

# CAPITAL ALLOWANCES ACT 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Glossary*

#### **Part 6: Research and development allowances**

#### *Chapter 3: Allowances and charges*

#### **Overview**

1535. This Chapter deals with allowances and charges on qualifying expenditure. There is no pooling of qualifying expenditure. An allowance can be made in respect of qualifying expenditure only for one chargeable period. Disposal values may arise in relation to qualifying expenditure on the happening of certain events. Disposal values restrict allowances on the qualifying expenditure or result in balancing charges to recover excessive allowances. Demolition costs may reduce balancing charges or, in certain cases, give rise to allowances.
1536. [Section 441](#) sets out when an allowance can be made, the chargeable period for which it is made and its amount.
1537. [Section 442](#) sets out when a person is liable to a balancing charge and its amount.
1538. [Section 443](#) deals with disposal values and the events on which they arise. Disposal values are relevant to the previous two sections. There are signposts to a special provision relating to oil licences and also to the Chapter dealing with additional VAT rebates.
1539. [Section 444](#) deals with the chargeable period for which a disposal value is to be brought into account.
1540. [Section 445](#) sets out relief available for the costs of demolishing an asset representing qualifying expenditure.

#### *Section 441: Allowances*

1541. This section is based on sections 137(1) and (5) and 138(2) of CAA 1990.
1542. This section uses the term “allowances” instead of “deduction in taxing a trade” which is found in CAA 1990. See *Note 55* in Annex 2 for more detail.
1543. CAA 1990 essentially gives an allowance of 100% of qualifying expenditure and a charge (capped at the allowance given) of all of the disposal value relating to that qualifying expenditure. This section takes a different approach.
1544. *Subsection (1)* gives an allowance in the relevant chargeable period. The allowance equals the excess of qualifying expenditure over any disposal value taken into account

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for that relevant chargeable period (instead of an allowance equal to that qualifying expenditure and a charge on that disposal value). See *Change 39* in Annex 1.

1545. *Subsection (2)* defines “relevant chargeable period”, a term used in subsection (1). There are minor differences between the formulation used in subsection (2)(b) and that used in section 137(5) of CAA 1990 which looks at whether the expenditure was incurred “before the setting up and commencement of the trade” rather than before the chargeable period in which the trade is set up and commenced. See *Note 56* in Annex 2.
1546. *Subsection (3)* permits a claim of less than the full amount of an allowance to be made by the person. See *Change 38* in Annex 1.

**Section 442: Balancing charges**

1547. This section is based on section 138(1), (2) and (2A) of CAA 1990.
1548. *Subsections (1) to (3)* provide a balancing charge if a disposal value arises in a chargeable period after the one in which an allowance is made in respect of the qualifying expenditure concerned. There is no longer a balancing charge in the same period as an allowance is made – see *Change 39* in Annex 1. The balancing charge is limited to the allowance previously made in respect of that qualifying expenditure. Section 138(2) of CAA 1990 refers to a “trading receipt” but it seems clearer to follow the other Parts of this Act and refer to a balancing charge. It is not thought that this has any effect. See *Note 55* of Annex 2.
1549. *Subsection (4)* defines the term “unclaimed allowance”. Most people will claim all of the allowances to which they are entitled because there is no possibility of getting any amount unclaimed in a later chargeable period. But having recognised the possibility that a reduced claim may be made it is necessary to ensure that balancing charges are not made if such a person has a disposal value but the allowance claimed is not more than the net cost of the R&D asset concerned. This is achieved by subsection (3)(a) which uses this term. See *Change 49* in Annex 1.
1550. *Subsection (5)* signposts the effect that additional VAT rebates may have on the amount in subsection (4). That alerts users who may be affected but leaves this section simple for the majority who will not be affected by VAT rebates.

**Section 443: Disposal values and disposal events**

1551. This section is based on sections 138(1), (3A), (4), (5) and (6) and 138A(1) of CAA 1990. It says when a disposal value is brought into account and gives a Table from which the amount of the disposal value can be found.
1552. *Subsection (1)* gives the main cases in which a disposal value must be brought into account.
1553. *Subsection (2)* is a signpost to another case in which a disposal value must be brought into account.
1554. *Subsection (3)* gives cases excluded from subsection (1).
1555. *Subsection (4)* has a Table giving the disposal value if subsection (1) applies. There are minor changes referring to:
- “net proceeds” of sale; section 138(4)(a) of CAA 1990 refers to “proceeds”; and
  - limiting other compensation to “capital sums” – a limitation which is not in section 138(5) of CAA 1990
1556. These bring the Table closer to the formulations used in other Parts of this Act. See *Change 50* in Annex 1.
1557. *Subsection (5)* sets out exceptions from subsection (4).

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1558. *Subsection (6)* provides a signpost to a provision concerning additional VAT rebates that could lead to a disposal value being brought into account without the existence of a disposal event.
1559. *Subsection (7)* defines “disposal event”.

***Section 444: Disposal events: chargeable period for which disposal value is to be brought into account***

1560. This section is based on section 138(2) of CAA 1990.
1561. *Subsection (1)* says that this section is about the chargeable period for which a disposal value under section 443 is brought into account. Section 138(2) of CAA 1990 gives a specific time at which, essentially, a balancing charge arises whereas this section provides a chargeable period for which a disposal value arises. The approach in this section is more consistent with other Parts of this Act that bring disposal values into account for a chargeable period and with R&D allowances being given for a chargeable period. See *Note 57* in Annex 2.
1562. *Subsections (2)* and *(3)* deal with the normal case in which the disposal event occurs after the chargeable period for which an allowance is made. They also deal with the less usual case in which the disposal event occurs in the same chargeable period as an allowance is made for the qualifying expenditure. *Subsection (3)(a)* contains a change. See *Change 51* in Annex 1.
1563. *Subsection (4)* deals with the unusual case in which a disposal event occurs before the chargeable period for which an allowance is due in respect of the qualifying expenditure concerned. CAA 1990 does not appear to explicitly address this situation. Section 138(3) of CAA 1990 looks as if it might be in point but it does not handle this case satisfactorily. *Subsection (4)* deals with the unusual case in a more coherent fashion. See *Change 51* in Annex 1.

***Section 445: Costs of demolition***

1564. This section is based on sections 138(5) and 139(5) of CAA 1990. Section 138(5) is particularly difficult to follow. Its reference to “the person carrying on the trade” might suggest that demolition costs are ignored if they are incurred before the trade commences. This section proceeds on the basis that such costs ought not to be ignored. See *Change 52* in Annex 1.
1565. *Subsections (1)* to *(3)* allow the net demolition costs of an asset representing qualifying expenditure to reduce the disposal value that arises on that demolition.
1566. *Subsections (4)* and *(5)* provide for an allowance if the net demolition costs are greater than the disposal value. But only if, prior to demolition, the asset has only ever been used for R&D related to the relevant trade.
1567. *Subsection (6)* stops the demolition costs being taken into account more than once.