

Capital Allowances: Anti-Avoidance Rules for Plant and Machinery

Who is likely to be affected?

Businesses incurring capital expenditure from April 2012 to buy or hire-purchase plant or machinery where there is a tax avoidance purpose.

General description of the measure

The measure will make the capital allowances anti-avoidance rules more effective. Broadly, the transactions that will be affected are those involving plant or machinery where there is avoidance or that are part of a scheme or arrangement that involves avoidance.

Where there is a 'transaction to obtain a tax advantage' - essentially one where the parties to the transaction have an avoidance purpose - the effect of the anti-avoidance rules will be:

- to deny first-year allowances or annual investment allowance for expenditure on plant or machinery; and
- to restrict the amount of allowances the 'buyer' of the plant and machinery can claim so that the tax advantage that was sought is cancelled out.

Policy objective

This measure will support fairness in the tax system by protecting the Exchequer from loss of tax as a result of transactions to acquire plant and machinery which involve avoidance or which are part of a scheme or arrangement that does. It will support HM Revenue & Customs (HMRC) anti-avoidance strategy to prevent, detect and counter tax avoidance.

Background to the measure

Proposed changes to the capital allowances anti-avoidance rules that apply to transactions involving plant or machinery were announced at Budget 2011. A consultation document was published on 31 May 2011.

Detailed proposal

Operative date

Generally, the legislative changes will have effect in relation to expenditure incurred on or after 1 April 2012 (for businesses within the charge to corporation tax) or 6 April 2012 (for businesses within the charge to income tax).

On 12 August 2011 the Government announced that the repeal of the exception from the anti-avoidance rules where the plant or machinery is acquired from a manufacturer or supplier of such plant and machinery (one of the changes proposed in the consultation document) would be effective - in part - from that date in order to counter a marketed avoidance scheme.

Current law

Chapter 17 of the Capital Allowances Act 2001 (CAA) contains rules to counter abuse of the legislation where there is a relevant transaction in plant or machinery. Relevant transactions

are defined in section 213 CAA and include sales, hire-purchase contracts and assignments of hire purchase contracts.

Where there is a relevant transaction, the legislation can currently

- deny first-year allowances or annual investment allowance for expenditure on plant or machinery (section 217 CAA); and
- restrict the amount on which the 'buyer' of the plant or machinery may claim capital allowances (section 218 CAA).

The scope of the legislation applies to restrict allowances only where relevant transactions are one of the following:

- a transaction between connected persons (section 214 CAA); or
- a 'transaction to obtain allowances' (section 215 CAA); or
- a sale and leaseback (section 216 CAA).

A transaction to obtain allowances is one where the sole or main benefit expected from the transaction is the capital allowances on the plant or machinery.

Where unused plant or machinery has been 'bought' from a manufacturer or supplier in the normal course of the manufacturer's or supplier's business, then section 230 CAA may provide an exception from the anti-avoidance rules.

Proposed revisions

Legislation will be introduced in Finance Bill 2012, to do the following:

The meaning of the word 'assigns' is being clarified in legislation in new section 268E CAA. The definition will apply for the purposes of all plant and machinery allowances in Part 2 CAA including in determining whether a transaction is a relevant transaction within section 213 CAA. This definition confirms the transactions that are within Chapter 17 CAA currently, putting it beyond doubt.

The changes in the operation of Chapter 17 CAA will only affect 'transactions to obtain allowances'. The legislation will continue to operate as it does now for transactions between connected persons and sale and leaseback transactions, as long as there is no avoidance purpose.

As currently drafted, it is not clear that the definition of 'transactions to obtain allowances' catches all transactions designed to obtain capital allowances that are contrary to the underlying policy objective. Section 215 CAA is therefore being amended to apply to transactions to obtain tax advantages. It will apply where relevant transactions have an avoidance purpose or are part of, or occur as a result of, a scheme or arrangement with an avoidance purpose. A transaction will have an avoidance purpose if the main purpose, or one of the main purposes, of a party in entering into the transaction is to enable a person to obtain a superior plant and machinery allowance than that intended.

