Finance Act 2008

2008 CHAPTER 9

PART 3

CAPITAL ALLOWANCES

Anti-avoidance

89 Balancing allowances on transfers of trade

(1) After section 343 of ICTA insert—

"**343ZA Transfers of trade to obtain balancing allowances**

(1) This section applies where—

(a) a company ("the predecessor") ceases to carry on a trade,

(b) another company ("the successor") begins to carry on the activities of that trade as its trade or as part of its trade,

(c) in the accounting period in which the predecessor ceases to carry on the trade the predecessor would (apart from this section) be entitled under Part 2 of the Capital Allowances Act to a balancing allowance in respect of the trade, and

(d) the predecessor's ceasing to carry on the trade is part of a scheme or arrangement the main purpose, or one of the main purposes, of which is to entitle the predecessor to that balancing allowance.

(2) This section also applies where—

(a) a company ("the predecessor") ceases to carry on part of a trade,

(b) another company ("the successor") begins to carry on the activities of that part of the trade as its trade or as part of its trade, and

(c) the predecessor's ceasing to carry on the part of the trade mentioned in paragraph (a) is part of a scheme or arrangement the main purpose, or one of the main purposes, of which is to entitle the predecessor, on

cessation of the trade, to a balancing allowance in respect of the trade under Part 2 of the Capital Allowances Act.

(3) This section does not apply where section 343 applies.

(4) Where this section applies, the Corporation Tax Acts have effect subject to section 343(2), but as if the words "and are subject to section 343A (company reconstructions involving business of leasing plant or machinery)" were omitted.

(5) Where this section applies because of subsection (1), and the successor carries on the activities of the trade the predecessor ceased to carry on as part of the successor's trade, for the purposes of section 343(2) that part of the successor's trade is to be treated as a separate trade carried on by the successor.

(6) Where this section applies because of subsection (2), for the purposes of section 343(2)—

(a) that part of the trade which the predecessor ceased to carry on is to be treated as a separate trade carried on by the predecessor, and

(b) where the successor carries on the activities of that part of the trade as part of its trade, that part of the successor's trade is to be treated as a separate trade carried on by the successor.

(7) Where subsection (5) or (6) applies, such apportionment of receipts, expenses, assets and liabilities is to be made as may be just.

(8) Section 343(10) applies to an apportionment under subsection (7) as it applies to an apportionment under section 343(9)."

(2) The amendment made by subsection (1) has effect in relation to the cessation of a trade or part of a trade on or after 12 March 2008.