



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 2

#### PLANT AND MACHINERY ALLOWANCES

#### CHAPTER 14

#### FIXTURES

#### *Introduction*

#### **172** Scope of Chapter etc.

- (1) This Chapter applies to determine entitlement to allowances under this Part in respect of expenditure on plant or machinery that is, or becomes, a fixture.
- (2) For the purposes of this Part, ownership of plant or machinery that is, or becomes, a fixture is determined under this Chapter.
- (3) The provisions of this Chapter that treat a person as being the owner of a fixture (see sections 176 to 184 and 193 to [F195B]) are subject to the provisions of this Chapter which treat a person as ceasing to be the owner of a fixture (see sections 188 to [F2192A]).
- (4) References in this Chapter to a person being treated—
  - (a) as the owner of plant or machinery, or
  - (b) as ceasing to be the owner of plant or machinery,are to be read as references to the person being so treated for the purposes of this Part.
- (5) This Chapter does not affect any entitlement a person has to an allowance as a result of section 538 (contribution allowances for plant and machinery).

*Status: Point in time view as at 11/05/2001.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 14. (See end of Document for details)*

### **Textual Amendments**

- F1** Word in s. 172(3) substituted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 1\(a\)](#)
- F2** Word in s. 172(3) substituted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 1\(b\)](#)

## **173 Meaning of “fixture” and “relevant land”**

- (1) In this Chapter “fixture”—
- (a) means plant or machinery that is so installed or otherwise fixed in or to a building or other description of land as to become, in law, part of that building or other land, and
  - (b) includes any boiler or water-filled radiator installed in a building as part of a space or water heating system.
- (2) In this Chapter “relevant land”, in relation to a fixture means—
- (a) the building or other description of land of which the fixture becomes part, or
  - (b) in the case of a boiler or water-filled radiator which is a fixture as a result of subsection (1)(b), the building in which it is installed as part of a space or water heating system.

## **174 Meaning of “equipment lease” and “lease”**

- (1) In this Chapter “equipment lease” means—
- (a) an agreement entered into in the circumstances given in subsection (2), or
  - (b) a lease entered into under or as a result of such an agreement.
- (2) The circumstances are that—
- (a) a person incurs capital expenditure on the provision of plant or machinery for leasing,
  - (b) an agreement is entered into for the lease, directly or indirectly from that person, of the plant or machinery to another person,
  - (c) the plant or machinery becomes a fixture, and
  - (d) the agreement is not an agreement for the plant or machinery to be leased as part of the relevant land.
- (3) In this Chapter—
- “equipment lessor” means the person from whom (directly or indirectly) the equipment lease provides for the plant or machinery to be leased, and
- “equipment lessee” means the person to whom the equipment lease provides for the plant or machinery to be leased.
- (4) Except in the context of leasing plant or machinery, any reference in this Chapter to a lease is to—
- (a) any leasehold estate in or, in Scotland, lease of, the land (whether in the nature of a head-lease, sub-lease or under-lease), or
  - (b) any agreement to acquire such an estate or, in Scotland, lease;
- and, in relation to such an agreement, “grant” is to be read accordingly.

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## 175 Meaning of “interest in land”, etc.

- (1) In this Chapter “interest in land” means—
- (a) the fee simple estate in the land or an agreement to acquire such an estate,
  - (b) in relation to Scotland, the interest of the owner or an agreement to acquire such an interest,
  - (c) a lease,
  - (d) an easement or servitude or an agreement to acquire an easement or servitude, and
  - (e) a licence to occupy land.
- (2) If an interest in land is—
- (a) conveyed or assigned by way of security, and
  - (b) subject to a right of redemption,
- the person with the right of redemption is treated for the purposes of this Chapter as having that interest, and not the creditor.

## [<sup>F3</sup>175A Meaning of “energy services agreement”

- (1) In this Chapter “energy services agreement” means an agreement entered into by an energy services provider (“the energy services provider”) and another person (“the client”) that makes provision, with a view to saving energy or using energy more efficiently, for—
- (a) the design of plant or machinery, or one or more systems incorporating plant or machinery,
  - (b) obtaining and installing the plant or machinery,
  - (c) the operation of the plant or machinery,
  - (d) the maintenance of the plant or machinery, and
  - (e) the amount of any payments in respect of the operation of the plant or machinery to be linked (wholly or in part) to energy savings or increases in energy efficiency resulting from the provision or operation of the plant or machinery.
- (2) In this Chapter “energy services provider” means a person carrying on a qualifying activity consisting wholly or mainly in the provision of energy management services.]

### Textual Amendments

- F3** S. 175A inserted by (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 2](#)

*Persons who are treated as owners of fixtures*

## 176 Person with interest in relevant land having fixture for purposes of qualifying activity

- (1) If—
- (a) a person incurs capital expenditure on the provision of plant or machinery for the purposes of a qualifying activity carried on by him,
  - (b) the plant or machinery becomes a fixture, and

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- (c) that person has an interest in the relevant land at the time the plant or machinery becomes a fixture,  
 that person is to be treated, on and after that time, as the owner of the fixture as a result of incurring the expenditure.
- (2) If there are two or more persons with different interests in the relevant land who would be treated as the owner of the same fixture as a result of subsection (1), one interest only is taken into account under that subsection.
- (3) The interest to be taken into account is given by the following rules—
- Rule 1*
- If one of the interests is an easement or servitude or any agreement to acquire an easement or servitude, that interest is the interest to be taken into account.
- Rule 2*
- If Rule 1 does not apply, but one of the interests is a licence to occupy land, that interest is the interest to be taken into account.
- Rule 3*
- In any other case—
- (a) except in Scotland, the interest to be taken into account is the interest which is not in reversion (at law or in equity and whether directly or indirectly) on any other interest in the relevant land which is held by any of the persons referred to in subsection (2), and
- (b) in Scotland, the interest to be taken into account is the interest of whichever of the persons referred to in subsection (2) has, or last had, the right of use of the relevant land.
- (4) Subsection (1) is subject to <sup>F4</sup>sections 177(4) and 180A(4)] .

