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SCHEDULES

SCHEDULE 26

Section 82

SPECIAL RATE EXPENDITURE AND THE SPECIAL RATE POOL

PART 1

AMENDMENTS OF CAA 2001

Introductory

1 CAA 2001 is amended as follows.

Special rate expenditure and the special rate pool

2 After Chapter 10 insert—

“CHAPTER 10A

SPECIAL RATE EXPENDITURE

Special rate expenditure

Special rate expenditure

104A(1) “Special rate expenditure” means—

- (a) expenditure incurred on or after the relevant date to which section 28 (thermal insulation) applies,
- (b) expenditure incurred on or after that date to which section 33A (integral features) applies,
- (c) long-life asset expenditure (within the meaning of Chapter 10) incurred on or after that date, and
- (d) long-life asset expenditure (within the meaning of that Chapter) incurred before that date but allocated to a pool in a chargeable period beginning on or after that date.

(2) The relevant date is—

- (a) for corporation tax purposes, 1 April 2008, and
- (b) for income tax purposes, 6 April 2008.

Application of Chapter to part of expenditure

104B(1) If part only of the capital expenditure on plant and machinery is special rate expenditure—

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- (a) the part which is such expenditure, and
 - (b) the part which is not,
- are to be treated for the purposes of this Act as expenditure on separate items of plant or machinery.
- (2) For the purposes of subsection (1), all such apportionments are to be made as are just and reasonable.

Rules applying to special rate expenditure

Special rate pool

- 104C(1) Special rate expenditure to which this section applies, if allocated to a pool, must be allocated to a class pool (“the special rate pool”).
- (2) This section applies to special rate expenditure if—
- (a) it is incurred wholly and exclusively for the purposes of a qualifying activity, and
 - (b) it is not expenditure which is required to be allocated to a single asset pool.

Writing-down allowances at 10%

- 104D(1) The amount of the writing-down allowance to which a person is entitled for a chargeable period in respect of expenditure which is special rate expenditure is 10% of the amount by which AQE exceeds TDR (see Chapter 5).
- (2) Subsection (1) applies even if the special rate expenditure is in a single asset pool.
- (3) In the case of expenditure in the special rate pool, this section is subject to section 56A (writing-down allowance for small pools).
- (4) Subsections (3) and (4) of section 56 (proportionate increases or reductions in amount in certain cases) apply for the purposes of subsection (1) of this section as they apply for the purposes of subsection (1) of that section.

Disposal value of special rate assets

- 104E(1) This section applies if—
- (a) section 104D (writing-down allowances at 10%) has had effect in relation to any special rate expenditure incurred by a person (“the taxpayer”),
 - (b) any disposal event occurs in relation to the item on which the expenditure was incurred,
 - (c) the disposal value to be brought into account by the taxpayer would (but for this section) be less than the notional written-down value of the item, and
 - (d) the disposal event is part of, or occurs as a result of, a scheme or arrangement the main purpose or one of the main purposes of which is the obtaining by the taxpayer of a tax advantage under this Part.

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(2) The disposal value that the taxpayer must bring into account is the notional written-down value of the item.

(3) The notional written-down value is—

QE – A

where—

QE is the taxpayer's expenditure on the item that is qualifying expenditure, and

A is the total of all allowances which could have been made to the taxpayer in respect of that expenditure if—

(a) that expenditure had been the only expenditure that had ever been taken into account in determining the taxpayer's available qualifying expenditure,

(b) where the item is a long-life asset, that expenditure had not been prevented by the application of a monetary limit from being long-life asset expenditure, and

(c) all allowances had been made in full.”

Consequential amendments

3 In section 54(5) (the different kinds of pools), for “section 101 (long life assets);” substitute “ section 104C (special rate expenditure); ”.

4 In section 56(2) (amount of allowances and charges), for paragraph (a) substitute—
“(a) section 104D (special rate expenditure: 10%), and”.

5 In section 65(1) (final chargeable period), for paragraph (b) substitute—
“(b) a special rate pool,”.

6 In section 66 (list of provisions about disposal values), for the entry relating to section 104 substitute—

“section 104E	special rate expenditure: avoidance cases”.
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7 In column 1 of the table in section 84 (cases in which short-life asset treatment is ruled out), for item 4 substitute—

“4 The expenditure is special rate expenditure (see Chapter 10A).”

8 Omit section 92 (application of Chapter 10 to part of expenditure).

9 For section 101 (long-life asset pool) substitute—

“101 Allocation of long-life asset expenditure to pool

Chapter 10A (special rate expenditure and the special rate pool) provides for long-life asset expenditure to be allocated to the special rate pool.”

