Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 13

PROVISIONS AFFECTING MINING AND OIL INDUSTRIES

[F1 Restrictions on allowances: anti-avoidance

[F1 165E Transaction to obtain tax advantage

(1) Allowances under this Part are restricted under subsection (5) if—

(a) a person ("R") who is carrying on, or has ceased to carry on, a ring fence trade enters into a transaction with another person ("S"),

(b) S receives from R consideration for services provided in pursuance of the transaction,

(c) all or part of that consideration is decommissioning expenditure, and

(d) the transaction either has an avoidance purpose, or is part of, or occurs as a result of, a scheme or arrangement that has an avoidance purpose.

(2) Subsection (1)(d) may be satisfied—

(a) whether the scheme or arrangement was made before or after the transaction was entered into, and

(b) whether or not the scheme or arrangement is legally enforceable.

(3) A transaction, scheme or arrangement has an "avoidance purpose" if the main purpose, or one of the main purposes, of a party in—

(a) entering into the transaction, scheme or arrangement, or

(b) agreeing an amount of consideration, or a method of determining an amount of consideration, to be paid in pursuance of the transaction, scheme or arrangement,

is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.

(4) The reference in subsection (3) to obtaining a tax advantage that would not otherwise be obtained includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.

(5) All or part of R's expenditure under the transaction is to be left out of account in determining R's available qualifying expenditure.

(6) The amount of expenditure to be left out of account is—

(a) such amount as would or would in effect cancel out the tax advantage mentioned in subsection (3) (whether that advantage is obtained by R or another person and whether it relates to the transaction or something else), or

(b) if the amount found under paragraph (a) exceeds the whole of R's expenditure under the transaction, the whole of that expenditure.**]**

Textual Amendments

F1 Ss. 165A-165E and cross-heading inserted (with effect in accordance with Sch. 32 para. 8 of the amending Act) by Finance Act 2013 (c. 29), **Sch. 32 para. 2**

Changes to legislation:
There are currently no known outstanding effects for the Capital Allowances Act 2001, Section 165E.