#### **Textual Amendments**

**F4** Words in s. 176(4) substituted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 3](#)

### **177 Equipment lessors**

- (1) If—
- (a) the conditions in—
- (i) section 178 (equipment lessee has qualifying activity etc.),
  - (ii) section 179 (equipment lessor has right to sever fixture that is not part of building), or
  - (iii) section 180 (equipment lease is part of affordable warmth programme),
- are met in relation to an equipment lease,
- (b) the equipment lessor and the equipment lessee are not connected persons, and
- (c) they elect that this section should apply,

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the equipment lessor is to be treated, on and after the relevant time, as the owner of the fixture as a result of incurring the capital expenditure on the provision of the plant or machinery that is the subject of the equipment lease.

- (2) The relevant time for the purposes of subsection (1) is (unless subsection (3) applies) the time when the equipment lessor incurs the expenditure.
- (3) If—
  - (a) the conditions in section 178 are met in relation to an equipment lease (but the conditions in sections 179 and 180 are not), and
  - (b) the equipment lessor incurs the capital expenditure before the equipment lessee begins to carry on the qualifying activity,the relevant time is the time when the equipment lessee begins to carry on the qualifying activity.
- (4) If an election is made under this section, the equipment lessee is not to be treated under section 176 as the owner of the fixture.
- (5) An election under this section must be made by notice to the Inland Revenue—
  - (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
  - (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.
- (6) “The relevant chargeable period” means the chargeable period in which the capital expenditure was incurred.

### **178 Equipment lessee has qualifying activity etc.**

The conditions referred to in section 177(1)(a)(i) are that—

- (a) the equipment lease is for the lease of the plant or machinery for the purposes of a qualifying activity which is, or is to be, carried on by the equipment lessee,
- (b) if the equipment lessee had incurred the capital expenditure incurred by the equipment lessor on the provision of the plant or machinery that is the subject of the equipment lease, he would, as a result of section 176, have been entitled to an allowance in respect of it, and
- (c) the equipment lease is not for the lease of the plant or machinery for use in a dwelling-house.

### **179 Equipment lessor has right to sever fixture that is not part of building**

- (1) The conditions referred to in section 177(1)(a)(ii) are that—
  - (a) the plant or machinery becomes a fixture by being fixed to land that is neither a building nor part of a building,
  - (b) the equipment lessee has an interest in the land when taking possession of the plant or machinery under the equipment lease,
  - (c) under the terms of the equipment lease, the equipment lessor is entitled to sever the plant or machinery, at the end of the period for which it is leased, from the land to which it is fixed at that time,
  - (d) under the terms of the equipment lease, the equipment lessor will own the plant or machinery on its severance in accordance with the equipment lease,

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- (e) the nature of the plant or machinery and the way in which it is fixed to land are such that its use on one set of premises does not, to any material extent, prevent it from being used, once severed, for the same purposes on a different set of premises,
  - (f) the equipment lease is one which under normal accountancy practice falls (or would fall) to be treated in the accounts of the equipment lessor as an operating lease, and
  - (g) the equipment lease is not for the lease of the plant or machinery for use in a dwelling-house.
- (2) For the purposes of applying subsection (1)(f), the equipment lessor is to be treated as being a company incorporated in a part of the United Kingdom.

### **180 Equipment lease is part of affordable warmth programme**

- (1) The conditions referred to in section 177(1)(a)(iii) are that—
- (a) the plant or machinery which is the subject of the equipment lease consists of a boiler, heat exchanger, radiator or heating control that is installed in a building as part of a space or water heating system,
  - (b) the expenditure of the equipment lessor is incurred before 1st January 2008, and
  - (c) the equipment lease is approved for the purposes of this section as entered into as part of the affordable warmth programme.
- (2) The approval mentioned in subsection (1)(c) may be given, with the consent of the Treasury—
- (a) by the Secretary of State;
  - (b) in the case of buildings in Scotland, by the Scottish Ministers;
  - (c) in the case of buildings in Wales, by the National Assembly for Wales;
  - (d) in the case of buildings in Northern Ireland, by the Department for Social Development in Northern Ireland.
- (3) If an approval is withdrawn, it is to be treated for the purposes of subsection (1)(c) as never having had effect.

