax (Northern Ireland) Act 2015 (c. 21) and is amended by paragraph 24(c) of Schedule 7 to the Finance (No. 2) Act 2017.

- (a) an election under section 262AB has been made in relation to the scheme before the relevant date (within the meaning of section 270ID(8)), and
 - (b) an allowance under Part 2A (structures and buildings allowances) is available by reference to a building or structure which is subject to the scheme.
- (2) The operator of the scheme may, by notice to an officer of Revenue and Customs, withdraw the election.
- (3) The notice of withdrawal may not be given more than 12 months after the end of the accounting period in which the building or structure mentioned in subsection (1)(b) is first brought into qualifying use for the purposes of that Part.
- (4) The election ceases to have effect for the accounting period in which the notice of withdrawal is given and all subsequent accounting periods of the scheme.
- (5) If an election is withdrawn under this section—
- (a) the property which was subject to the scheme at the beginning of the accounting period in which the notice of withdrawal is given is treated for the purposes of this Part—
 - (i) as ceasing to be owned by the scheme at that time, and
 - (ii) as being acquired by the participants at that time in such proportions as are just and reasonable, and
 - (b) the disposal value to be brought into account in relation to the cessation of ownership is the tax written-down value.
- (6) Subsections (6) and (9) to (11) of section 262AC apply for the purposes of this section as they apply for the purposes of that section.”
- (9) In section 536 (contributions not made by public bodies and not eligible for tax relief)—
- (a) in subsection (1), after “the expenditure” insert “(but see subsection (6))”, and
 - (b) at the end insert—

“(6) Subsection (1) does not apply for the purposes of Part 2A (structures and buildings allowances).”
- (10) In section 537(6) (conditions for contribution allowances)—
- (a) in subsection (1), after “2” insert “, 2A”,
 - (b) in subsection (2)(b)(ii), after “allowances under Part 2” insert “, 2A”,
 - (c) in the heading, after “2,” insert “2A,”, and
 - (d) in the italic heading before the section, after “2” insert “, 2A”.
- (11) After section 538 insert—

“538A Buildings and structures

- (1) For the purposes of contribution allowances under Part 2A, the references in section 537(2) to expenditure on the provision of an asset are to be treated as references to expenditure which is qualifying expenditure for the purposes of Part 2A.
- (2) This section applies if—
 - (a) the general conditions for contribution allowances are met,
 - (b) C’s contribution is to expenditure which is qualifying expenditure for the purposes of Part 2A, and

(6) Section 537 was amended by paragraph 5 of Schedule 6 to the Finance Act 2005 and paragraph 8 of Schedule 27 to the Finance Act 2008.

- (c) C's contribution is made for the purposes of a qualifying activity (within the meaning of Part 2A) which is—
 - (i) if R is a public body, an activity carried on, or to be carried on, by C or by a tenant of land in which C has an interest, or
 - (ii) if R is not a public body, an activity carried on, or to be carried on, by a tenant of land in which C has an interest.
- (3) C is to be treated for the purposes of allowances under Part 2A as if—
 - (a) the contribution were expenditure incurred by C on the construction or acquisition of the building or structure,
 - (b) the building or structure were brought into qualifying use by C on the day on which R brought it into qualifying use, and
 - (c) for the purposes of section 270AA(2)(b), the day on which the qualifying expenditure is incurred were the day on which C made the contribution.
- (4) If C did not have a relevant interest in the building or structure on the day on which R brought it into qualifying use, for the purposes of allowances under Part 2A—
 - (a) C is treated as having had a relevant interest in the building or structure on that day, and
 - (b) C is not treated as ceasing to have that interest on any subsequent sale of R's relevant interest in the building or structure.
- (5) For the purposes of this section, the provisions of Part 2A relating to the relevant interest apply (with any necessary modifications) in relation to the contribution as they apply in relation to expenditure incurred on the construction or acquisition of a building or structure.
- (6) In subsection (2), "public body" means the Crown or any government or public or local authority (whether in the United Kingdom or elsewhere)."
- (12) In section 544(7) (management assets), in subsection (1), after "(plant and machinery allowances)" insert "or Part 2A (structures and buildings allowances)".
- (13) In section 546 (introduction to Chapter 2 of Part 12: additional VAT liabilities and rebates, interpretation etc), after paragraph (a) insert—
 - "(aa) Chapter 7 of Part 2A (structures and buildings allowances: additional VAT liabilities and rebates),".
- (14) In section 573(8) (transfers treated as sales), in subsection (1), after "of Parts" insert "2A,".

(7) Section 544 was amended by paragraph 14(8)(b) of Schedule 10, and Part 2(10) of Schedule 27, to the Finance Act 2007 (c. 11) and paragraph 103 of Schedule 16 to the Finance Act 2012.

(8) Section 573 was amended by paragraph 10 of Schedule 6 to the Finance Act 2005, paragraph 18 of Schedule 27 to the Finance Act 2008 and paragraph 38(7) of Schedule 39 to the Finance Act 2012.