



# Finance (No. 3) Act 2010

## 2010 CHAPTER 33

### PART 1

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Income tax and corporation tax*

### **3 Qualifying care relief: capital allowances**

(1) Chapter 2 of Part 7 of ITTOIA 2005 (qualifying care relief) is amended as follows.

(2) In section 824 (capital allowances: introduction), after subsection (2) insert—

“(2A) In this group of sections, in relation to a relevant individual—

- (a) “the care business” means the provision of qualifying care by the individual,
- (b) “care business expenditure” means qualifying expenditure incurred on the provision of plant or machinery wholly or partly for the care business,
- (c) “care business pool” means a pool of care business expenditure (even if the balance for the time being is nil), and
- (d) a reference to “another activity” is to a qualifying activity carried on by the individual other than the care business.

(2B) In this group of sections, plant or machinery is referred to as being “in” a pool if qualifying expenditure incurred on its provision has been allocated at any time to that pool.”

(3) For section 825 substitute—

#### **“825 Unallocated capital expenditure**

(1) This section applies if—

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- (a) at the beginning of a relevant chargeable period of a relevant individual, there is care business expenditure which has not been allocated to a care business pool,
  - (b) the individual is entitled under CAA 2001 to allocate the expenditure, or a part of it, to a care business pool for that period, and
  - (c) the previous chargeable period was not a relevant chargeable period.
- (2) So much of the expenditure as the individual is entitled to allocate to a care business pool for that period is to be treated for the purposes of CAA 2001 as allocated to the appropriate kind of care business pool for that period (whether or not any of it is actually so allocated).
- (3) For the different kinds of pool, see section 54 of CAA 2001.

#### **825A Deemed disposal event**

- (1) Subsection (2) applies to a care business pool for a relevant chargeable period of a relevant individual if the previous chargeable period was not a relevant chargeable period.
- (2) CAA 2001 is to apply as if—
- (a) a disposal event occurs immediately after the beginning of the relevant chargeable period in respect of plant or machinery in the pool,
  - (b) disposal receipts fall to be brought into account in the pool for the period because of that event, and
  - (c) the total of the receipts equals the sum of amount A and amount B (or nil if there are no such amounts).
- (3) Amount A is the amount of any expenditure treated as allocated to the pool for the period by virtue of section 825 (whether or not any of it is actually so allocated).
- (4) Amount B is the amount of any unrelieved qualifying expenditure carried forward in the pool from the previous chargeable period.

#### **825B Plant or machinery used for care business**

- (1) This section applies if—
- (a) disposal receipts fall to be brought into account in a pool for a relevant chargeable period by virtue of section 825A, and
  - (b) on the re-start date, the relevant individual still owns any of the plant or machinery which was in that pool and is still using any of it for the purposes of the care business.
- (2) The re-start date is the first day of the first subsequent chargeable period which is not a relevant chargeable period.
- (3) A reference in this section to the retained plant or machinery is to so much of the plant or machinery in the pool as the relevant individual—
- (a) still owns on the re-start date, and
  - (b) is still using on that date for the purposes of the care business.

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- (4) The individual is to be treated under CAA 2001—
  - (a) as having brought the retained plant or machinery into use on the re-start date for the purposes of the care business,
  - (b) as having incurred capital expenditure on the provision of that plant or machinery for those purposes on that date, and
  - (c) as owning that plant and machinery as a result of having incurred that expenditure.
- (5) The total amount of expenditure which the individual is to be treated as having incurred (for all of the retained plant or machinery) is the smaller of—
  - (a) the total market value of the retained plant or machinery on the re-start date, and
  - (b) an amount equal to the disposal receipts brought into account in the pool as described in subsection (1)(a).
- (6) If the individual is treated under section 13 of CAA 2001 as having incurred notional expenditure before the re-start date as a result of bringing plant or machinery in the pool into use for the purposes of another activity, the amount mentioned in subsection (5)(b) must be reduced by the total amount of that expenditure, as determined in accordance with section 825C(2).
- (7) But subsection (6) does not apply if the plant or machinery which was brought into use for the purposes of another activity is the retained plant or machinery (for example, where it was brought into use only partly for the purposes of that other activity).
- (8) The question whether the provision of the retained plant or machinery is to be treated as wholly or only partly for the purposes of the care business is to be determined according to whether the use referred to in subsection (3)(b) is wholly or only partly for those purposes.

#### **825C Plant or machinery used for other qualifying activities**

- (1) This section applies if—
  - (a) disposal receipts fall to be brought into account in a pool by virtue of section 825A because of a disposal event, and
  - (b) after that disposal event, the relevant individual brings any of the plant or machinery in that pool into use for the purposes of another activity.
- (2) Section 13 of CAA 2001 has effect as if the total amount of the notional expenditure which the individual is treated under that section as having incurred, for all of the plant or machinery in that pool which is brought into use for the purposes of the other activity, were the smaller of—
  - (a) the total market value of that plant or machinery on the day on which it is brought into use for the purposes of that other activity, and
  - (b) an amount equal to the disposal receipts brought into account in the pool as mentioned in subsection (1)(a).
- (3) Subsection (2) does not apply to plant or machinery brought into use for the purposes of another activity if—

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- (a) the individual is treated by virtue of section 825B as having already brought that plant or machinery into use for the purposes of the care business, or
  - (b) this section has already applied to that plant or machinery since the disposal event.
- (4) The amount mentioned in subsection (2)(b) must be reduced by the appropriate sum if some plant or machinery in the pool is brought into use for the purposes of another activity after —
- (a) the individual is treated by virtue of section 825B as having brought other plant or machinery in that pool into use for the purposes of the care business, or
  - (b) this section has applied to other plant or machinery in that pool since the disposal event.
- (5) The appropriate sum is—
- (a) in a case within paragraph (a) of subsection (4), the total amount of expenditure which the individual is treated by virtue of section 825B as having incurred on the provision of that other plant or machinery, and
  - (b) in a case within paragraph (b) of that subsection, the total amount of the notional expenditure (as determined in accordance with subsection (2)) which the individual is treated under section 13 of CAA 2001 as having incurred on the provision of that other plant or machinery since the disposal event.

#### **825D Subsequent disposal events**

- (1) This section applies to an item of plant or machinery which a relevant individual—
    - (a) is treated by virtue of section 825B as bringing into use, or
    - (b) brings into use in circumstances where section 825C(2) applies.
  - (2) The date (in either case) on which the item is brought or treated as brought into such use is referred to in this section as the applicable date.
  - (3) The first disposal event to occur in respect of the item on or after the applicable date is to be regarded for the purposes of section 60(3) of CAA 2001 as the first such event.
  - (4) That event requires a disposal value to be brought into account regardless of anything to the contrary in section 64(1) of that Act.
  - (5) But a reference in section 62 of that Act to the amount of qualifying expenditure incurred by the individual on the provision of that item is a reference to the amount of qualifying expenditure originally incurred by the individual on its provision (and not to any proportion of the total amount treated by virtue of section 825B or 825C as having been incurred).”
- (4) The amendments made by this section have effect in relation to chargeable periods ending on or after the day on which this Act is passed (“the commencement day”).
- (5) For anyone who was a relevant individual for the most recent chargeable period ending before the commencement day, sections 825B and 825C of ITTOIA 2005 have effect

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(on and after that day) as if references in those sections to section 825A were references to section 825 as it was in force immediately before the commencement day.

**Changes to legislation:**

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