### **[<sup>F5</sup>180A Energy services providers**

- (1) If—
- (a) an energy services agreement is entered into,
  - (b) the energy services provider incurs capital expenditure under the agreement on the provision of plant or machinery,
  - (c) the plant or machinery becomes a fixture,
  - (d) at the time the plant or machinery becomes a fixture—
    - (i) the client has an interest in the relevant land, and
    - (ii) the energy services provider does not,
  - (e) the plant or machinery—
    - (i) is not provided for leasing, and
    - (ii) is not provided for use in a dwelling-house,
  - (f) the operation of the plant or machinery is carried out wholly or substantially by the energy services provider or a person connected with him,

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- (g) the energy services provider and the client are not connected persons, and
  - (h) they elect that this section should apply,
- the energy services provider is to be treated, on and after the time at which he incurs the expenditure, as the owner of the fixture as a result of incurring the expenditure.
- (2) But if the client would not have been entitled to a section 176 allowance in respect of the expenditure if he had incurred it, subsection (1) does not apply unless the plant or machinery belongs to a class of plant or machinery specified by Treasury order.
  - (3) In subsection (2) a “section 176 allowance” means an allowance to which a person is entitled as a result of section 176.
  - (4) If an election is made under this section, the client is not to be treated under section 176 as the owner of the fixture.
  - (5) An election under this section must be made by notice to the Inland Revenue—
    - (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
    - (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.
  - (6) The “relevant chargeable period” means the chargeable period in which the capital expenditure was incurred.]

#### Textual Amendments

- F5** S. 180A inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 4](#)

### 181 Purchaser of land giving consideration for fixture

- (1) If—
  - (a) after any plant or machinery has become a fixture, a person (“the purchaser”) acquires an interest in the relevant land,
  - (b) that interest was in existence before the purchaser’s acquisition of it, and
  - (c) the consideration which the purchaser gives for the interest is or includes a capital sum that, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture,the purchaser is to be treated, on and after the time of the acquisition, as the owner of the fixture as a result of incurring that expenditure.
- [<sup>F6</sup>(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.]
- (3) For the purposes of [<sup>F7</sup>subsection (2), a person] has a prior right in relation to the fixture if he—
  - (a) is treated as the owner of the fixture immediately before the time referred to in [<sup>F8</sup>subsection (2)] as a result of incurring expenditure on the provision of the fixture,
  - (b) is not so treated as a result of section 538 (contribution allowances for plant and machinery),

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- (c) is entitled to an allowance in respect of that expenditure, and
- (d) makes or has made a claim in respect of that expenditure.

(4) Subsection (1) is subject to [<sup>F9</sup>sections 182 and 182A] .

#### Textual Amendments

- F6** S. 181(2) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(1\)](#)
- F7** Words in s. 181(3) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(2\)\(a\)](#)
- F8** Words in s. 181(3) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(2\)\(b\)](#)
- F9** Words in s. 181(4) substituted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 5](#)

### 182 Purchaser of land discharging obligations of equipment lessee

(1) If—

- (a) after any plant or machinery has become a fixture, a person (“the purchaser”) acquires an interest in the relevant land,
  - (b) that interest was in existence before the purchaser’s acquisition of it,
  - (c) before that acquisition, the plant or machinery was let under an equipment lease, and
  - (d) in connection with that acquisition, the purchaser pays a capital sum to discharge the obligations of the equipment lessee under the equipment lease,
- the purchaser is to be treated, on and after the time of the acquisition, as the owner of the fixture as a result of incurring expenditure, consisting of that capital sum, on the provision of the fixture.

[<sup>F10</sup>(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.

(3) Section 181(3)(test for whether person has a prior right) applies for the purposes of subsection (2).<sup>F10</sup>]

#### Textual Amendments

- F10** S. 182(2)(3) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(3\)](#)

### [<sup>F11</sup>182A Purchaser of land discharging obligations of client under energy services agreement

(1) If—

- (a) after any plant or machinery has become a fixture, a person (“the purchaser”) acquires an interest in the relevant land,
- (b) that interest was in existence before the purchaser’s acquisition of it,



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- (c) before that acquisition, the plant or machinery was provided under an energy services agreement, and
  - (d) in connection with that acquisition, the purchaser pays a capital sum to discharge the obligations of the client under the energy services agreement, the purchaser is to be treated, on and after the time of the acquisition, as the owner of the fixture as a result of incurring expenditure, consisting of that capital sum, on the provision of the fixture.
- (2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time of the acquisition, a person has a prior right in relation to the fixture.
- (3) Section 181(3) (test for whether person has a prior right) applies for the purposes of subsection (2).]

#### Textual Amendments

**F11** S. 182A inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 6](#)

### 183 Incoming lessee where lessor entitled to allowances

- (1) If—
- (a) after any plant or machinery has become a fixture, a person (“the lessor”) who has an interest in the relevant land grants a lease,
  - (b) the lessor is entitled to an allowance in respect of the fixture for the chargeable period in which the lease is granted or would be if he were within the charge to tax,
  - (c) the consideration which the lessee gives for the lease is or includes a capital sum that, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture,
  - (d) the lessor and the lessee are not connected persons, and
  - (e) the lessor and the lessee make an election under this section,
- the lessee is to be treated, on and after the time when the lease is granted, as the owner of the fixture as a result of incurring that expenditure.
- (2) An election under this section must be made by notice to the Inland Revenue within 2 years after the date on which the lease takes effect.

