

Capital Allowances: Fixtures

Who is likely to be affected?

Businesses disposing of, or acquiring, property containing fixtures.

General description of the measure

This measure will make the availability of capital allowances to a purchaser of fixtures conditional on:

- previous business expenditure on qualifying fixtures being pooled before a subsequent transfer on to another person; and
- a seller and purchaser using one of two existing procedures to fix their agreement about the value of the fixtures transferred within two years of the transfer; or, exceptionally,
- the past owner providing a written statement of the amount of the disposal value of fixtures, which he had some time earlier been required to bring into account (for example, when he permanently ceased his business) within two years of a later sale of the property.

In addition, the legislation will make a technical change to enable plant and machinery capital allowances to be claimed by a new owner on any fixtures expenditure that has not already been relieved under the Business Premises Renovation Allowances (BPRAs) scheme.

Policy objective

The policy purpose of the capital allowances fixtures regime is that expenditure on a fixture can only be written-off once against taxable profits over its economic life. This measure seeks to ensure that the legislation works as originally intended to deliver this policy.

Background to the measure

This measure was announced at Budget 2011. A formal consultation was launched on 31 May and closed on 31 August 2011. A summary of responses was published on 6 December.

Detailed proposal

Operative date

The measure will have effect in relation to expenditure incurred on or after 1 April 2012, for corporation tax purposes, or on or after 6 April 2012, for income tax purposes

Current law

Capital allowances provide tax relief for the depreciation of certain capital assets, principally plant or machinery, including most fixtures in a building used by a business. They take the place of commercial depreciation, which is not deductible for tax purposes. The allowances are calculated as a percentage of the capital expenditure incurred, and are deducted from the income or profit of the business.

The main plant or machinery allowances are the Annual Investment Allowance (AIA) and writing-down allowances (WDAs). The AIA covers most expenditure on plant or machinery up to an annual limit, which will be £25,000 per year from April 2012. Any expenditure not

covered by the AIA qualifies for WDAs, at either 18 per cent or 8 per cent a year (the rates that will apply from April 2012), depending on the nature of the asset.

The fixtures legislation is contained in Chapter 14 of Part 2 of the Capital Allowances Act 2001 (CAA). To deliver the policy purpose - that expenditure on a fixture should be written-off against taxable profits only once over its economic life - the current legislation contains rules to limit the allowances that can be given to the lower of original cost (section 62 CAA) or the last disposal value that has been brought into account by any previous owner of the fixture (section 185 CAA). However, the current law does not prescribe when expenditure on fixtures should be pooled, so that there is no time limit laid down to govern when a seller and purchaser should agree the part of the sale price of a property that should be attributed to the fixtures. This has led to 'late' claims by current owners at a time when a single sale value for fixtures can no longer be agreed and brought into account by both parties.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to make the availability of capital allowances to a purchaser of fixtures conditional on:

- previous business expenditure on qualifying fixtures being pooled before a subsequent transfer on to another person; and
- a seller and purchaser using one of two existing procedures to fix their agreement about the value of the fixtures transferred within two years of the transfer; or, exceptionally,
- the past owner providing a written statement of the amount of the disposal value of fixtures, which he had some time earlier been required to bring into account (for example, when he permanently ceased his business) within two years of a later sale of the property.

The two existing procedures are:

- the facility, under section 198/199 CAA, for a seller and purchaser to jointly elect for any part of the sale price to be attributed to fixtures (subject always to the cap of the seller's original cost); or,
- exceptionally, if the parties are unable to reach an agreement within two years, the facility (under section 563, CAA) to refer the matter to a First Tier Tribunal for an independent determination. The current rules will be amended so that this facility can be invoked by either party to the transaction, if the matter appeared material to the tax affairs of either. If the parties are unable to agree a value, therefore, the purchaser would have to invoke this procedure within two years of the sale, if they wanted to claim allowances. As long as the procedure had been invoked within two years, it would not matter if the Tribunal did not reach its determination until after the second anniversary of the sale.

The legislation will also include a technical amendment to enable plant and machinery capital allowances (under Part 2, CAA) to be claimed by a new owner on any fixtures expenditure to the extent that this has not already been relieved under the BPRA scheme (Part 3A, CAA).

