



Finance (No. 2) Act 2005

2005 CHAPTER 22

PART 4

EUROPEAN COMPANY STATUTE

56 Capital allowances

- (1) After section 561 of CAA 2001 (transfer of UK trade to company in another member State) insert—

“561A Transfer during formation of SE by merger

- (1) This section applies to the transfer of a qualifying asset as part of the process of a merger to which section 140E of TCGA 1992 (formation of SE by merger) applies (or would apply but for section 140E(1)(d)).
- (2) Where this section applies to a transfer—
- (a) the transfer does not give rise to any allowance or charge under this Act,
 - (b) anything done to or by the transferor in relation to assets transferred is to be treated after the transfer as having been done to or by the transferee (with any necessary apportionment of expenditure being made in a reasonable manner), and
 - (c) section 343 of ICTA (company reconstruction without change of ownership) shall not apply.
- (3) For the purposes of subsection (1) an asset is a “qualifying asset” if—
- (a) it is transferred to the SE as part of the merger forming it, and
 - (b) subsections (4) and (5) are satisfied in respect of it.
- (4) This subsection is satisfied in respect of an asset if—
- (a) the transferor is resident in the United Kingdom at the time of the transfer, or

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Section 56. (See end of Document for details)

- (b) the asset is an asset of a permanent establishment in the United Kingdom of the transferor.
- (5) This subsection is satisfied in respect of an asset if—
- (a) the transferee SE is resident in the United Kingdom on formation, or
 - (b) the asset is an asset of a permanent establishment in the United Kingdom of the transferee SE on its formation.”
- (2) Subsection (1) shall have effect in relation to a transfer made on or after 1st April 2005.

Changes to legislation:

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