### 184 Incoming lessee where lessor not entitled to allowances

- (1) If—
- (a) after any plant or machinery has become a fixture, a person (“the lessor”) who has an interest in the relevant land grants a lease,
  - (b) the lessor is not within section 183(1)(b),
  - (c) before the lease is granted, the fixture has not been used for the purposes of a qualifying activity carried on by the lessor or any person connected with the lessor, and

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- (d) the consideration which the lessee gives for the lease is or includes a capital sum that, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture,  
the lessee is to be treated, on and after the time when the lease is granted, as the owner of the fixture as a result of incurring that expenditure.
- [<sup>F12</sup>(2) Subsection (1) does not apply, and is to be treated as never having applied, if, immediately after the time when the lease is granted, a person has a prior right in relation to the fixture.
- (3) Section 181(3)(test for whether person has a prior right) applies for the purposes of subsection (2).<sup>F12]</sup>

#### **Textual Amendments**

- F12** S. 184(2)(3) substituted (with effect as mentioned in s. 69(2) of the amending Act) by [Finance Act 2001 \(c. 9\), s. 69\(1\), Sch. 21 para. 2\(4\)](#)

#### *Restrictions on amount of qualifying expenditure*

### **185 Fixture on which a plant and machinery allowance has been claimed**

- (1) This section applies if—
- (a) a person (“the current owner”) is treated as the owner of a fixture as a result of incurring capital expenditure (“new expenditure”) on its provision,
  - (b) the plant or machinery is treated as having been owned at a relevant earlier time by any person (“the past owner”) as a result of incurring other expenditure,
  - (c) the plant or machinery is within paragraph (b) otherwise than as a result of section 538 (contribution allowances for plant and machinery), and
  - (d) the past owner is or has been required to bring the disposal value of the plant or machinery into account (as a result of having made a claim in respect of that other expenditure).
- (2) If the new expenditure exceeds the maximum allowable amount, the excess—
- (a) is to be left out of account in determining the current owner’s qualifying expenditure, or
  - (b) if the new expenditure has already been taken into account for this purpose, is to be treated as expenditure that should never have been taken into account.
- (3) The maximum allowable amount is—

$$D + I$$

where—

D is the disposal value of the plant or machinery which the past owner has been or is required to bring into account, and

I is any of the new expenditure that is treated under section 25 (building alterations in connection with installation) as expenditure on the provision of the plant or machinery.

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- (4) If more than one disposal event has occurred requiring the past owner to bring the disposal value of the plant or machinery into account, the maximum allowable amount is calculated by reference only to the most recent of those events.
- (5) For the purposes of this section, the current owner and the past owner may be the same person.
- (6) In subsection (1)(b) “relevant earlier time” means (subject to subsection (7)) any time before the earliest time when the current owner is treated as owning the plant or machinery as a result of incurring the new expenditure.
- (7) If, before the earliest time when the current owner is treated as owning the plant or machinery as a result of incurring the new expenditure—
  - (a) any person has ceased to own the plant or machinery as a result of a sale,
  - (b) the sale was not a sale of the plant or machinery as a fixture, and
  - (c) the buyer and seller were not connected persons at the time of the sale,the relevant earlier time does not include any time before the seller ceased to own the plant or machinery.

## **186 Fixture on which an industrial buildings allowance has been made**

- (1) This section applies if—
  - (a) a person (“the past owner”) has at any time claimed an allowance to which he is entitled under Part 3 (industrial buildings allowances) in respect of expenditure which was or included expenditure on the provision of plant or machinery,
  - (b) the past owner has transferred the interest which is the relevant interest for the purposes of Part 3, and
  - (c) the current owner of the plant or machinery makes a claim in respect of expenditure (“new expenditure”) incurred—
    - (i) on the provision of the plant or machinery, and
    - (ii) at a time when it is a fixture in the building.
- (2) If the new expenditure exceeds the maximum allowable amount, the excess is to be left out of account in determining the current owner’s qualifying expenditure.
- (3) The maximum allowable amount is—

$$\frac{F}{T} \times R$$

where—

F is the part of the consideration for the transfer by the past owner that is attributable to the fixture,

T is the total consideration for that transfer, and

R is the residue of qualifying expenditure attributable to the relevant interest immediately after that transfer, calculated on the assumption that the transfer was a sale of the relevant interest.

- (4) For the purposes of this section the current owner of the plant or machinery is—
  - (a) the person to whom the past owner transferred the relevant interest, or
  - (b) any person who is subsequently treated as the owner of the plant or machinery.

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- (5) In this section “building” and “residue of qualifying expenditure” have the same meaning as in Part 3.

### **187 Fixture on which a research and development allowance has been made**

- (1) This section applies if—
- (a) a person has at any time claimed an allowance to which he is entitled under Part 6 (research and development allowances) in respect of qualifying expenditure under that Part (“Part 6 expenditure”),
  - (b) an asset representing the whole or part of the Part 6 expenditure (“the Part 6 asset”) has ceased to be owned by that person (“the past owner”),
  - (c) the Part 6 asset was or included plant or machinery, and
  - (d) the current owner makes a claim under this Part in respect of expenditure (“new expenditure”) incurred—
    - (i) on the provision of the plant or machinery, and
    - (ii) at a time when it is a fixture.
- (2) If the new expenditure exceeds the maximum allowable amount, the excess is to be left out of account in determining the current owner’s qualifying expenditure.
- (3) The maximum allowable amount is—

$$\frac{F}{T} \times A$$

where—

F is the part of the consideration for the disposal of the Part 6 asset by the past owner that is attributable to the fixture,

T is the total consideration for that disposal, and

A is an amount equal to whichever is the smaller of—

- (a) the disposal value of the Part 6 asset when the past owner ceased to own it, and
- (b) so much of the Part 6 expenditure as related to the provision of the Part 6 asset.

