



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 2

#### PLANT AND MACHINERY ALLOWANCES

#### CHAPTER 11

#### OVERSEAS LEASING

*Application of Chapter in relation to joint lessees*

#### **116 Mitigation of regime**

- (1) This section applies if—
  - (a) plant or machinery is leased to two or more persons jointly,
  - (b) at least one of them is a person who—
    - (i) is not resident in the United Kingdom, and
    - (ii) does not use the plant or machinery exclusively for earning profits chargeable to tax, and
  - (c) the leasing is not protected leasing.
- (2) Subsection (3) applies if, at any time when the plant or machinery is leased as described in subsection (1), the lessees use the plant or machinery for the purposes of a qualifying activity or activities but not for leasing.
- (3) The expenditure on the provision of the plant or machinery is to be treated as not subject to sections 107, 109 and 110 if, and to the extent to which, it appears that the profits of the qualifying activity or activities will be chargeable to tax throughout—
  - (a) the designated period, or
  - (b) if shorter, the period of the lease.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Subsection (5) applies if, under subsection (3), part of the expenditure is treated as not subject to section 107, 109 or 110.
- (5) Whether or not the plant or machinery continues to be leased as described in subsection (1), Chapters 5 (allowances and charges) and 10 (long-life assets) and this Chapter have effect as if—
  - (a) the part of the expenditure that is not subject to section 107, 109 or 110 were expenditure on the provision of a separate item of plant or machinery, and
  - (b) the rest were expenditure which has been incurred on the provision of another item of plant or machinery (and which is subject to those sections).
- (6) All such apportionments are to be made as are necessary as a result of subsection (5).

### **117 Recovery of allowances in case of joint lessees**

- (1) If—
  - (a) expenditure is incurred on the provision of plant or machinery which is leased as described in section 116(1),
  - (b) the whole or a part of the expenditure has qualified for a normal writing-down allowance under section 116(3),
  - (c) at any time in the designated period while the plant or machinery is so leased, no lessee uses the plant or machinery for the purposes of a qualifying activity or activities the profits of which are chargeable to tax, and
  - (d) section 114 (recovery of prohibited allowances) does not apply at that time and has not applied at any earlier time,

sections 111 and 112 (recovery of excess allowances) apply as if the plant or machinery or (as the case may be) the separate item of plant or machinery referred to in section 116(5)(a) had at that time begun to be used for overseas leasing which is not protected leasing.

- (2) If—
  - (a) the whole or a part of any expenditure has qualified for—
    - (i) a normal writing-down allowance otherwise than as a result of section 116(3), or
    - (ii) a first-year allowance,
  - (b) subsequently, but during the designated period, the plant or machinery is leased as described in section 116(1),
  - (c) at any time in the designated period while the plant or machinery is so leased, no lessee uses the plant or machinery for the purposes of a qualifying activity or activities the profits of which are chargeable to tax, and
  - (d) section 114 (recovery of prohibited allowances) does not apply at that time and has not applied at any earlier time,

sections 111 and 112 (recovery of excess allowances) apply as if the plant or machinery (and not any separate item of plant or machinery referred to in section 116(5)(a)) had at that time begun to be used for overseas leasing which is not protected leasing.

- (3) Subsections (4) and (5) apply if—
  - (a) expenditure is incurred on the provision of plant or machinery which is leased as described in section 116(1),

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- (b) the whole or a part of the expenditure has qualified for a normal writing-down allowance under section 116(3),
  - (c) at the end of the designated period, the plant or machinery is leased as described in section 116(1) but subsection (1) has not had effect, and
  - (d) it appears that the extent to which the plant or machinery has been used for the purposes of a qualifying activity or activities the profits of which are chargeable to tax is less than the extent of such use taken into account in determining the amount of the expenditure which qualified for a normal writing-down allowance.
- (4) Sections 111 and 112 (recovery of excess allowances) apply as if—
- (a) a part of the expenditure corresponding to the reduction in the extent of use referred to in subsection (3)(d) were expenditure on the provision of a separate item of plant or machinery, and
  - (b) the separate item of plant or machinery had been used, on the last day of the designated period, for overseas leasing which is not protected leasing.
- (5) Any disposal value subsequently brought into account under this Part in respect of the plant or machinery must be apportioned by reference to the extent of its use (determined at the end of the designated period) for the purposes of a qualifying activity or activities the profits of which are chargeable to tax.
- (6) If an apportionment is made under subsection (5), section 116(6) does not apply.