



Finance (No. 2) Act 2017

2017 CHAPTER 32

PART 1

DIRECT TAXES

Co-ownership authorised contractual schemes

40 Co-ownership authorised contractual schemes: capital allowances

In Part 2 of CAA 2001 (plant and machinery), in Chapter 20 (supplementary provisions), after the Chapter heading insert—

“Co-ownership authorised contractual schemes

262AA Co-ownership schemes: carrying on qualifying activity

- (1) This section applies where the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity.
- (2) Each participant in the scheme is for the purposes of this Part to be regarded as carrying on the qualifying activity.
- (3) Subsection (2) applies in relation to a participant only to the extent that the profits or gains arising to the participant from the qualifying activity are, or (if there were any) would be, chargeable to tax.
- (4) But in determining for the purposes of subsection (1) whether or to what extent the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity, assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

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262AB Co-ownership schemes: election

- (1) The operator of a co-ownership authorised contractual scheme may make an election under this section.
- (2) The election must specify an accounting period of the scheme as the first accounting period in relation to which the election has effect.
- (3) That first accounting period must not—
 - (a) be longer than 12 months, or
 - (b) begin before 1 April 2017.
- (4) The election has effect for that first accounting period and all subsequent accounting periods of the scheme.
- (5) The election is irrevocable.
- (6) The election is made by notice to an officer of Revenue and Customs.

262AC Co-ownership schemes: calculation of allowance after election

- (1) This section applies where an election under section 262AB has effect for an accounting period of a co-ownership authorised contractual scheme (“the relevant period”).
- (2) The operator of the scheme is to calculate the allowances that would be available to the scheme under this Part in relation to the relevant period on the basis of the assumptions in subsection (3).
- (3) The assumptions are—
 - (a) the scheme is a person;
 - (b) the relevant period is a chargeable period for the purposes of this Act;
 - (c) any qualifying activity carried on by the participants in the scheme together is carried on by the scheme;
 - (d) property which was subject to the scheme at the beginning of the first accounting period for which the election has effect—
 - (i) ceased to be owned by the participants at that time, and
 - (ii) was acquired by the scheme at that time;
 - (e) the disposal value to be brought into account in relation to the cessation of ownership and the acquisition referred to in paragraph (d) is the tax written-down value;
 - (f) any property which became subject to the scheme at a time during an accounting period for which the election has effect was acquired by the scheme at that time;
 - (g) property which ceased to be subject to the scheme at any such time ceased to be owned by the scheme at that time;
 - (h) the disposal value to be brought into account in relation to the cessation of ownership referred to in paragraph (g) is the tax written-down value;
 - (i) the scheme is not entitled to a first-year allowance or an annual investment allowance in respect of any expenditure.

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- (4) The operator of the co-ownership authorised contractual scheme must allocate to each participant in the scheme a proportion (which may be zero) of the allowances calculated under this section.
- (5) The allocation is to be on the basis of what is just and reasonable.
- (6) In determining what is just and reasonable—
 - (a) regard is to be had in particular to the relative size of each participant's holding of units in the scheme;
 - (b) no regard is to be had to—
 - (i) whether or to what extent a participant is liable to income tax or corporation tax, or
 - (ii) any other circumstances relating to a participant's liability to tax.
- (7) If the participants in the scheme together carry on more than one qualifying activity, the calculation and allocation under this section are to be made separately for each activity.
- (8) The proportion of an allowance allocated by the operator to a participant under this section for a qualifying activity is the total amount of the allowance available to the participant under this Part in relation to the relevant period by virtue of carrying on that activity as a participant in the scheme.
- (9) In this section “tax written-down value”, in relation to any cessation of ownership or acquisition, means such amount as would give rise to neither a balancing allowance nor a balancing charge.
- (10) For the purposes of subsection (9) assume that expenditure to which the disposal value relates is in its own pool.
- (11) For the purposes of subsections (3)(c) and (9), assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

262AD Co-ownership schemes: effect of election for participants

- (1) This section has effect where an election under section 262AB is made by the operator of a co-ownership authorised contractual scheme.
- (2) For the purposes of sections 61(1) and 196(1) (disposal events and values)—
 - (a) a participant in the scheme is to be regarded as ceasing to own the participant's interest in the property subject to the scheme at the beginning of the first accounting period of the scheme for which the election has effect, and
 - (b) the disposal value to be brought into account in relation to that cessation of ownership is the tax written-down value.
- (3) In subsection (2)(b) “tax written-down value” means such amount as would give rise to neither a balancing allowance nor a balancing charge.
- (4) For the purposes of subsection (3) assume that—
 - (a) expenditure to which the disposal value relates is in its own pool;

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- (b) profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