- (4) For the purposes of this section the current owner of the plant or machinery is—
- (a) the person who acquired the Part 6 asset from the past owner, or
  - (b) any person who is subsequently treated as the owner of the plant or machinery.

#### *Cessation of ownership of fixtures*

### **188 Cessation of ownership when person ceases to have qualifying interest**

- (1) This section applies if a person is treated as the owner of a fixture under—
- (a) section 176 (person with interest in land having fixture for purposes of qualifying activity),
  - (b) section 181 (purchaser of land giving consideration for fixture),
  - (c) section 182 (purchaser of land discharging obligations of equipment lessee),
  - [<sup>F13</sup>(ca) section 182A (purchaser of land discharging obligations of client under energy services agreement),]
  - (d) section 183 (incoming lessee where lessor entitled to allowances), or

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- (e) section 184 (incoming lessee where lessor not entitled to allowances).
- (2) If the person ceases at any time to have the qualifying interest, he is to be treated as ceasing to be the owner of the fixture at that time.
- (3) In this Chapter “the qualifying interest” means—
  - (a) if section 176, 181 [<sup>F14</sup>, 182 or 182A] applies, the interest in the relevant land referred to in that section, and
  - (b) if section 183 or 184 applies, the lease referred to in that section.
- (4) This section is subject to section 189.

#### Textual Amendments

**F13** S. 188(1)(ca) inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 7\(2\)](#)

**F14** Words in s. 188(3)(a) substituted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 7\(3\)](#)

### 189 Identifying the qualifying interest in special cases

- (1) If—
  - (a) a person’s qualifying interest is an agreement to acquire an interest in land, and
  - (b) that interest is subsequently transferred or granted to that person,the interest transferred or granted is to be treated as the qualifying interest.
- (2) If a person’s qualifying interest ceases to exist as a result of its being merged in another interest acquired by that person, that other interest is to be treated as the qualifying interest.
- (3) If—
  - (a) the qualifying interest is a lease, and
  - (b) on its termination, a new lease of the relevant land (with or without other land) is granted to the lessee,the new lease is to be treated as the qualifying interest.
- (4) If—
  - (a) the qualifying interest is a licence, and
  - (b) on its termination, a new licence to occupy the relevant land (with or without other land) is granted to the licensee,the new licence is to be treated as the qualifying interest.
- (5) If—
  - (a) the qualifying interest is a lease, and
  - (b) with the consent of the lessor, the lessee remains in possession of the relevant land after the termination of the lease without a new lease being granted to him,the qualifying interest is to be treated as continuing so long as the lessee remains in possession of the relevant land.

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*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 14. (See end of Document for details)*

### **190 Cessation of ownership of lessor where section 183 applies**

- (1) This section applies if a lessee is treated under section 183 (incoming lessee where lessor entitled to allowances) as the owner of a fixture.
- (2) The lessor is to be treated as ceasing to be the owner of the fixture when the lessee begins to be treated as the owner.

### **191 Cessation of ownership on severance of fixture**

If—

- (a) a person is treated as the owner of the fixture as a result of any provision of this Chapter,
  - (b) the fixture is permanently severed from the relevant land (so that it ceases to be a fixture), and
  - (c) once it is severed, it is not in fact owned by that person,
- that person is to be treated as ceasing to be the owner of the fixture when it is severed.

### **192 Cessation of ownership of equipment lessor**

- (1) This section applies if an equipment lessor is treated under section 177 as the owner of a fixture.
- (2) If—
  - (a) the equipment lessor at any time assigns his rights under the equipment lease, or
  - (b) the financial obligations of the equipment lessee under an equipment lease are at any time discharged (on the payment of a capital sum or otherwise),
 the equipment lessor is to be treated as ceasing to be the owner of the fixture at that time (or, as the case may be, at the earliest of those times).
- (3) The reference in subsection (2)(b) to the equipment lessee is, in a case where the financial obligations of the equipment lessee have become vested in another person (by assignment, operation of law or otherwise), a reference to the person in whom the obligations are vested when the capital sum is paid.

### **[<sup>F15</sup>192A Cessation of ownership of energy services provider**

- (1) This section applies if an energy services provider is treated under section 180A as the owner of a fixture.
- (2) If—
  - (a) the energy services provider at any time assigns his rights under the energy services agreement, or
  - (b) the financial obligations of the client in respect of the fixture under an energy services agreement are at any time discharged (on the payment of a capital sum or otherwise),
 the energy services provider is to be treated as ceasing to be the owner of the fixture at that time (or, as the case may be, the earliest of those times).
- (3) The reference in subsection (2)(b) to the client is, in a case where the financial obligations of the client have become vested in another person (by assignment,

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operation of law or otherwise), a reference to the person in whom the obligations are vested when the capital sum is paid.]

#### **Textual Amendments**

**F15** S. 192A inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 8](#)

#### *Acquisition of ownership of fixture when another ceases to own it*

### **193 Acquisition of ownership by lessor or licensor on termination of lease or licence**

If, on the termination of a lease or licence, the outgoing lessee or licensee is treated under section 188 as ceasing to be the owner of a fixture, the lessor or licensor is to be treated, on and after the termination of the lease or licence, as the owner of the fixture.