Section 217 CAA will continue to deny first-year allowances and annual investment allowance where a transaction falls within section 215 CAA. In addition, where a transaction is within section 215 CAA the legislation will operate to cancel out the advantage the avoidance sought to obtain. Where the advantage sought by the avoidance is excessive allowances then the advantage will be cancelled out by restricting the amount of expenditure on which the buyer can claim capital allowances. Conversely, where the advantage sought is a timing advantage then that timing advantage will be reversed.

The exception from the anti-avoidance rules, where the plant or machinery is acquired from a manufacturer or supplier, is being repealed - other than in certain circumstances. The exception from section 217 CAA and section 218 CAA provided by section 230 CAA will still

apply from April 2012 for connected party transactions and sale and leasebacks, as long as no avoidance purpose is involved.

However, on 12 August 2011 the Government announced that legislation would be included in the 2012 Finance Bill to repeal section 230 CAA, to the extent that it provides an exemption from section 217 CAA, for all relevant transactions within sections 214, 215 and 216 with effect from 12 August. This change applies in relation to expenditure incurred on or after 12 August 2011 but before the relevant April 2012 date.

Summary of impacts

| Exchequer impact (£) | 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 |
|---|---|---------|---------|---------|---------|
| | This measure is expected to increase receipts by approximately £5 million a year. The final costing will be subject to scrutiny by the Office for Budget Responsibility, and set out at Budget 2012. This measure also supports the Exchequer in its commitment to protect revenue. | | | | |
| Economic impact | This measure is not expected to have a significant impact on the UK economy in overall terms and the anti-avoidance rules will not disrupt or distort normal commercial activities. | | | | |
| Impact on individuals and households | This measure will have no direct impact on individuals or households. | | | | |
| Equalities impacts | The changes are not likely to impact differently on groups with protected characteristics. The legislative changes will only impact on businesses in situations where an avoidance purpose is involved. | | | | |
| Impact on business and civil society organisations | The proposed changes will not affect capital allowances for real business costs; the impact will be focused on preventing businesses obtaining over-generous allowances through engaging in tax avoidance. While there will be some relatively minor one-off costs associated with familiarisation with the new rules the changes are estimated to have a negligible impact on businesses' ongoing administrative burdens. | | | | |
| Operational impact (£m) (HMRC or other) | The additional costs or savings for HMRC in implementing this change are anticipated to be negligible. | | | | |
| Other impacts | <p><u>Small firms impact test:</u> There may be some impact on small firms but only in that these changes are designed to impact on all businesses in situations where an avoidance purpose is involved. The consultation responses did not indicate that there would be any impact on small firms. Therefore the impact on small firms is considered to be negligible.</p> <p><u>Competition assessment:</u> As an anti-avoidance measure this should have a positive effect on competition by levelling the playing field for all businesses.</p> | | | | |

Monitoring and evaluation

HMRC will monitor businesses' tax affairs to ensure that the types of avoidance these changes are intended to prevent do not occur.

Further advice

If you have any questions about these changes please contact Sue Pennicott on 020 7147 2610 (email: sue.pennicott@hmrc.gsi.gov.uk) or Malcolm Smith also on 020 7147 2610 (email: malcolm.smith3@hmrc.gsi.gov.uk).

1 Capital allowances: 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 this section 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).

2 Capital allowances for plant and machinery: anti-avoidance

Schedule 1 contains provision to counter abuse of Part 2 of CAA 2001.

