

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 2: Plant and machinery allowances

Chapter 5: Allowances and charges

Section 63: Cases in which disposal value is nil

317. This section is based on parts of sections 24, 67, 69, 70 and 71 of CAA 1990 and of sections 21A, 65A, 70A, 83A and 84 of ICTA. It also makes minor changes. It provides a nil disposal value for a number of disposal events.
318. *Subsection (1)* is based on section 24(6) of CAA 1990. That provides that:
“this subsection shall not require a person to bring into account the disposal value of any machinery or plant which he disposes of by way of gift in such circumstances that there is a charge to tax under Schedule E.
319. This provision has in the past caused some confusion. It was sometimes read as meaning that there was no disposal event at all. That is not right. But the absence of a disposal value still has some odd effects. For example suppose a person buys plant or machinery, claims first-year allowances and then gives it to an employee in the same chargeable period. On the basis of CAA 1990 they would not be entitled to allocate the balance of their qualifying expenditure to a pool. Subsection (1) provides a nil disposal value which allows them to do so. It also makes clearer the effect of the legislation. This could be to the disadvantage of the recipient if the gift were a transaction within Chapter 17 as it prevents the recipient from also claiming allowances. But this is thought to be unlikely in practice. See *Change 12* in Annex 1.
320. *Subsection (2)* makes similar provision for gifts to certain charities, heritage and other bodies, and educational establishments. This is based on parts of sections 83A and 84 of ICTA. They provide that section 24 of CAA 1990 does not require a disposal value to be brought into account. Subsection (2) makes a minor change, as in subsection (1), to provide a nil disposal value with similar effects. See *Change 12* in Annex 1.
321. *Subsection (2)* also omits the requirements in section 84 of ICTA that the person making the gift must have claimed plant and machinery allowances and make a claim for the relief section 84 provides. This is in principle in taxpayers’ favour but is very unlikely to make any practical difference. It does however simplify the legislation for gifts to educational establishments and bring it into line with the more modern legislation in section 83A of ICTA which has neither of these requirements. See *Change 13* in Annex 1.
322. *Subsection (3)* lists the qualifying activities which get the benefit of a nil disposal value for gifts within subsection (2). This is based partly on sections 83A and 84 of

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ICTA. Those sections refer explicitly to trades, professions and vocations. But the effect of other provisions in ICTA is that Schedule A businesses and overseas property businesses are also included. It might be thought that other qualifying activities were also covered for the purposes of plant and machinery allowances. But there is no provision in ICTA which extends sections 83A and 84 to them. See *Note 18* in Annex 2.

323. *Subsection (4)* points to the provisions in ICTA which impose a charge on donors if they or persons connected with them receive any benefit from the gift.
324. *Subsection (5)* provides nil disposal values for expenditure of the types dealt with by section 27. CAA 1990 has the same provisions in sections 67 and 69 to 71.