



Finance Act 2012

2012 CHAPTER 14

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 5

MISCELLANEOUS

Capital allowances

41 Plant and machinery: restricting exception for manufacturers and suppliers

- (1) In section 230 of CAA 2001 (exception for manufacturers and suppliers), in subsection (1), for “restrictions in sections 217 and 218 do” substitute “restriction in section 218 does”.
- (2) The amendment made by subsection (1) has effect in relation to expenditure of B's that is incurred on or after 12 August 2011 (regardless of when the relevant transaction was entered into).
- (3) But, in relation to any such expenditure that is incurred before the next amendment date, the restriction in section 217 of CAA 2001 does not apply (despite subsection (1)) if B can show that the condition in subsection (4) is met.
- (4) The condition is that, had the amendments made by paragraphs 1 to 7 of Schedule 9 had effect in relation to the expenditure, the restriction in section 217 would not have applied.
- (5) “The next amendment date” means the date defined in paragraph 9 of Schedule 9 as the start date.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, Cross Heading: Capital allowances. (See end of Document for details)

42 Plant and machinery allowances: anti-avoidance

Schedule 9 contains provision to counter abuse of Part 2 of CAA 2001.

43 Plant and machinery allowances: fixtures

Schedule 10 contains provision about plant and machinery allowances in respect of fixtures.

44 Expenditure on plant and machinery for use in designated assisted areas

Schedule 11 contains provision about first-year allowances in respect of expenditure on plant and machinery for use in designated assisted areas.

45 Allowances for energy-saving plant and machinery

- (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.
- (2) In section 45A (expenditure on energy-saving plant or machinery), after subsection (1) insert—
 - “(1A) This section is subject to section 45AA (payments under Energy Act 2008 schemes).”
- (3) After that section insert—

“45AA Section 45A exclusion: payments under Energy Act 2008 schemes

- (1) Expenditure incurred on or after the relevant date on plant or machinery is to be treated as never having been first-year qualifying expenditure under section 45A if—
 - (a) a payment is made, or another incentive is given, under a scheme established by virtue of section 41 of the Energy Act 2008 (feed-in tariffs) in respect of electricity generated by the plant or machinery, or
 - (b) a payment is made, or another incentive is given, under a scheme established by regulations under section 100 of that Act (renewable heat incentives) in respect of heat generated, or gas or fuel produced, by the plant or machinery.
- (2) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).
- (3) If a person who has made a tax return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, the person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.
- (4) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.
- (5) Except as provided by subsection (6), the relevant date is—
 - (a) for corporation tax purposes, 1 April 2012, and
 - (b) for income tax purposes, 6 April 2012.

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- (6) In the case of expenditure incurred on a combined heat and power system, the relevant date in relation to subsection (1)(b) is—
- (a) for corporation tax purposes, 1 April 2014, and
 - (b) for income tax purposes, 6 April 2014.”
- (4) In section 104A (special rate expenditure)—
- (a) in subsection (1), omit the “and” after paragraph (e), and after paragraph (f) insert “, and
 - (g) expenditure incurred on or after the third relevant date on the provision of solar panels.”, and
 - (b) after subsection (3) insert—
- “(3A) The third relevant date is—
- (a) for corporation tax purposes, 1 April 2012, and
 - (b) for income tax purposes, 6 April 2012.”

46 Plant and machinery: long funding leases

(1) Section 70E of CAA 2001 (disposal events and disposal values) is amended as follows.

(2) In subsection (2A), for the definition of “R” substitute—

“R is the sum of—

- (a) any relevant rebate (see subsections (2F) and (2G)), and
- (b) any other relevant lease-related payment (see subsections (2FA) and (2G)).”

(3) After subsection (2F) insert—

“(2FA) Relevant lease-related payment” means any payment which—

- (a) is payable at any time for the benefit (directly or indirectly) of the lessee or a person connected with the lessee,
- (b) is connected with the long funding lease, or with any arrangement connected with that lease, and
- (c) is not—
 - (i) an initial payment or any other payment made to the lessor by the lessee under the lease,
 - (ii) a payment made to the lessor by the lessee under a guarantee of any residual amount (as defined in section 70YE),
 - (iii) an initial payment or any other payment made under a relevant superior lease to the person who is the lessor under that lease by the person who is the lessee under that lease, or
 - (iv) a payment to the seller of the proceeds of a sale of the plant or machinery to which subsection (2FC) applies,

if, and to the extent that, the payment is not otherwise brought into account for tax purposes as income or a disposal receipt by the person for whom the benefit is payable (or would not be if that person were within the charge to tax).

(2FB) For the purposes of subsection (2FA)—

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“payment” includes the provision of any benefit, the assumption of any liability and any other transfer of money's worth (and “payable” is to be construed accordingly);

“relevant superior lease” means any lease of the plant or machinery to which the long funding lease mentioned in subsection (1)(a) is inferior.

(2FC) This subsection applies to a sale of the plant or machinery if—

- (a) a person has entered into a relevant transaction with another person in respect of the plant or machinery for the purposes of Chapter 17 of this Part (see section 213) and the sale is within section 213(1)(a),
- (b) the plant or machinery is within section 216(1)(b) (sale and lease back), and
- (c) the conditions in section 227(2) are met.”

(4) For subsection (2G) substitute—

“(2G) In the case of a lease that is not a transaction at arm's length, “relevant rebate” and “relevant lease-related payment” include any amount that would reasonably be expected to have fallen within subsection (2F) or, as the case may be, (2FA) if the lease had been such a transaction.”

(5) The amendments made by this section have effect in relation to cases where the relevant event occurs on or after 21 March 2012.

Changes to legislation:

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