SCHEDULE 1

Section 2

CAPITAL ALLOWANCES FOR PLANT AND MACHINERY: ANTI-AVOIDANCE

Transactions to obtain allowances

1 For section 215 of CAA 2001 substitute –

“215 Transactions to obtain tax advantages

- (1) Allowances under this Part are restricted under the applicable sections if B enters into a relevant transaction with S that either –
 - (a) has an avoidance purpose, or
 - (b) is part of, or occurs as a result of, a scheme or arrangement that has an avoidance purpose.
- (2) Subsection (1)(b) may be satisfied –
 - (a) whether the scheme or arrangement was made before or after the relevant transaction was entered into, and
 - (b) whether or not the scheme or arrangement is legally enforceable.
- (3) A transaction, scheme or arrangement has an “avoidance purpose” if the main purpose, or one of the main purposes, of a party in entering into the transaction, scheme or arrangement is to enable a person to obtain a tax advantage under this Part that would not otherwise be obtained.
- (4) The reference in subsection (3) to obtaining a tax advantage that would not otherwise be obtained includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.
- (5) If the tax advantage is of a kind described in subsection (7), “the applicable sections” are sections 217 and 218ZA(5).
- (6) Otherwise, “the applicable sections” are sections 217 and 218ZA(1) or, as the case may be, 218ZA(3).
- (7) The kinds of tax advantage are –
 - (a) that an allowance to which B is entitled for a chargeable period is calculated using a percentage rate that is higher than the one that would otherwise be used, or
 - (b) that B is entitled to an allowance in respect of an amount of capital expenditure sooner than B would otherwise be entitled to it.
- (8) If a transaction, scheme or arrangement involves –
 - (a) a tax advantage of a kind described in subsection (7), and
 - (b) a tax advantage not of such a kind,

subsections (5) and (6) have effect separately in relation to each tax advantage.”

Restrictions on writing-down allowances

2 In section 57(3) of CAA 2001 (available qualifying expenditure), after “section 218(1),” insert “218ZA(1) or (3),”.

3 In section 214 of that Act (connected persons), after “218” insert “(or, as the case may be, 218ZA(3))”.

4 In section 216 of that Act (sale and leaseback, etc), in subsection (1), after “218” insert “(or, as the case may be, 218ZA(3))”.

5 (1) Section 218 of that Act (restriction on B’s qualifying expenditure) is amended as follows.

(2) In subsection (1), for “section 214, 215 or 216” substitute “section 214 or 216”.

(3) At the end insert –

“(5) This section is subject to section 218ZA(3).”

(4) Accordingly, in the heading of that section, insert at the end “: **section 214 or 216**”.

6 After section 218 of that Act insert –

“218ZA Restrictions on writing-down allowances: section 215

(1) If this subsection applies as a result of section 215, all or part of B’s expenditure under the relevant transaction is to be left out of account in determining B’s available qualifying expenditure.

(2) The amount of expenditure to be left out of account is –

(a) such amount as would or would in effect cancel out the tax advantage mentioned in section 215 (whether that advantage is obtained by B or another person and whether it relates to the relevant transaction or something else), or

(b) if the amount found under paragraph (a) exceeds the whole of B’s expenditure under the relevant transaction, the whole of that expenditure.

(3) But if subsection (1) applies as a result of section 215 and –

(a) section 218 also applies as a result of section 214 or 216, or

(b) section 228 also applies by virtue of an election under section 70I(11) or 227,

the amount of expenditure to be left out of account is the greater of X and Y.

(4) For the purposes of subsection (3) –

“X” is the amount found under subsection (2), and

“Y” is the amount by which B’s expenditure under the relevant transaction exceeds D (as defined in section 218 or, as the case may be, section 228).

(5) If this subsection applies as a result of section 215 –

- (a) the allowance mentioned in subsection (7)(a) of that section is to be calculated using the rate that would be used without the tax advantage, or (as the case may be)
 - (b) the entitlement mentioned in subsection (7)(b) of that section is to be available as and when it would be available without the tax advantage.
- (6) Subsection (5) applies whether or not section 218 also applies as a result of section 214 or 216, or section 228 also applies by virtue of an election under section 70I(11) or 227.”

Restriction of exception for manufacturers and suppliers

- 7 (1) Section 230 of CAA 2001 (exception for manufacturers and suppliers), as amended by section 1 of this Act, is amended as follows.
- (2) For subsection (1) substitute –
- “(1) The restrictions in sections 217 and 218 do not apply in relation to any plant or machinery if –
- (a) the relevant transaction is within section 213(1)(a) or (b),
 - (b) the case does not fall within section 215, and
 - (c) the conditions in subsection (3) are met.”
- (3) Omit subsection (2).

