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**Changes to legislation:** There are currently no known outstanding effects for the Coal Industry Act 1994, Cross  
Heading: Continuity in relation to capital allowances etc. where trade transferred. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 4

#### TAXATION PROVISIONS

##### PART I

##### CORPORATION TAX

*Continuity in relation to capital allowances etc. where trade transferred*

- 19 (1) Subject to the following provisions of this Part of this Schedule, where, apart from this paragraph—
- (a) the predecessor would be treated for the purposes of the Corporation Tax Acts as having ceased, by virtue of the coming into force of a relevant transfer, to carry on any trade, and
  - (b) the transferee would be treated as having begun, on the coming into force of that transfer, to carry it on,
- then the trade shall not be treated as permanently discontinued, nor a new trade as set up, for the purposes of the allowances and charges provided for by [<sup>F1</sup>the Capital Allowances Act], but sub-paragraphs (2) to (4) below shall apply.
- (2) Subject to sub-paragraphs (3) and (4) below, in a case falling within sub-paragraph (1) above—
- (a) there shall be made to or on the transferee in accordance with [<sup>F1</sup>the Capital Allowances Act] all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on the predecessor; and
  - (b) the amount of any such allowance or charge shall be computed as if—
    - (i) the transferee had been carrying on the trade since the predecessor began to do so; and
    - (ii) everything done to or by the predecessor had been done to or by the transferee (but so that the relevant transfer itself, so far as it relates to any assets in use for the purpose of the trade, shall not be treated as giving rise to any allowance or charge).
- (3) For the purposes of the Corporation Tax Acts, only such amounts (if any) as may be specified in or determined in accordance with the restructuring scheme providing for a relevant transfer shall be allocated to the transferee in respect of—
- (a) expenditure by reference to which capital allowances may be made by virtue of sub-paragraph (2) above in relation to anything to which the transfer relates; and
  - (b) allowances which (apart from the allocation and irrespective of what are in fact the accounting periods of the predecessor) would, under [<sup>F2</sup>section 260

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of the Capital Allowances Act], be carried forward, in relation to anything to which the transfer relates, to an accounting period of the predecessor beginning immediately before the coming into force of that transfer.

(4) Sub-paragraph (2) above shall affect the amounts falling to be taken into account in relation to the predecessor—

- (a) as expenditure by reference to which capital allowances may be made, or
- (b) as an allowance carried forward under [<sup>F2</sup>section 260 of the Capital Allowances Act],

only so far as necessary to give effect to a reduction of any such amount by a sum equal to so much of that amount as is allocated to the transferee as mentioned in sub-paragraph (3) above.

(5) Subject to sub-paragraph (6) below, the provisions of a restructuring scheme providing for the determination of any amount which for the purposes of sub-paragraph (3) above is to be allocated, in the case of any relevant transfer, to the transferee may include provision—

- (a) for such a determination to be made by the Secretary of State in such manner as may be described in the scheme;
- (b) for any amount determined to be calculated by reference to such factors or to the opinion of such person as may be so described; and
- (c) for a determination under those provisions to be capable of being modified, on one or more occasions, in such manner and in such circumstances as may be so described.

(6) The consent of the Treasury shall be required for the making or modification of a determination of any such amount as is mentioned in sub-paragraph (5) above; and the consent of the transferee shall also be required for any such modification after the relevant transfer.

#### Textual Amendments

- F1** Words in Sch. 4 para. 19(1)(2)(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(2)**
- F2** Words in Sch. 4 para. 19(3)(b)(4)(b) 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(3)**

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