



Finance Act 2010

2010 CHAPTER 13

PART 2

ANTI-AVOIDANCE AND REVENUE PROTECTION

Losses, capital allowances etc

24 Sideways relief etc

Schedule 3 contains provision about sideways relief etc.

25 Property loss relief

(1) Chapter 4 of Part 4 of ITA 2007 (losses from property businesses) is amended as follows.

(2) In section 117 (overview of Chapter), after subsection (2) insert—

“(3) This Chapter also contains provision restricting relief under this Chapter (see section 127A).”

(3) In section 120 (deduction of property losses from general income), after subsection (6) insert—

“(7) See also section 127A (no relief for tax-generated losses attributable to annual investment allowance).”

(4) After section 127 insert—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2010, Cross Heading: Losses, capital allowances etc. (See end of Document for details)

“Restrictions on relief

127A No relief for tax-generated losses attributable to annual investment allowance

- (1) This section applies if—
 - (a) in a tax year a person makes a loss in a UK property business or overseas property business (whether carried on alone or in partnership),
 - (b) the loss has a capital allowances connection (see section 123(2)), and
 - (c) the loss arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.
- (2) No property loss relief against general income may be given to the person for so much of the applicable amount of the loss as is attributable to an annual investment allowance.
- (3) For the purposes of subsection (2), the applicable amount of the loss is to be treated as attributable to capital allowances before anything else and to an annual investment allowance before any other capital allowance.
- (4) In subsection (1) “relevant tax avoidance arrangements” means arrangements—
 - (a) to which the person is a party, and
 - (b) the main purpose, or one of the main purposes, of which is being in a position to make use of an annual investment allowance in the obtaining of a reduction in tax liability by means of property loss relief against general income.
- (5) In subsection (4) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (6) In this section “the applicable amount of the loss” has the meaning given by section 122.”
- (5) The amendments made by this section have effect in relation to a loss if it arises directly or indirectly in consequence of, or otherwise in connection with—
 - (a) arrangements which are entered into on or after 24 March 2010, or
 - (b) any transaction forming part of arrangements which is entered into on or after that date.
- (6) But those amendments do not have effect where the arrangements are, or any such transaction is, entered into pursuant to an unconditional obligation in a contract made before that date.
- (7) “An unconditional obligation” means an obligation which may not be varied or extinguished by the exercise of a right (whether or not under the contract).

26 Capital allowance buying

Schedule 4 contains provisions about capital allowance buying.

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27 Leased assets

Schedule 5 contains provisions about leased assets.

28 Cushion gas

- (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.
- (2) Section 70J (meaning of “funding lease”) is amended as follows.
- (3) After subsection (1) insert—

“(1A) A plant or machinery lease is also a “funding lease” if the plant or machinery is cushion gas.”
- (4) In subsection (2), for “Subsection (1) is” substitute “ Subsections (1) and (1A) are ”.
- (5) After subsection (6) insert—

“(7) In this section “cushion gas” means gas that functions or is intended to function as plant in a particular gas storage facility.”
- (6) In section 104A(1) (special rate expenditure)—
 - (a) omit the “and” at the end of paragraph (d), and
 - (b) after paragraph (e) insert “and
 - (f) expenditure incurred on or after 1 April 2010 on the provision of cushion gas (within the meaning given by section 70J(7)).”
- (7) After section 104F insert—

“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.
- (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).

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- (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.”
- (8) The amendments made by subsections (2) to (5) have effect in relation to leases whose inception (within the meaning given by section 70YI(1) of CAA 2001) is on or after 1 April 2010.
- (9) The amendments made by subsection (6) have effect in relation to expenditure incurred on or after 1 April 2010.
- (10) The amendment made by subsection (7) has effect in relation to disposal events on or after 1 April 2010.

29 Sale of lessors: consortium relationships

- (1) Chapters 3 and 4 of Part 9 of CTA 2010 (sales of lessors) are amended as follows.
- (2) In section 393(7) (qualifying 75% subsidiaries), omit “or 90%”.
- (3) In section 394 (consortium relationships)—
- (a) in subsections (1)(b), (4) and (5)(b), for “90%” substitute “ 75% ”, and
 - (b) in subsection (9)(b), omit “or 90%”.
- (4) In section 398 (qualifying 75% or 90% subsidiary), omit—
- (a) subsections (5) and (6), and
 - (b) in subsection (7)(b), “and “90% subsidiary””,
- and, in the heading, omit “**or 90%**”.
- (5) In section 405(2)(b) and (6) (adjustments to basic amount), for “90%” substitute “ 75% ”.
- (6) In sections 408(5)(b) and 430(4)(b) (associated company), for “90%” substitute “ 75% ”.
- (7) In Schedule 4 to CTA 2010, omit the entry relating to “qualifying 90% subsidiary (in Chapters 3 to 6 of Part 9)”.
- (8) The amendments made by this section have effect where the relevant day is on or after 9 December 2009.
- (9) Corresponding amendments, having effect where the relevant day is on or after that date, are to be treated as having been made in Schedule 10 to FA 2006.

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