

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 6: Research and development allowances

Chapter 4: Additional VAT liabilities and rebates

Overview

1568. This Chapter deals with the effect of additional VAT liabilities and rebates in respect of an asset representing qualifying expenditure. They can result in additional qualifying expenditure or generate (or increase) a disposal value.
1569. [Section 446](#) points to the definition of the terms used in this Chapter.
1570. [Section 447](#) treats certain additional VAT liabilities as if they were capital expenditure on R&D.
1571. [Section 448](#) treats certain additional VAT rebates as if they were disposal values and deals with their effect on the calculation of allowances and charges in later chargeable periods.

Section 446: Introduction

1572. This section gives a signpost to the places where the terms used in this Chapter are defined. Those definitions apply to several Parts.

Section 447: Additional VAT liability treated as additional expenditure etc.

1573. This section is based on sections 137(1A), 138(1) and 159A(3) of CAA 1990.
1574. *Subsection (1)* treats the additional VAT liability as if it was capital expenditure on the same R&D. That is a necessary, but not sufficient, condition for the additional VAT liability to be qualifying expenditure.
1575. *Subsection (2)* excludes from subsection (1) additional VAT liabilities incurred after a certain time.
1576. *Subsection (3)* gives the chargeable period for which an allowance resulting from an additional VAT liability is to be made. The wording of subsection (3)(b) is related to section 441(2)(b). See *Note 56* in Annex 2.

Section 448: Additional VAT rebate generates disposal value

1577. This section is based on section 138(3A) of CAA 1990. It treats an additional VAT rebate, to which the section applies, as if it is a disposal value to be brought into account (usually) for the chargeable period in which the rebate accrues. The words “or, if the

rebate is made on or after the date on which the trade is permanently discontinued, accruing immediately before the discontinuance” at the end of section 138(3A) are thought to be unnecessary and have not been rewritten. See *Note 58* in Annex 2.

1578. *Subsections (1) to (3)* set out the additional VAT rebates to which the section applies. The reference in section 138(3A) of CAA 1990 to a person “carrying on a trade” could be thought to indicate that VAT rebates are ignored if they are made before the relevant trade starts. Section 444 now provides that relief can be obtained for the commercial loss where an asset is bought and sold at a loss before the relevant trade starts. It would be odd if VAT rebates made in relation to such an asset, and which are a factor in arriving at the commercial loss, were ignored. This section proceeds on the basis that such rebates are taken into account just as an additional VAT liability incurred before the relevant trade starts might be taken into account under section 137(1A) and 137(5) of CAA 1990. See *Change 53* in Annex 1.
1579. *Subsections (4) and (5)* provide that the VAT rebate is treated as a disposal value. This differs from section 138(3A) of CAA 1990 that effectively provides that the whole of the VAT rebate is treated as a balancing charge. In most cases this will have no effect because the person has claimed a 100% allowance. But it could have an effect if the person claims less than the full allowance available on the qualifying expenditure. This change reduces the charge in such a case. See *Change 49* in Annex 1.

Section 449: Effect on balancing charges of additional VAT rebates in earlier chargeable periods

1580. This section is based on section 138(1), (2) and (2A) of CAA 1990.
1581. The treatment of VAT rebates as disposal values under section 448 means that, in contrast to section 138(3A) of CAA 1990, the receipt of the VAT rebate may not lead to a balancing charge because there are unclaimed allowances under section 442(4).
1582. To the extent that an unclaimed allowance shields a disposal value in one chargeable period this section reduces, for later chargeable periods, that unclaimed allowance by the amount shielded so that relief is not obtained more than once. See *Change 49* in Annex 1.