### **194 Acquisition of ownership by assignee of equipment lessor**

- (1) If section 192(2)(a) applies (cessation of ownership of equipment lessor as a result of assignment), the assignee is to be treated, on and after the assignment—
  - (a) as having incurred expenditure, consisting of the consideration given by him for the assignment, on the provision of the fixture, and
  - (b) as being the owner of the fixture.
- (2) For the purposes of section 192 (and subsection (1) and section 195) the assignee is to be treated as being an equipment lessor who owns the fixture under section 177.

### **195 Acquisition of ownership by equipment lessee**

- (1) If section 192(2)(b) applies (discharge of obligations of equipment lessee) because the equipment lessee has paid a capital sum, the equipment lessee is to be treated—
  - (a) as having incurred expenditure, consisting of the capital sum, on the provision of the fixture, and
  - (b) as being, on and after the time of payment, the owner of the fixture.
- (2) Section 192(3) (assignee of equipment lessee) applies in relation to subsection (1).

### **[<sup>F16</sup>195A Acquisition of ownership by assignee of energy services provider**

- (1) If section 192A(2)(a) applies (cessation of ownership of energy services provider as a result of assignment), the assignee is to be treated, on and after the assignment—
  - (a) as having incurred expenditure, consisting of the consideration given by him for the assignment, on the provision of the fixture, and
  - (b) as being the owner of the fixture.
- (2) For the purposes of section 192A (and subsection (1) and section 195B) the assignee is to be treated as being an energy services provider who owns the fixture under section 180A.

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#### **Textual Amendments**

**F16** Ss, 195A, 195B inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 9](#)

### **195B Acquisition of ownership by client**

- (1) If section 192A(2)(b) applies (discharge of obligations of client) because the client has paid a capital sum, the client is to be treated—
- (a) as having incurred expenditure, consisting of the capital sum, on the provision of the fixture, and
  - (b) as being, on and after the time of payment, the owner of the fixture.
- (2) Section 192A(3)(assignee of client) applies in relation to subsection (1).]

#### **Textual Amendments**

**F16** Ss, 195A, 195B inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), s. 66, [Sch. 18 para. 9](#)

### *Disposal values*

### **196 Disposal values in relation to fixtures: general**

- (1) The disposal value to be brought into account in relation to a fixture depends on the nature of the disposal event, as shown in the Table—

Table

Disposal values: fixtures

#### ***1. Disposal event***

1. Cessation of ownership of the fixture under section 188 because of a sale of the qualifying interest except where item 2 applies.

2. Cessation of ownership of the fixture under section 188 because of a sale of the qualifying interest where—

- (a) the sale is at less than market value, and
- (b) the condition in subsection (2) is met by the purchaser.

#### ***2. Disposal value***

The part of the sale price that—

- (a) falls to be treated for the purposes of this Part as expenditure incurred by the purchaser on the provision of the fixture, or
- (b) would fall to be so treated if the purchaser were entitled to an allowance.

The part of the price that would be treated for the purposes of this Part as expenditure by the purchaser on the provision of the fixture if—

- (a) the qualifying interest were sold at market value,
- (b) that sale took place immediately before the event which causes the former owner to be treated as ceasing to be the owner of the fixture, and



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- (c) that event were disregarded in determining that market value.
3. Cessation of ownership of the fixture under section 188 where—  
(a) neither item 1 nor 2 applies, but  
(b) the qualifying interest continues in existence after that time or would so continue but for its becoming merged in another interest.
4. Cessation of ownership of the fixture under section 188 because of the expiry of the qualifying interest.
5. Cessation of ownership of the fixture under section 190 because the lessee has become the owner under section 183.
6. Cessation of ownership of the fixture under section 191 (severance).
7. Cessation of ownership of the fixture because section 192(2)(a) (assignment of rights) applies.
8. Cessation of ownership of the fixture because section 192(2)(b) (discharge of equipment lessee's obligations) applies on the payment of a capital sum.
- [<sup>F17</sup>8A. Cessation of ownership of the fixture because section 192A(2)(a) (assignment of rights) applies.
- 8B. Cessation of ownership of the fixture because section 192A(2)(b) (discharge of client's obligations) applies on the payment of a capital sum.
9. Permanent discontinuance of the qualifying activity followed by the sale of the qualifying interest.
10. Permanent discontinuance of the qualifying activity followed by the demolition or destruction of the fixture.
- The disposal value given for item 2.
- If the person receives a capital sum, by way of compensation or otherwise, by reference to the fixture, the amount of the capital sum.  
In any other case, nil.
- The part of the capital sum given by the lessee for the lease referred to in section 183 that falls to be treated for the purposes of this Part as the lessee's expenditure on the provision of the fixture.
- The market value of the fixture at the time of the severance.
- The consideration given by the assignee for the assignment.
- The capital sum paid to discharge the financial obligations of the equipment lessee.
- The consideration given by the assignee for the assignment.
- The capital sum paid to discharge the financial obligations of the client.<sup>F17]</sup>
- The part of the sale price that—  
(a) falls to be treated as expenditure incurred by the purchaser on the provision of the fixture, or  
(b) would fall to be so treated if the purchaser were entitled to an allowance.
- The net amount received for the remains of the fixture, together with—  
(a) any insurance money received in respect of the demolition or destruction, and