Relevant transactions

- 8 After section 268D of CAA 2001 insert –
- “268E Meaning of “assigns”**
- (1) For the purposes of this Part –
- (a) a person (“A”) is taken to assign the benefit of a contract, or rights under a contract, to another person (“B”) whenever B becomes entitled, and A ceases to be entitled, to the benefit or rights (whether by assignment, novation, variation or replacement of the contract, by operation of law or otherwise), and
 - (b) references to an assignment are to be read accordingly.
- (2) Any reference in this Part to the benefit of a contract or to rights under a contract includes a reference to part of the benefit of a contract or to part of the rights under a contract.”

Commencement

- 9 (1) The amendments made by paragraphs 1 to 7 of this Schedule have effect in relation to expenditure of B’s that is incurred on or after the start date (regardless of when the relevant transaction was entered into).
- (2) The amendment made by paragraph 8 of this Schedule has effect in relation to expenditure that is incurred on or after the start date.
- (3) The start date is –
- (a) 1 April 2012, for corporation tax purposes, and
 - (b) 6 April 2012, for income tax purposes.

EXPLANATORY NOTE

CAPITAL ALLOWANCES: RESTRICTING THE EXCEPTION FOR MANUFACTURERS AND SUPPLIERS

SUMMARY

1. This clause removes an exception from the capital allowances anti-avoidance rules that exists for certain transactions where unused plant or machinery is bought or hire purchased from the manufacturer or supplier in the normal course of business. This change will apply for expenditure incurred on or after 12 August 2011. However, the legislation is further amended by clause [686] for expenditure incurred on or after 1 April 2012 (for corporation tax purposes) or 6 April 2012 (for income tax purposes).

DETAILS OF THE CLAUSE

2. Subsection (1) amends section 230 of the Capital Allowances Act 2001 (CAA) so that transactions with manufacturers or suppliers are no longer exempted from any restriction on the buyer's allowances made by section 217 of CAA (which denies annual investment allowance or first-year allowances).
3. Subsection (2) provides that the change applies to expenditure incurred on or after 12 August 2011.

BACKGROUND NOTE

4. 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.
5. 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).
6. 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.

7. 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 Bill to repeal the exception from section 217 for expenditure incurred on or after 12 August 2011.
8. 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.
9. This amended anti-avoidance rule is further amended by clause [686] for expenditure incurred on or after 1 April 2012 (for corporation tax purposes) or 6 April 2012 (for income tax purposes), so the particular change described above only applies for expenditure incurred for a limited period. For expenditure incurred on or after 1 or 6 April 2012, section 230 will provide an exception from the restrictions in both section 217 and section 218 unless the transaction has an avoidance purpose.
10. If you have any questions about these changes, or comments on the legislation, please contact Sue Pennicott on 020 7147 2610 (email: sue.pennicott@hmrc.gsi.gov.uk) or Malcolm Smith also on 020 7147 2610 (email: malcolm.smith3@hmrc.gsi.gov.uk).

EXPLANATORY NOTE

CAPITAL ALLOWANCES FOR PLANT AND MACHINERY: ANTI-AVOIDANCE

SUMMARY

1. This Schedule amends the legislation that counters abuse of the rules for plant and machinery allowances, to make it more effective at preventing Exchequer loss. The changes will apply to expenditure incurred on or after 1 April 2012 (for businesses within the charge to corporation tax) and on or after 6 April 2012 (for businesses within the charge to income tax).
2. The legislation is also amended to confirm the meaning of the word ‘assists’ for the purposes of the Capital Allowances Act 2001.