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
This measure is expected to increase receipts by approximately £30 million per annum. The final costing will be subject to scrutiny by the					

	Office for Budget Responsibility, and will be set out at Budget 2012.
Economic impact	The change has no significant economic impacts.
Impact on individuals and households	This measure will have no direct impact on individuals or households as it only affects businesses.
Equalities impacts	No equality concerns were raised in the consultation and the proposal is not expected to have any impact on the equality of position of people with different protected characteristics.
Impact on business including civil society organisations	By providing statutory mechanisms for fixing a value for fixtures within two years of a sale, the measure should assist a new owner to make a legitimate claim. The one-off costs for business in becoming familiar with the new rules are expected to be negligible. Efficient compliant businesses, that do not currently choose to make a section 198/199 CAA election, will need to do so in future, if the new business owner wishes to claim allowances on the fixtures transferred. An election involves both parties signing a document recording the sale value agreed for specified fixtures and sending this to HM Revenue & Customs (HMRC). The extra administrative costs for businesses of formally recording and signing up to what should currently be established and agreed less formally, have been estimated as being between £50,000 and £500,000 per year.
Operational impact (£m) (HMRC or other)	The proposals would have a favourable impact in helping to reduce the compliance workload on HMRC, by reducing the volume of incorrect claims that come to HMRC's attention and that require to be investigated.
Other impacts	<u>Small firms impact test</u> : this measure will affect those small firms that acquire or dispose of business property that includes qualifying fixtures. Like all businesses entering into commercial property transactions, they will be subject to the impacts on business outlined above. However, in general, requiring a buyer and seller to agree the part of the price attributable to fixtures near to the time of sale should make it easier for all businesses (including smaller firms) to make legitimate claims. HMRC will work with small business representatives to prepare simple guidance to help smaller firms familiarise themselves with the changes. <u>Competition assessment</u> : The proposals are intended to prevent incorrect claims for allowances by some businesses, so these proposals should have a positive effect on competition by levelling the playing field for all businesses.

Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups and compliance will be monitored through HMRC's risk assessment procedures and examination of returns.

Further advice

If you have any questions about this change, please contact Joy Guthrie (email: joy.guthrie@hmrc.gsi.gov.uk) or Malcolm Smith (email: malcolm.smith3@hmrc.gsi.gov.uk) or telephone 020 7147 2610.

1 Plant and machinery allowances: fixtures

Schedule 1 contains provision about plant and machinery allowances in respect of fixtures.

SCHEDULE 1

Section 1

PLANT AND MACHINERY ALLOWANCES: FIXTURES

Introductory

- 1 CAA 2001 is amended as follows.

Changes in ownership

- 2 After section 187 insert –

“187A Effect of changes in ownership of a fixture

- (1) This section applies if –
- (a) a person (“the current owner”) is treated as the owner of a fixture as a result of incurring capital expenditure (“new expenditure”) on its provision for the purposes of a qualifying activity carried on by the current owner,
 - (b) the plant or machinery is treated as having been owned at a relevant earlier time by a person as a result of incurring other capital expenditure (“historic expenditure”) on its provision for the purposes of a qualifying activity carried on by that person,
 - (c) the plant or machinery is within paragraph (b) otherwise than as a result of section 538 (contribution allowances for plant and machinery), and
 - (d) a person mentioned in paragraph (b) was entitled to claim an allowance under this Part in respect of the historic expenditure.
- (2) In this section “the past owner” means –
- (a) the person mentioned in paragraph (d) of subsection (1), or
 - (b) if there is more than one amount of historic expenditure in respect of which a person was entitled to claim as mentioned in that paragraph, the person by whom expenditure was incurred most recently.
- (3) In determining the current owner’s qualifying expenditure, the new expenditure is to be treated as nil if –
- (a) the pooling requirement is not satisfied,
 - (b) the fixed value requirement applies but is not satisfied, or
 - (c) the disposal value statement requirement applies but is not satisfied,
- in relation to the past owner.
- (4) Nothing in subsection (3) affects the disposal value (if any) which falls to be brought into account by the past owner (as a result of having made a claim in respect of the historic expenditure).