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<p>11. Permanent discontinuance of the qualifying activity followed by the permanent loss of the fixture otherwise than as a result of its demolition or destruction.</p> <p>12. The fixture begins to be used wholly or partly for purposes other than those of the qualifying activity.</p>	<p>(b) any other compensation of any description so received, so far as it consists of capital sums.</p> <p>Any insurance money received in respect of the loss and, so far as it consists of capital sums, any other compensation of any description so received.</p> <p>The part of the price that would fall to be treated for the purposes of this Part as expenditure incurred by the purchaser on the provision of the fixture if the qualifying interest were sold at market value.</p>
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- (2) The condition referred to in item 2 of the Table is met by the purchaser if—
- (a) the purchaser’s expenditure on the provision of the fixture cannot be qualifying expenditure under this Part or Part 6 (research and development allowances), or
  - (b) the purchaser is a dual resident investing company which is connected with the former owner.
- (3) Items 1 and 5 of the Table are subject to sections 198 and 199 (election to fix apportionment on sale of qualifying interest or grant of lease).
- (4) Section 192(3) (assignee of equipment lessee) applies in relation to item 8 of the Table.
- [<sup>F18</sup>(4A) Section 192A(3)(assignee of client) applies in relation to item 8B of the Table.]
- (5) Nothing in sections 188 to [<sup>F19</sup>192A] or this section prevents a disposal value having to be brought into account under Chapter 5 because of a disposal event not dealt with in these sections.
- (6) This section is subject to section 197.

#### **Textual Amendments**

- F17** S. 196(1) Table, items 8A, 8B inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 10\(2\)](#)
- F18** S. 196(4A) inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 10\(3\)](#)
- F19** Words in s. 196(5) substituted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 10\(4\)](#)

## **197 Disposal values in avoidance cases**

- (1) This section applies if—
- (a) a person (“the taxpayer”) is treated under this Chapter as the owner of any plant or machinery as a result of incurring any expenditure,
  - (b) any disposal event occurs in relation to the plant or machinery,

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- (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 plant or machinery, 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 plant or machinery.
- (3) The notional written-down value is—

### QE – A

where—

QE is the taxpayer's expenditure on the plant or machinery that is qualifying expenditure,

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 his available qualifying expenditure, and
- (b) all allowances had been made in full.

#### *Election to fix apportionment*

### **198 Election to apportion sale price on sale of qualifying interest**

- (1) This section applies if the disposal value of a fixture is required to be brought into account in accordance with item 1 of the Table in section 196 (sale of qualifying interest at not less than market value, etc.).
- (2) The seller and the purchaser may jointly, by an election, fix the amount that is to be treated—
  - (a) for the purposes of item 1 of the Table, and
  - (b) for the other purposes of this Part,as the part of the sale price that is expenditure incurred by the purchaser on the provision of the fixture.
- (3) The amount fixed by the election must not exceed—
  - (a) the amount of the capital expenditure which was treated as incurred by the seller on the provision of the fixture or of the plant or machinery which became the fixture, or
  - (b) the actual sale price.
- (4) If an election fixes the amount to be treated as the part of the sale price—
  - (a) the remaining amount (if any) of the sale price is to be treated for the purposes of this Act as expenditure attributable to the acquisition of the property which is not the fixture but is acquired for that amount, and
  - (b) if there is no remaining amount, the expenditure so attributable is to be treated for the purposes of this Act as nil.
- (5) This section is subject to—

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- (a) sections 186 and 187 (fixtures on which industrial buildings allowance or research and development allowance has been made),
- (b) section 197 (disposal values in avoidance cases), and
- (c) sections 200 and 201 (further provisions about elections).

### **199 Election to apportion capital sum given by lessee on grant of lease**

- (1) This section applies if the disposal value of a fixture is required to be brought into account in accordance with item 5 of the Table in section 196 (on acquisition of ownership by incoming lessee under section 183).
- (2) The persons who are the lessor and the lessee for the purposes of section 183 may jointly, by an election, fix the amount that is to be treated—
  - (a) for the purposes of item 5 of the Table, and
  - (b) for the other purposes of this Part,
 as the part of the capital sum that is expenditure incurred by the lessee on the provision of the fixture.
- (3) The amount fixed by the election must not exceed—
  - (a) the amount of the capital expenditure which was treated as incurred by the lessor on the provision of the fixture or of the plant or machinery which became the fixture, or
  - (b) the actual capital sum.
- (4) If an election fixes the amount to be treated as the part of the capital sum—
  - (a) the remaining amount (if any) of the capital sum is to be treated for the purposes of this Act as expenditure attributable to the acquisition of the property which is not the fixture but is acquired for that amount, and
  - (b) if there is no remaining amount, the expenditure so attributable is to be treated for the purposes of this Act as nil.
- (5) This section is subject to—
  - (a) sections 186 and 187 (fixtures on which industrial buildings allowance or research and development allowance has been made),
  - (b) section 197 (disposal values in avoidance cases), and
  - (c) sections 200 and 201 (further provisions about elections).