DETAILS OF THE SCHEDULE

3. Paragraph (1) replaces section 215 of the Capital Allowances Act 2001 (CAA): *Transactions to obtain allowances*, with new section 215 of CAA: *Transactions to obtain tax advantages*.
4. Subsection (1) of new section 215 provides that plant and machinery allowances will be restricted if a relevant transaction between B and S has an avoidance purpose, is part of a scheme or arrangement that has an avoidance purpose or occurs as a result of a scheme or arrangement with an avoidance purpose.
5. New subsection (2) provides that a relevant transaction can be treated as part of, or occurring as a result of, a scheme or arrangement regardless of when the scheme or arrangement is entered into or whether it is legally enforceable.
6. New subsection (3) defines an ‘avoidance purpose’: if the main purpose, or one of the main purposes, of a party in entering into a transaction, scheme or arrangement is to enable any person to obtain a tax advantage that would not otherwise have been obtained then that transaction, scheme or arrangement has an avoidance purpose.
7. New subsection (4) provides that a ‘tax advantage that would not otherwise have been obtained’ in subsection (3) includes an allowance that is in any way more favourable to any person – for example an allowance at a higher rate, claimed sooner or on a greater amount of qualifying expenditure – than the one that would otherwise have been obtained.

8. New subsections (5) and (6) provide that allowances may be restricted in different ways depending on the kind of tax advantage. Section 217 of CAA denies annual investment allowance or first-year allowance where the transaction has an avoidance purpose. The way in which writing down allowances may be restricted by new section 218ZA is determined by the nature of the tax advantage.
9. New subsection (7) describes two particular kinds of tax advantage: (a) the allowance is calculated using a higher rate than the one that would otherwise be used, or (b) the allowance in respect of an amount of expenditure is available sooner than it would otherwise be. These particular kinds of tax advantage are specified to enable allowances to be restricted in an appropriate way, by new section 218ZA (5).
10. New subsection (8) provides that if a transaction, scheme or arrangement involves more than one tax advantage (for example, allowances at a higher rate on a greater amount of expenditure) then allowances may be restricted in more than one way.
11. Paragraph (2) amends section 57 (3) of CAA to ensure that expenditure excluded by new section 218ZA is not included in the amount of a person's available qualifying expenditure.
12. Paragraphs (3) and (4) amend sections 214 and 216 respectively to reflect the introduction of new section 218ZA. Allowances may be restricted under section 218 where there is a transaction between connected persons (within section 214) or where there is a sale and leaseback transaction (within section 216). If a connected person transaction or a sale and leaseback also has an avoidance purpose, or is part of a scheme or arrangement with an avoidance purpose, then allowances may be further restricted under new section 218ZA(3).
13. Paragraph (5) makes various amendments to section 218 so that section 218 will no longer restrict allowances where there is a transaction to obtain tax advantages within section 215, unless the transaction falls within section 215 *and* section 214 (connected persons transactions) or section 215 *and* section 216 (sale and leasebacks).
14. Paragraph (6) inserts new section 218ZA of CAA which determines how writing-down allowances are to be restricted where there is a transaction to which section 215 applies. New section 218ZA applies even if the transaction also falls within section 214 (because it is a connected person transaction) or within section 216 (sale and leasebacks). New section 218ZA operates by restricting the allowances that B can claim following the transaction (B is the person who has incurred, or is treated as having incurred capital expenditure on the provision of plant and machinery). Allowances can be

restricted by reducing the amount of expenditure on which B can claim allowances, by reducing the rate at which allowances are given or by reversing any timing advantage sought (or any combination of restrictions).

15. New section 218ZA subsection (1) provides that where there is an avoidance purpose the amount of expenditure on which B can claim capital allowances is restricted. The restriction of allowances is made under this subsection *unless* the tax advantage is within section 215(7), that is, either that B's allowances are calculated at a higher rate or B is entitled to an allowance sooner than it would otherwise be.
16. New subsection (2) explains that, if new subsection (1) applies, B's qualifying expenditure is restricted by the amount that would in effect cancel out the tax advantage whether or not the tax advantage arises to B. However, the restriction can never be more than B's expenditure under the relevant transaction.
17. New subsections (3) and (4) provide that if B's writing-down allowances could be restricted both under subsection (1) (because there is an avoidance purpose) and also under section 218 or section 228, then B's allowances are restricted by the amount that is the larger of the two restrictions.
18. New subsection (5) provides that if the tax advantage is within section 215(7) – where B's allowances have been calculated at a higher rate or claimed sooner than they would otherwise have been – then the restriction is that B's writing-down allowances are calculated using the rate that would have been used or the entitlement is delayed to when it would have been available without the tax advantage.
19. New subsection (6) provides that a restriction calculated under subsection (5), by reference to the rate or timing of B's allowances, can be made in addition to a restriction under section 218 or section 228.
20. Paragraph (7) provides that section 230 of CAA, as amended by section [686a], is further amended.
21. Subparagraph (2) amends subsection (1) of section 230 so that the 'exception for manufacturers and suppliers' from the restrictions in sections 218 and 217 will not apply if there is a transaction with an avoidance purpose, or which is part of or occurs as a result of a scheme or arrangement with an avoidance purpose, within section 215.

