

FINANCE ACT 2012

EXPLANATORY NOTES

INTRODUCTION

Section 43 Schedule 10 Plant and Machinery Allowances: Fixtures

Details of the Schedule

New Section 187B Supplementary provision

19. New subsection (1) of section 187B provides that it is for the current owner seeking to claim allowances to demonstrate whether:

- the fixed value requirement applies and, if so, is satisfied, and
- the disposal value statement requirement applies and, if so, is satisfied

and, for this purpose, to provide a copy of any relevant tribunal decision, election or statement, satisfying the relevant requirement, to HM Revenue and Customs (HMRC) on request. (Although it is considered that it is for the taxpayer to substantiate a claim to capital allowances, so that, from this perspective, and to this extent, this new subsection could be viewed as somewhat superfluous, one of the main policy purposes of the new provisions is to increase the operational clarity and certainty of the fixtures regime. This new subsection is, therefore, intended to put beyond doubt what a current owner will need to obtain and retain in order to substantiate a fixtures claim under the new provisions.)

As previously indicated, if a non-business purchases fixtures from a past owner who was entitled to claim allowances on those fixtures, the non-business –

- should make the required election, or obtain a tribunal determination if it wishes to ensure that a known entitlement to claim can be passed on to a future owner;

or, exceptionally, it may be possible to retrieve the situation if –

- that non-business owner makes a written statement, in accordance with section 187A(9)(a), at the time when it sells the fixtures to a current owner who wishes to claim allowances, if the current owner is also able to obtain (whether directly or indirectly) from the past owner a written statement of the disposal value which the past owner, in fact, brought into account, in accordance with section 187A(9)(b).

In general, current owners will require to hold on to the appropriate paperwork to demonstrate their entitlement to claim in respect of historic expenditure on fixtures.

20. New subsection (2) provides that amounts stated in either the disposal value statement or a statement provided by a past owner (where a relevant apportionment should have been made, but a non-business owner acquiring the fixtures from a past owner, omitted to do this) have effect in place of any apportionment that could have been made under sections 562, 563 and 564(1).
21. New subsection (3) provides that for the purposes of section 187A the current owner and the past owner may be the same person.

*These notes refer to the Finance Act 2012 (c.14)
which received Royal Assent on 17 July 2012*

22. New subsection (4) explains what is meant by 'relevant earlier time' in new section 187A (2). It is any time that falls before the earliest time when the current owner is treated as owning the fixtures, but that time must be on or after 1 April 2012 for corporation tax purposes or 6 April 2012 for income tax purposes because of the commencement provisions in Paragraph 13 of the Schedule.
23. New subsection (5) ensures that the legislation does not apply where there has been a sale of an asset that is no longer a fixture at the time of sale, unless that sale is to a connected person. For example: company A owns a building, containing an antique copper water heater, which it strips out and sells to an architectural salvage dealer. Company B, not connected with company A, buys the copper water heater from the dealer and installs it in a property it owns. Company B is not required to establish the disposal value brought into account by Company A and is not precluded from claiming allowances based on what it paid for the asset.
24. New subsection (6) makes it clear that none of the conditions in section 187A (3) in relation to the current owner, affects the disposal value that the past owner must bring into account. So, for example, in a sale and purchase between two businesses, if the fixed value requirement is not satisfied because no election has been made, and neither has the tribunal been asked to determine the part of the sales proceeds that relates to the fixtures, so that the current owner's qualifying expenditure is deemed to be nil, the past owner is still required to bring in a disposal value, in accordance with section 196 CAA.
25. New subsection (7) provides that expressions used in this section have the same meaning as expressions used in section 187A.
26. Paragraph 3 makes certain consequential amendments to section 198, CAA.
27. Paragraph 4 introduces changes to section 201 CAA.
28. Paragraph 4(3) introduces a new subsection 1A into section 201. The new subsection provides that where new subsection (7)(a) of new section 187A applies, and an application is made to the tribunal, then the time limit in section 201(1) does not apply, but is modified to run to the time the tribunal determines the application or the application is withdrawn.
29. Paragraph 5(1) makes a change to section 563, CAA, so that a question concerning the amount to be fixed in relation to the fixed value requirement can be referred to the tribunal, even if it only affects the liability to tax of one person, rather than of two or more persons. For example, where a taxpayer sells a fixture to a non taxpayer and agreement cannot be reached but the non taxpayer wishes for certainty in relation to the ability of a potential future business owner to be able to claim on those fixtures, then, absent the change to section 563, that matter could not have been referred to the tribunal, but in future it may be referred. Paragraph 5(2) makes a consequential change to the heading of section 563, CAA.
30. Paragraph 6 introduces new section 186A into CAA