
Changes to legislation: There are currently no known outstanding effects for the Coal Industry Act 1994, Paragraph 21. (See end of Document for details)

SCHEDULES

SCHEDULE 4

TAXATION PROVISIONS

PART I

CORPORATION TAX

Capital allowances in cases where interests created by restructuring scheme

- 21 (1) This paragraph shall apply where—
- (a) an interest or right in or in relation to any property (“the relevant property”) is retained, or under paragraph 24 below is deemed to be retained, by the predecessor following any relevant transfer; and
 - (b) any other interest or right in or in relation to that property vests by virtue of that transfer in the transferee;
- and in this paragraph references to the retained property are references to the interest or right mentioned in paragraph (a) above and references to the transferred property are references to the interest or right mentioned in paragraph (b) above.
- (2) Where—
- (a) the relevant transfer is one which is deemed to be made by virtue of paragraph 24(4) below, and
 - (b) the restructuring scheme in accordance with which it is made provides for this sub-paragraph to apply in relation to the relevant property,
- [^{F1}the Capital Allowances Act], sections 41 and 174 of the 1992 Act and paragraphs 19 and 20 above shall have effect for all purposes as if the interests or rights of the predecessor in or in relation to the relevant property had always been confined to the retained property and, accordingly, as if all allowances and charges made to or on the predecessor in relation to the relevant property, and anything done by or with respect to the predecessor in relation to the relevant property, had been made or done in relation to the retained property.
- (3) Where—
- (a) any interest or right of any person is under sub-paragraph (2) above to be treated as having always been confined to a particular interest or right in or in relation to any property,
 - (b) that property is a fixture, and
 - (c) any of the requirements of [^{F2}Chapter 14 of Part 2 of the Capital Allowances Act] which did not in fact apply in relation to the property before the coming into force of the scheme in question would have had to be satisfied (if the interest had been so confined) for [^{F1}the Capital Allowances Act] to apply in relation to that property as [^{F3}it did] in fact apply before that time,

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[^{F4}that Act] and the preceding provisions of this Part of this Schedule shall have effect as if those requirements had been satisfied.

(4) Where—

- (a) any interest or right of any person in or in relation to any property is under sub-paragraph (2) above to be treated as having always been confined to an interest under a lease (within the meaning of [^{F5}section 70 of the Capital Allowances Act]) of that property,
- (b) that property is [^{F6}plant or machinery] which is not so installed or otherwise fixed in or to a building or any other description of land as to become, in law, a part of that building or land, and
- (c) the restructuring scheme in accordance with which the relevant transfer relating to the [^{F6}plant or machinery] is made provides for this sub-paragraph to apply in relation to that property,

[^{F1}the Capital Allowances Act] and the preceding provisions of this Part of this Schedule shall have effect (with the provisions of sub-paragraph (2) above so far as they apply to the lease) as if the capital expenditure on the provision of that [^{F6}plant or machinery] was expenditure on [^{F6}plant or machinery] which that person was required to provide under the terms of the lease.

(5) Where sub-paragraph (2) above is not applied in relation to the relevant property, paragraph 5 above shall not apply but the capital allowances which shall be taken into account in pursuance of section 41 of the 1992 Act (restriction of losses by reference to capital allowances) on—

- (a) the disposal by the transferee of the transferred property or any part of it, or
- (b) the disposal by the predecessor of the retained property or any part of it,

shall include, so far as not already taken into account under that section or this sub-paragraph, any capital allowances (within the meaning of that section) which have been made or fall to be made to the predecessor in relation to the relevant property.

(6) In determining for the purposes of sub-paragraph (5) above whether or the extent to which any amount has been taken into account in pursuance of section 41 of the 1992 Act or that sub-paragraph, an amount so taken into account for the purpose of restricting any loss shall be assumed to be taken into account at the time when the loss accrues.

Textual Amendments

- F1** Words in Sch. 4 para. 21(2)(3)(c)(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(11)(12)(b)(13)(b)
- F2** Words in Sch. 4 para. 21(3)(c) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(12)(a)
- F3** Words in Sch. 4 para. 21(3)(c) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(12)(c)
- F4** Words in Sch. 4 para. 21(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(12)(d)
- F5** Words in Sch. 4 para. 21(4)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(13)(a)
- F6** Words in Sch. 4 para. 21(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, Sch. 2 para. 93(13)(c)

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