262AE Co-ownership schemes: effect of election for purchasers

- (1) This section has effect where—
 - (a) an election under section 262AB is made by the operator of a co-ownership authorised contractual scheme,
 - (b) property consisting of a fixture ceased to be subject to the scheme at any time in an accounting period for which the election has effect,
 - (c) in a calculation made by the operator of the scheme under section 262AC(2) the assumption in section 262AC(3)(g) was made in relation to that fixture, and
 - (d) a person (“the current owner”) is treated as the owner of the fixture as a result of incurring capital expenditure on its provision (“the new expenditure”).
- (2) In determining the current owner's qualifying expenditure—
 - (a) if the disposal value statement requirement is not satisfied, the new expenditure is to be treated as nil, and
 - (b) in any other case, any amount of the new expenditure which exceeds the assumed disposal value is to be left out of account (or, if such an amount has already been taken into account, is to be treated as an amount that should never have been taken into account).
- (3) The disposal value statement requirement is that—
 - (a) the operator of the scheme has, no later than 2 years after the date when the fixture ceased to be property subject to the scheme, made a written statement of the assumed disposal value, and
 - (b) the current owner has obtained that statement or a copy of it (directly or indirectly) from the operator of the scheme.
- (4) Sections 185 (fixture on which a plant and machinery allowance has been claimed) and 187A (effect of changes in ownership of fixture) do not apply in relation to the new expenditure.
- (5) In this section “assumed disposal value” means the disposal value that, in making the calculation referred to in subsection (1)(c), was assumed to be brought into account pursuant to section 262AC(3)(h).

262AF Co-ownership schemes: definitions relating to schemes

In sections 262AA to 262AE and this section—

“co-ownership authorised contractual scheme” means a co-ownership scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 261D(1) of that Act;

“co-ownership scheme” has the same meaning as in Part 17 of that Act (see section 235A(2) of that Act);

“operator” and “units”, in relation to a co-ownership authorised contractual scheme, have the meanings given by section 237(2) of that Act;

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“participant”, in relation to such a scheme, is to be read in accordance with section 235 of that Act.”

41 Co-ownership authorised contractual schemes: information requirements

- (1) The Treasury may by regulations impose requirements on the operator of a co-ownership authorised contractual scheme in relation to—
 - (a) the provision of information to participants in the scheme;
 - (b) the provision of information to Her Majesty's Revenue and Customs.
- (2) Regulations under subsection (1)(a) may be made only for the purpose of enabling participants in a co-ownership authorised contractual scheme to meet their tax obligations in the United Kingdom with respect to their interests in the scheme.
- (3) Regulations under subsection (1)(b) may in particular require the provision of information about—
 - (a) who the participants in the scheme were in any accounting period of the scheme;
 - (b) the number and classes of units in the scheme in any such period;
 - (c) the amount of income per unit of any class in any such period;
 - (d) what information has been provided to participants.
- (4) Regulations under this section may specify—
 - (a) the time when information is to be provided;
 - (b) the form and manner in which information is to be provided.
- (5) Regulations under this section may make provision for the imposition of penalties in respect of contravention of, or non-compliance with, the regulations, including provision—
 - (a) for Her Majesty's Revenue and Customs to exercise a discretion as to the amount of a penalty, and
 - (b) about appeals in relation to the imposition of a penalty.
- (6) Regulations under this section may in particular be framed by reference to an accounting period of a co-ownership authorised contractual scheme beginning on or after 1 April 2017.
- (7) Regulations under this section may contain consequential, supplementary and transitional provision.
- (8) Regulations under this section must be made by statutory instrument.
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section—
 - “co-ownership authorised contractual scheme” means a co-ownership scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 261D(1) of that Act;
 - “co-ownership scheme” has the same meaning as in Part 17 of that Act (see section 235A(2) of that Act);

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“operator” and “units”, in relation to a co-ownership authorised contractual scheme, have the meanings given by section 237(2) of that Act;

“participant”, in relation to such a scheme, is to be read in accordance with section 235 of that Act.

42 Co-ownership authorised contractual schemes: offshore funds

- (1) The Treasury may by regulations make provision about how participants in a co-ownership authorised contractual scheme are to be treated for income tax purposes or corporation tax purposes in relation to investments made for the purposes of the scheme in an offshore fund.
- (2) Regulations under subsection (1) may, among other things, make provision—
 - (a) for the operator of a co-ownership authorised contractual scheme to allocate to participants in the scheme amounts relating to investments made for the purposes of the scheme in an offshore fund;
 - (b) for those amounts to be regarded as income of the participants to whom they are allocated;
 - (c) as to when that income is to be brought into account for income tax purposes or corporation tax purposes.
- (3) Regulations under this section may—
 - (a) modify an enactment (whenever passed or made);
 - (b) contain consequential, supplementary and transitional provision.
- (4) Regulations under this section must be made by statutory instrument.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (6) References in this section to investments made for the purposes of a co-ownership authorised contractual scheme in an offshore fund include investments so made through one or more other co-ownership authorised contractual schemes.
- (7) In this section—

“co-ownership authorised contractual scheme” means a co-ownership scheme which is authorised for the purposes of the Financial Services and Markets Act 2000 by an authorisation order in force under section 261D(1) of that Act;

“co-ownership scheme” has the same meaning as in Part 17 of that Act (see section 235A(2) of that Act);

“offshore fund” has the meaning given by section 355 of TIOPA 2010;

“operator”, in relation to a co-ownership authorised contractual scheme, has the meaning given by section 237(2) of the Financial Services and Markets Act 2000;

“participant”, in relation to such a scheme, is to be read in accordance with section 235 of that Act.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. A1 para. 8(6)(b) omitted by [2022 c. 3 Sch. 1 para. 32\(b\)](#)
- Sch. A1 para. 8(2) substituted by [2022 c. 3 Sch. 1 para. 32\(a\)](#)