- (5) The pooling requirement is that—
 - (a) the historic expenditure has been allocated to a pool in a chargeable period beginning on or before the day on which the past owner ceases to be treated as the owner of the fixture, or
 - (b) a first-year allowance has been claimed in respect of that expenditure (or any part of it).
- (6) The fixed value requirement applies if the past owner is or has been required (as a result of having made a claim in respect of the historic expenditure) to bring the disposal value of the plant or machinery into account in accordance with item 1, 5 or 9 of the Table in section 196.
- (7) The fixed value requirement is that after the pooling requirement is satisfied—
 - (a) the tribunal has determined the part of the apportionable sum that constitutes the disposal value, on an application made by one of the affected parties before the end of the relevant 2 year period, or
 - (b) an election has been made by the affected parties jointly before the end of the relevant 2 year period or, if an application is made as mentioned in paragraph (a) and not determined or withdrawn by the end of that period, before that application is determined or withdrawn.
- (8) In subsection (7)—
 - (a) in a case falling within item 1 or 9 of the Table in section 196—
 - “affected parties” means the past owner and the purchaser;
 - “apportionable sum” means the sale price;
 - “election” means an election under section 198;
 - “relevant 2 year period” means the period of 2 years beginning with the date when the purchaser acquires the qualifying interest;
 - (b) in a case falling within item 5 of that Table—
 - “affected parties” means the past owner and the lessee;
 - “apportionable sum” means the capital sum given by the lessee for the lease;
 - “election” means an election under section 199;
 - “relevant 2 year period” means the period of 2 years beginning with the date when the lessee is granted the lease.
- (9) The disposal value statement requirement applies if the past owner is or has been required (as a result of having made a claim in respect of the historic expenditure) to bring the disposal value of the plant or machinery into account in accordance with item 2 or 3 of the Table in section 196 or in accordance with item 7 of the Table in section 61.
- (10) The disposal value statement requirement is—
 - (a) that the past owner has, no later than 2 years after the date when the past owner ceased to own the plant or machinery, made a written statement of the amount of the disposal value

- that the past owner is or has been required to bring into account, and
- (b) the current owner has obtained that statement or a copy of it (directly or indirectly) from the past owner.
- (11) It is for the current owner to show –
- (a) whether the fixed value requirement applies and, if so, is satisfied, and
- (b) whether the disposal value statement requirement applies and, if so, is satisfied,
- and, for this purpose, to provide an officer of Revenue and Customs, on request, with a copy of any tribunal decision, election or statement by reason of which a requirement mentioned in paragraph (a) or (b) is satisfied.
- (12) For the purposes of this section, the current owner and the past owner may be the same person.
- (13) In subsection (1)(b) “relevant earlier time” means (subject to subsection (14)) any time which falls –
- (a) before the earliest time when the current owner is treated as owning the plant or machinery as a result of incurring the new expenditure, but
- (b) on or after 24 July 1996.
- (14) If, before the earliest time when the current owner is treated as owning the plant or machinery as a result of incurring the new expenditure –
- (a) any person has ceased to own the plant or machinery as a result of a sale,
- (b) the sale was not a sale of the plant or machinery as a fixture, and
- (c) the buyer and seller were not connected persons at the time of the sale,
- the relevant earlier time does not include any time before the seller ceased to own the plant or machinery.”
- 3 In section 198 (election to apportion sale price on sale of qualifying interest) –
- (a) in subsection (1), after “item 1” insert “or 9”, and
- (b) in subsection (2)(a), after “item 1” insert “or (as the case may be) 9”.
- 4 (1) Section 201 (elections under sections 198 and 199: procedure) is amended as follows.
- (2) In subsection (1), at the end insert –
- “But this is subject to subsection (1A).”
- (3) After that subsection insert –
- “(1A) Where –
- (a) the requirement of subsection (7) of section 187A (effect of changes in ownership of fixture: fixed value requirement) applies,
- (b) an application is made to the tribunal as mentioned in paragraph (a) of that subsection, and

- (c) that application is not determined before the end of the period mentioned in subsection (1) of this section, subsection (1) does not apply and an election within section 187A(7)(b) may be made by notice to an officer of Revenue and Customs at any time before the tribunal determines the application or the application is withdrawn.”
- 5 (1) In section 563 (procedure for determining certain questions affecting two or more persons), in subsection (1)(a) for “two” substitute “one”.
- (2) Accordingly, in the heading for that section for “two” substitute “one”.

Fixtures on which business premises renovation allowance has been made

- 6 After section 186 insert—

“186A Fixtures on which a business premises renovation allowance has been made

- (1) This section applies if—
- (a) a person (“the past owner”) has at any time claimed an allowance to which that person was entitled under Part 3A (business premises renovation allowances) in respect of qualifying expenditure under that Part incurred in respect of a qualifying building (“Part 3A expenditure”),
 - (b) there has been a balancing event within section 360N(1) as a result of which an asset representing the whole or part of the Part 3A expenditure (“the Part 3A asset”) ceased to be owned by the past owner,
 - (c) the Part 3A asset was or included plant or machinery, and
 - (d) the current owner makes a claim under this Part in respect of expenditure (“new expenditure”) incurred—
 - (i) on the provision of the plant or machinery, and
 - (ii) at a time when it is a fixture.
- (2) If the new expenditure exceeds the maximum allowable amount, the excess is to be left out of account in determining the current owner’s qualifying expenditure.
- (3) If the proceeds from the balancing event mentioned in subsection (1)(b) exceed R, the maximum allowance amount is—

$$\frac{F}{T} \times R$$

where—

F is so much of the proceeds from the balancing event as are attributable to the fixture,
 T is the total amount of the proceeds from the balancing event, and
 R is the residue of qualifying expenditure attributable to the Part 3A asset immediately before the balancing event.

