



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 2

#### PLANT AND MACHINERY ALLOWANCES

#### [<sup>F1</sup>CHAPTER 10A

#### SPECIAL RATE EXPENDITURE

#### *[<sup>F1</sup>Rules applying to special rate expenditure*

#### Textual Amendments

- F1** Pt. 2 Ch. 10A inserted (with effect in accordance with Sch. 26 para. 14 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 26 para. 2](#)

#### **104C Special rate pool**

- (1) Special rate expenditure to which this section applies, if allocated to a pool, must be allocated to a class pool (“the special rate pool”).
- (2) This section applies to special rate expenditure if—
  - (a) it is incurred wholly and exclusively for the purposes of a qualifying activity, and
  - (b) it is not expenditure which is required to be allocated to a single asset pool.

#### **104D Writing-down allowances at [<sup>F2</sup>8% or] 10%**

- (1) The amount of the writing-down allowance to which a person is entitled for a chargeable period in respect of expenditure which is special rate expenditure is [<sup>F3</sup>8%] of the amount by which AQE exceeds TDR (see Chapter 5).

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[ But, in relation to special rate expenditure incurred wholly for the purposes of a ring fence trade in respect of which tax is chargeable under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades), the amount of the writing-down allowance to which a person is entitled for a chargeable period is 10% of the amount by which AQE exceeds TDR.]

- (2) Subsection (1) applies even if the special rate expenditure is in a single asset pool.
- (3) In the case of expenditure in the special rate pool, this section is subject to section 56A (writing-down allowance for small pools).
- (4) Subsections (3) and (4) of section 56 (proportionate increases or reductions in amount in certain cases) apply for the purposes of subsection (1) of this section as they apply for the purposes of subsection (1) of that section.

#### Textual Amendments

- F2** Words in s. 104D heading inserted (with effect in accordance with s. 10(8)-(13) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 10\(4\)\(a\)](#)
- F3** Word in s. 104D(1) substituted (with effect in accordance with s. 10(8)-(13) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 10\(3\)\(a\)](#)
- F4** [S. 104D\(1A\)](#) inserted (with effect in accordance with s. 10(8)-(13) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 10\(3\)\(b\)](#)

### 104E Disposal value of special rate assets

- (1) This section applies if—
  - (a) section 104D (writing-down allowances at [<sup>F5</sup>8% or] 10%) has had effect in relation to any special rate expenditure incurred by a person (“the taxpayer”),
  - (b) any disposal event occurs in relation to the item on which the expenditure was incurred,
  - (c) the disposal value to be brought into account by the taxpayer would (but for this section) be less than the notional written-down value of the item, and
  - (d) the disposal event is part of, or occurs as a result of, a scheme or arrangement the main purpose or one of the main purposes of which is the obtaining by the taxpayer of a tax advantage under this Part.
- (2) The disposal value that the taxpayer must bring into account is the notional written-down value of the item.
- (3) The notional written-down value is—

**QE – A**

where—

QE is the taxpayer's expenditure on the item that is qualifying expenditure, and

A is the total of all allowances which could have been made to the taxpayer in respect of that expenditure if—

- (a) that expenditure had been the only expenditure that had ever been taken into account in determining the taxpayer's available qualifying expenditure,

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- (b) where the item is a long-life asset, that expenditure had not been prevented by the application of a monetary limit from being long-life asset expenditure, and
- (c) all allowances had been made in full.]

#### Textual Amendments

**F5** Words in s. 104E(1)(a) inserted (with effect in accordance with s. 10(8)-(13) of the amending Act) by [Finance Act 2011 \(c. 11\), s. 10\(4\)\(b\)](#)

#### Modifications etc. (not altering text)

**C10** S. 104E modified (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 83\(7\)](#)

### [<sup>F6</sup>104F Special rate cars: discontinued activity continued by relevant company

- (1) This section applies if—
  - (a) a company (“the taxpayer”) has incurred special rate expenditure within section 104A(1)(e) (expenditure on a car other than a main rate car) to which section 104C applies (allocation to special rate pool),
  - (b) the qualifying activity carried on by the taxpayer is permanently discontinued, and
  - (c) conditions A, B and C are met.
- (2) Condition A is that the qualifying activity carried on by the taxpayer consisted of or included (other than incidentally) making cars available to other persons.
- (3) Condition B is that, at any time in the 6 months after the taxpayer's qualifying activity is permanently discontinued, the qualifying activity of a group relief company consists of or includes (other than incidentally) making cars available to other persons.
- (4) Condition C is that the balancing allowance (“SBA”) to which the taxpayer would be entitled (but for this section) in respect of the special rate pool is greater than—

$$BC - OBA$$

where—

BC is the total of the balancing charges (if any) to which the taxpayer is liable for the final chargeable period in respect of any pool, and

OBA is the total of the balancing allowances to which the taxpayer is entitled for that period in respect of any pool other than the special rate pool.