10 For section 102 (6% writing-down allowance in respect of long-life asset expenditure) substitute—

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“102 Writing-down allowance in respect of long-life asset expenditure

Chapter 10A (special rate expenditure and the special rate pool) provides for the writing-down allowance to which a person is entitled in respect of long-life asset expenditure.”

- 11 Omit section 104 (disposal value of long-life assets).
- 12 In section 266(7) (certain provisions disapplied where election made under section 266)—
 - (a) for “104” substitute “ 104E ”, and
 - (b) for “of long-life assets” substitute “ in connection with special rate expenditure ”.
- 13 In Part 2 of Schedule 1 (index of defined expressions), insert at the appropriate place—

“special rate expenditure (in Part 2) section 104A”.

PART 2

COMMENCEMENT ETC

Commencement

- 14 (1) This Schedule has effect in relation to—
 - (a) expenditure incurred on or after the relevant date, and
 - (b) long-life asset expenditure (within the meaning of Chapter 10 of CAA 2001) incurred before the relevant date but allocated to a pool in a chargeable period beginning on or after that date.
- (2) Sub-paragraph (1) is subject to—
 - (a) section 83 (which provides that certain other long-life asset expenditure is to be treated as special rate expenditure for the purposes of CAA 2001), and
 - (b) paragraphs 15 to 17.
- (3) The relevant date is—
 - (a) for corporation tax purposes, 1 April 2008, and
 - (b) for income tax purposes, 6 April 2008.

Sale between connected persons

- 15 (1) This paragraph applies where, on or after the relevant date—
 - (a) there is a sale of a pre-commencement integral feature,
 - (b) the buyer and seller are connected persons (within the meaning of section 575 of CAA 2001), and
 - (c) the buyer's expenditure on the integral feature would (apart from this paragraph) be special rate expenditure.
- (2) An integral feature is a pre-commencement integral feature if the seller—
 - (a) incurred expenditure on it before the relevant date, or

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- (b) incurred expenditure on it on or after that date which was not qualifying expenditure because of a previous application of this paragraph.
- (3) The buyer's expenditure on the integral feature is not qualifying expenditure unless—
 - (a) the original expenditure was qualifying expenditure, or
 - (b) the buyer's expenditure would have been qualifying expenditure, had it been incurred at the time the original expenditure was incurred.
- (4) The “original expenditure”—
 - (a) where the integral feature is a pre-commencement integral feature because of sub-paragraph (2)(a), is the expenditure mentioned in that sub-paragraph, and
 - (b) otherwise, is the expenditure incurred on the integral feature before the relevant date by virtue of which this paragraph first applied.
- (5) The “relevant date” has the same meaning as in paragraph 14.

Saving for intra-group transfers

- 16 (1) This paragraph applies where, on or after the relevant date—
 - (a) there is a sale of a pre-commencement integral feature,
 - (b) the buyer and seller are companies which are members of the same group, and
 - (c) the buyer's expenditure on the integral feature would (apart from this paragraph) be special rate expenditure.
- (2) An integral feature is a pre-commencement integral feature if qualifying expenditure on it—
 - (a) was incurred by the seller before the relevant date and allocated to the seller's main pool, or
 - (b) was incurred by the seller on or after that date and allocated to the seller's main pool because of a previous election under this paragraph.
- (3) The buyer and seller may jointly elect for paragraph 17 to apply.
- (4) The election must be made by notice to an officer of Revenue and Customs within 2 years after the date on which the sale takes place.
- (5) All such assessments and adjustments of assessments are to be made as are necessary to give effect to the election.
- (6) Whether the buyer and seller are members of the same group is to be determined in accordance with section 170(3) to (6) of TCGA 1992.
- (7) The “relevant date” has the same meaning as in paragraph 14.
- 17 (1) Where this paragraph applies, for the purposes of making allowances and charges under Part 2 of CAA 2001—
 - (a) the integral feature is treated as having been sold by the seller to the buyer at a price which gives rise to neither a balancing allowance nor a balancing charge, and
 - (b) the buyer's expenditure on the integral feature is treated as qualifying expenditure which is not special rate expenditure (and, if allocated to a pool, is to be allocated to the buyer's main pool).

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- (2) Allowances and charges are to be made under Part 2 of CAA 2001 to or on the buyer as if everything done to or by the seller had been done to or by the buyer.

Interpretation

- 18 Expressions used in this Part of this Schedule and in Part 2 of CAA 2001 have the same meaning in this Part of this Schedule as in that Part of that Act.

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)