- (4) Where subsection (3) does not apply, the maximum allowable amount is so much of the proceeds from the balancing event as are attributable to the fixture.
- (5) For the purposes of this section, the current owner of the plant or machinery is –
- (a) the person who acquired the Part 3A asset from the past owner, or
 - (b) any person who is subsequently treated as the owner of the plant or machinery.”
- 7 In section 9 (interaction between fixtures claims and other claims), in subsection (2) –
- (a) in paragraph (a), after “Part 3” insert “, 3A”, and
 - (b) in paragraph (b), after “section 186(2)” insert “, 186A(2)”.
- 8 In section 57 (available qualifying expenditure), in subsection (3), after “section 186(2)” insert “, 186A(2)”.
- 9 In section 198 (election to apportion sale price on sale of qualifying interest), for subsection (5)(a) substitute –
- “(a) sections 186, 186A and 187 (fixtures on which industrial buildings allowance, business premises renovation allowance or research and development allowance has been made),”.
- 10 In section 199 (election to apportion capital sum given by lessee on grant of lease), for subsection (5)(a) substitute –
- “(a) sections 186, 186A and 187 (fixtures on which industrial buildings allowance, business premises renovation allowance or research and development allowance has been made),”.

Commencement and transitionals

- 11 The amendments made by paragraphs 2 to 5 have effect –
- (a) for income tax purposes, in relation to new expenditure incurred on or after 6 April 2012, and
 - (b) for corporation tax purposes, in relation to new expenditure incurred on or after 1 April 2012.
- 12 The amendments made by paragraph 6 to 10 have effect –
- (a) for income tax purposes, in relation to balancing events which occur on or after 6 April 2012, and
 - (b) for corporation tax purposes, in relation to balancing events which occur on or after 1 April 2012.
- 13 (1) Where (ignoring this sub-paragraph) plant or machinery would be treated for the purposes of subsection (1)(b) of section 187A of CAA 2001 as having been owned by a person for a period which began and ended before the commencement date, that period of ownership is, for those purposes, to be regarded as not occurring at a relevant earlier time.
- (2) In the application of that section to new expenditure incurred during the transitional period, that section applies as if subsection (3)(a) were omitted.

(3) In this paragraph—

“the commencement date” means—

- (a) for income tax purposes, 6 April 2012, and
- (b) for corporation tax purposes, 1 April 2012.

“the transitional period” means—

- (a) for income tax purposes, the period beginning with the commencement date and ending with 5 April 2014, and
- (b) for corporation tax purposes, the period beginning with the commencement date and ending with 31 March 2014.

EXPLANATORY NOTE

PLANT AND MACHINERY ALLOWANCES: FIXTURES

SUMMARY

1. This Clause and Schedule make the availability of capital allowances to a purchaser of fixtures conditional on: (i) previous business expenditure on qualifying fixtures being pooled before a subsequent transfer on to another person, and (ii) the value of fixtures being fixed formally within two years of a transfer. In addition, the new provisions make a technical adjustment in respect of the Business Premises Renovation Allowances (BPRAs) scheme, to enable a new owner to claim plant and machinery capital allowances on any fixtures expenditure not already relieved by BPRAs.

DETAILS OF THE SCHEDULE

2. Paragraph 1 is introductory and explains that the Capital Allowances Act 2001 (CAA) is to be amended.
3. Paragraph 2 introduces new section 187A into CAA.

New Section 187A Effect of changes in ownership of a fixture

4. New subsection (1) of section 187A sets out the circumstances in which the section applies. It applies if :
 - a current owner incurs capital expenditure on acquiring a property containing fixtures from another person, for the purposes of his business;
 - that other person, or a previous owner, is treated as having been the owner of the fixtures at a relevant earlier time (see new subsection (13)) as a result of incurring other expenditure (“historic expenditure”) on their provision, for the purposes of a business carried on by that past owner;
 - that past, business owner was entitled to claim plant and machinery allowances (PMAs) in respect of the historic expenditure; but -

the new section does not apply if the previous owner was only entitled to relief by virtue of the contributions legislation in section 538, CAA.