For the purposes of this section if BC–OBA is a negative amount it is to be treated as if it were nil.

- (5) The balancing allowance to which the taxpayer is entitled in respect of the special rate pool is reduced to an amount equal to BC–OBA.
- (6) The relevant company is to be treated as having incurred qualifying expenditure within section 104A(1)(e) (“notional expenditure”), whether or not the relevant company owns cars previously owned by the taxpayer.
- (7) The amount of the notional expenditure is an amount equal to the amount by which SBA exceeds BC–OBA.

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- (8) The relevant company is to be treated as having incurred the notional expenditure on the day after the end of the taxpayer's final chargeable period.
- (9) If part of the chargeable period in which the relevant company is treated as incurring expenditure under this section (“the acquisition period”) overlaps with the taxpayer's penultimate chargeable period—
- (a) the part of the expenditure which is proportional to that part of the acquisition period is not to be taken into account in determining the relevant company's available qualifying expenditure for the acquisition period, but
  - (b) this does not prevent that part of the expenditure being taken into account in determining the relevant company's available qualifying expenditure for any subsequent chargeable period.
- (10) In this section—
- “car” has the meaning given in section 268A;
- “company” means any body corporate;
- “group relief company” means—
- (a) a company to which group relief under [<sup>F7</sup>Part 5 of CTA 2010] would be available (on the making of a claim) in respect of balancing allowances surrendered by the taxpayer in the taxpayer's final chargeable period, and
  - (b) a company to which such relief would be available (on the making of a claim) in respect of balancing allowances surrendered by a company within paragraph (a);
- “main rate car” has the meaning given in section 104AA;
- “penultimate chargeable period” means the chargeable period preceding the final chargeable period;
- “the relevant company” means the group relief company mentioned in subsection (3) or, if there is more than one, the one—
- (a) nominated by the taxpayer not more than 6 months after the end of the taxpayer's final chargeable period, or
  - (b) in the absence of such a nomination, nominated by Her Majesty's Revenue and Customs.]

#### **Textual Amendments**

- F6** S. 104F inserted (with effect in accordance with Sch. 11 paras. 26, 27, 28(1) to the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 9](#) (with [Sch. 11 paras. 30-32](#))
- F7** Words in s. 104F(10) substituted (1.4.2010) (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 333](#) (with [Sch. 2](#))

#### **[<sup>F8</sup>104G Disposal events in respect of cushion gas**

- (1) This section applies if expenditure incurred by a person on the provision of cushion gas used in a particular gas storage facility includes both new expenditure and old expenditure.
- (2) Any disposal event which concerns any of that cushion gas is to be treated for the purposes of this Part as relating to cushion gas which is the subject of the new expenditure before cushion gas which is the subject of the old expenditure.

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- (3) The result of subsection (2) (including any further application of that subsection) is that a disposal event may be treated as relating—
- (a) only to cushion gas which is the subject of the new expenditure,
  - (b) both to—
    - (i) cushion gas which is the subject of the new expenditure, and
    - (ii) cushion gas which is the subject of the old expenditure, or
  - (c) only to cushion gas which is the subject of the old expenditure.
- (4) If a disposal event is treated, as a result of subsection (2), as relating both to—
- (a) cushion gas which is the subject of the new expenditure, and
  - (b) cushion gas which is the subject of the old expenditure,
- it is to be treated for the purposes of this Part as two separate disposal events, the first relating to cushion gas within paragraph (a) and the second relating to cushion gas within paragraph (b).
- (5) In this section—
- “cushion gas” has the meaning given by section 70J(7),
  - “new expenditure” means expenditure incurred on or after 1 April 2010,
  - and
  - “old expenditure” means expenditure incurred before that date.]

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**Textual Amendments**

- F8** S. 104G inserted (8.4.2010) (with effect in accordance with s. 28(10) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 28\(7\)](#)

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