### **200 Elections under sections 198 and 199: supplementary**

- (1) In this section and section 201, references to an election are to an election under section 198 or 199.
- (2) An apportionment made by an election has effect in place of any apportionment that would otherwise be made under sections 562, 563 and 564(1) (apportionment and procedure for determining apportionment).
- (3) An election is irrevocable.
- (4) If, as a result of circumstances arising after the making of an election, the maximum amount which could be fixed by the election is reduced to an amount which is less than the amount specified in the election, the election is to be treated, for the purposes of this Act, as having specified the amount to which the maximum is reduced.

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## **201 Elections under sections 198 and 199: procedure**

- (1) An election must be made by notice to the Inland Revenue no later than 2 years after the date when—
  - (a) the purchaser acquires the qualifying interest, in the case of an election under section 198, or
  - (b) the lessee is granted the lease, in the case of an election under section 199.
- (2) The amount fixed by an election must be quantified at the time when the election is made.
- (3) The notice must state—
  - (a) the amount fixed by the election,
  - (b) the name of each of the persons making the election,
  - (c) information sufficient to identify the plant or machinery,
  - (d) information sufficient to identify the relevant land,
  - (e) particulars of—
    - (i) the interest acquired by the purchaser, in the case of an election under section 198, or
    - (ii) the lease granted to the lessee, in the case of an election under section 199, and
  - (f) the tax district references of each of the persons making the election.
- (4) If a person—
  - (a) has joined in making an election, and
  - (b) subsequently makes a tax return for a period which is the first period for which he is making a tax return in which the election has an effect for tax purposes in his case,a copy of the notice containing the election must accompany the return.
- (5) The following provisions do not apply to the election—
  - (a) section 42 of, and Schedule 1A to, TMA 1970 (claims and elections for income tax purposes);
  - (b) paragraphs 54 to 60 of Schedule 18 to FA 1998 (claims and elections for corporation tax purposes).
- (6) References in this section to a tax return, in the case of an election for the purposes of a trade, profession or business carried on by persons in partnership, are to be read, in relation to those persons, as references to a return under section 12AA of TMA 1970 (partnership returns).

### *Further provisions*

## **202 Interpretation**

- (1) Any reference in this Chapter to a person being entitled to an allowance in respect of expenditure on the provision of a fixture includes the person having a pool to which expenditure on the provision of the fixture has been allocated.

But this is subject to subsection (2).

- (2) If—

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- (a) expenditure on the provision of the fixture has been allocated to a pool, and
- (b) the person is required under section 61(1) to bring the disposal value of the fixture into account in the pool,

the person is not entitled to an allowance in respect of the expenditure allocated to that pool for any chargeable period after that in which the disposal event occurs.

- (3) For the purposes of this Chapter, a person makes a claim in respect of expenditure if he—
  - (a) makes a claim for an allowance in respect of that expenditure,
  - (b) makes a tax return in which that expenditure is taken into account in determining his available qualifying expenditure for the purposes of this Part, or
  - (c) gives notice of an amendment of a tax return which provides for that expenditure to be so taken into account.

### **203 Amendment of returns etc.**

- (1) If a person who has made a tax return (“the taxpayer”) becomes aware that, after making it, anything in it has become incorrect for any of the reasons given in subsection (2), the taxpayer must give notice to the Inland Revenue specifying how the return needs to be amended.
- (2) The reasons are that—
  - (a) an approval given for the purposes of section 180 (affordable warmth programme) has been withdrawn;
  - (b) section 181(2), 182(2) [<sup>F20</sup>, 182A(2)] or 184(2) (another person has a prior right) applies in the taxpayer’s case;
  - (c) section 185 (restriction on qualifying expenditure where another person has claimed an allowance) applies in the taxpayer’s case;
  - (d) an election is made under section 198 or 199 (election to fix apportionment);
  - (e) section 200(4) (reduction in amount which can be fixed by an election) applies in the taxpayer’s case.
- (3) The notice must be given within 3 months beginning with the day on which the taxpayer first became aware that anything contained in the tax return had become incorrect for any of the reasons given in subsection (2).
- (4) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this Chapter.

#### **Textual Amendments**

**F20** Words in s. 203(2)(b) inserted (with effect as mentioned in s. 66 of the amending Act) by [Finance Act 2001 \(c. 9\), s. 66, Sch. 18 para. 11](#)

### **204 Appeals etc.**

- (1) Subsections (2) and (3) apply if—
  - (a) any question arises as to whether any plant or machinery has become, in law, part of a building or other land, and

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- (b) that question is material to the tax liability (for whatever period) of two or more persons.
- (2) The question is to be determined, for the purposes of the tax of all the persons concerned, by the Special Commissioners.
- (3) The Special Commissioners must determine the question in the same way as an appeal, but all the persons concerned are entitled—
  - (a) to appear before and be heard by the Special Commissioners, or
  - (b) to make representations to them in writing.
- (4) Subsections (5) and (6) apply if any question relating to an election under section 198 or 199 (apportionments) arises for determination by any body of Commissioners for the purposes of any proceedings before them.
- (5) The Commissioners must determine the question separately from any other questions in those proceedings.
- (6) Each of the persons who has joined in making the election is entitled—
  - (a) to appear before and be heard by the Commissioners, or
  - (b) to make representations to them in writing;and the Commissioners' determination has effect as if made in an appeal to which each of those persons was a party.

**Status:**

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**Changes to legislation:**

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