22. Paragraph (8) inserts new section 268E of CAA which confirms the definition of the terms ‘assigns’ and ‘assignments’ which apply for Part 2 of CAA.
23. Paragraph (9) provides that the amendments made by this clause will apply from 1 April 2012 (for corporation tax purposes) and 6 April 2012 (for income tax purposes).

BACKGROUND NOTE

24. Depreciation of fixed assets charged in the commercial accounts of a business is not allowed as a deduction in computing the taxable profits. Instead capital allowances may be given at prescribed rates on certain assets, including plant and machinery. The Annual Investment Allowance (AIA) provides an annual 100 per cent allowance for the first £25,000 (this is the maximum annual allowance from April 2012) of investment in plant and machinery to all businesses. There are also 100 per cent first-year allowances (FYA) available for expenditure on certain types of plant or machinery. Otherwise expenditure on plant and machinery attracts writing down allowance (WDA) at the main rate of 18 per cent per annum or the special rate of 8 per cent per annum (these are the rates that apply from April 2012).
25. Chapter 17 CAA contains anti-avoidance rules that restrict the plant and machinery allowances that may be claimed following certain relevant transactions. A relevant transaction is one in which:
 - S sells plant or machinery to B, or
 - B enters into a hire-purchase or similar contract for plant or machinery with S, or
 - S assigns the benefit of a hire purchase or similar contract for plant or machinery to B
26. Allowances may be restricted where the relevant transaction is
 - between connected persons (defined in section 214), or
 - a transaction to obtain allowances (defined in section 215), or
 - a sale and leaseback (defined in section 216).
27. The anti-avoidance rules are being amended to make them more effective.
28. The ‘sole or main benefit’ test currently in section 215 is being replaced by a new ‘purpose’ test that will apply where the main, or

one of the main, purposes of a party in entering into a transaction (or a scheme or arrangement of which the relevant transaction is part) is to enable any person to obtain a tax advantage that would not otherwise have been obtained. The tax advantage may arise to a party to the transaction or any other person.

29. A 'tax advantage' is defined in section 577(4) of CAA. The term includes allowances that are 'greater' or more favourable because the amount of qualifying expenditure has been artificially increased, because the allowances have been claimed at a rate that is too high or because they have been claimed sooner than they should have been.
30. Where a transaction, scheme or arrangement has an avoidance purpose then B's allowances are restricted to, in effect, cancel the tax advantage. To this end, the restriction may be to reduce the rate at which B's allowances are calculated (if the tax advantage B would otherwise obtain is allowances at a rate that is too high) or to reverse any timing advantage sought by B so that B is, in both cases, in the position that B would have been in without the tax advantage. In other situations B's qualifying expenditure is restricted to an amount that has the effect of negating the tax advantage. If appropriate more than one restriction may be made to B's allowances.
31. It is possible that a transaction with an avoidance purpose is also a connected person transaction or a sale and leaseback, in which case the application of the existing rules in section 218 or section 228 must also be considered and the largest applicable restriction made.
32. The 'purpose' test and the consequences of entering into a transaction, scheme or arrangement with an avoidance purpose are consistent with the approach used in other purpose tests elsewhere in the Taxes Acts.
33. If you have any questions about these changes, or comments on the legislation, please contact Sue Pennicott on 020 7147 2610 (email: sue.pennicott@hmrc.gsi.gov.uk) or Malcolm Smith also on 020 7147 2610 (email: malcolm.smith3@hmrc.gsi.gov.uk).