

# FINANCE ACT 2012

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## EXPLANATORY NOTES

### INTRODUCTION

#### *Section 41 Schedule 9: Capital Allowances: Restricting the Exception for Manufacturers and Suppliers*

#### **Background Note**

7. Chapter 17 of CAA contains anti-avoidance rules that restrict the capital allowances that may be claimed where person B buys, or acquires under a hire-purchase (or similar) contract, plant or machinery from person S.
8. Allowances may be restricted where B and S are connected, where there is a sale and leaseback between B and S or where the capital allowances were the sole or main benefit which might have been expected to accrue from the transaction between B and S. In these circumstances B's allowances may be restricted in two ways. Firstly, B will be prevented from claiming annual investment allowance (AIA) or first-year allowance (FYA) (by section 217 CAA). Secondly, B's qualifying expenditure (the amount on which capital allowances may be claimed) will be restricted (by section 218 CAA).
9. However, where B buys, or hire-purchases, unused plant or machinery from S and S's business is the manufacture or supply of such plant or machinery then section 230 CAA provides an exception from the anti-avoidance rules. For expenditure incurred before 12 August 2011, the exception was from both section 217 and section 218 so that B was able to claim AIA and FYA and there was no restriction of B's qualifying expenditure.
10. However, in light of evidence that the manufacturers and suppliers exception was being used to facilitate avoidance, on 12 August 2011 the Government announced that legislation would be introduced in the 2012 Finance Act to repeal the exception from section 217 for expenditure incurred on or after 12 August 2011.
11. As a result, although the amount of B's qualifying expenditure is not restricted, the anti-avoidance rules can prevent B claiming AIA or FYA in respect of expenditure incurred on or after 12 August 2011 even where the plant or machinery is acquired from the manufacturer or supplier.
12. However in the light of representations made during the consultation period and following the publication of the draft legislation on 6 December 2011 the Government decided that it was not necessary to wholly repeal section 230 from 12 August 2011. The repeal now applies only to transactions that have an avoidance purpose and normal commercial manufacturer supplier transactions, involving connected parties or sale and leaseback arrangements are not affected... In summary, for expenditure incurred on or after 12 August 2011 section 230 will continue to provide an exception from the restrictions in both section 217 and section 218 unless the transaction has an avoidance purpose.