5. New subsection (2) explains what is meant by “the past owner”. In respect of an amount of historic expenditure, it is the person who was entitled to claim most recently in respect of that amount.
6. New subsection (3) provides that the qualifying expenditure incurred by the new owner is to be treated as nil if -
 - the “pooling requirement”(see new subsection (5)) is not satisfied;
 - “the fixed value requirement” (see new subsections (6) and (7)) applies but is not satisfied; or
 - “the disposal value statement requirement” (see new subsections (9) and (10)) applies but is not satisfied,

in relation to the past owner. So, in all cases to which this new section applies, the pooling requirement must be satisfied. In addition, one or other of the “value” requirements will apply and must be satisfied in every case to which this new section applies. (In practice, the “fixed value requirement” will apply in the vast majority of cases and the “disposal value statement requirement” is likely only to apply very infrequently.)

7. New subsection (4) makes it clear that none of the conditions in new subsection (3) in relation to the new owner, affects the disposal value that the past owner must bring into account. So, for example, if the fixed value requirement is not satisfied because no election has been made, and neither has the tribunal been asked to determine the part of the sales proceeds that relates to the fixtures, so that the new owner’s qualifying expenditure is deemed to be nil, the past owner is still required to bring in a disposal value, in accordance with section 196, CAA.
8. New subsection (5) explains “the pooling requirement”. It provides that the historic expenditure must have been allocated to a pool in a chargeable period beginning on or before the day on which the past owner ceased to own the fixture, or the past owner claimed a first-year allowance on the expenditure (or any part of it).
9. New subsection (6) explains when “the fixed value” requirement applies. It only applies where the past owner is or has been required to bring the disposal value of the plant or machinery into account in accordance with one of three particular disposal events described in the Table in section 196, CAA. (The relevant disposal events are items 1, 5 or 9 in that Table. Item 1 covers the case of a market value sale; item 5 covers the case of an incoming lessee paying a capital sum for the lease, which sum falls to be treated in whole or part as expenditure on the provision of the fixture; and item 9 covers

the case of a past owner, who permanently discontinues his business, followed by a sale of the qualifying interest in the property, including its fixtures. This last case should be distinguished from the example given in relation to new subsection 9 below, where there is a significant gap between the past owner ceasing his business and later deciding to sell the property, so that the capital allowances disposal event occurs on the earlier occasion.)

10. New subsection (7) makes it clear that the fixed value requirement only applies after the pooling requirement is satisfied and explains that the requirement is met when one of two outcomes occurs. That is, either:

(a) the Tribunal has determined the part of the sale price that constitutes the disposal value of the fixtures, on an application made by one of the affected parties within 2 years of the purchaser's acquisition; or

(b) there has been a joint election, under either section 198 or section 199 of CAA, as appropriate, between the past owner and the purchaser within 2 years of the acquisition (or, if an application to the tribunal is made within 2 years, and not determined or withdrawn, before the end of that period before that application is determined or withdrawn).

The overwhelming majority of commercial property transactions involving second-hand fixtures will fall within this new subsection, so that there will be the requirement for a reference to the tribunal, or for a joint election to be made, within two years of a sale. In fact, it is to be expected that a joint election (option (b) above), under section 198 or 199 of CAA, will be the preferred course in the vast majority of cases. This is because it will clearly not be in the interests of either side to incur the trouble and any cost of going to a tribunal unnecessarily, in any case where it would have been possible to agree an apportioned value voluntarily.

All sales of fixtures by a past owner, who carried on a qualifying activity at the time of sale, will require either a joint election with the immediate purchaser or a tribunal determination, if any future new owner is to be able to claim capital allowances on those fixtures. In other words, even an immediate purchaser, who is not a business and who does not have profits or gains that would be chargeable to tax, should ensure that the "fixed value requirement" is met, if they may wish to be able to pass on an entitlement to claim allowances on those fixtures to a new owner in future.

11. New subsection (8) defines various expression used in new subsection (7), and gives the statutory meaning of "election" for the three affected disposal events. That is, if the disposal event falls

within item 1 or 9 of the Table in section 196, the election will be under section 198 of CAA, whereas if the disposal event falls within item 5 of that Table, the election will be under section 199 of CAA.

12. New subsection (9) explains when “the disposal value statement requirement” applies. This provision is designed to cater for a very small subset of disposal events that may have occurred, other than by virtue of an immediate sale of, or grant of a lease of, the fixtures by a person carrying on a qualifying activity. The requirement would apply if, for example, a past owner had previously permanently ceased his business activity, finalising his cessation accounts and tax return, in which he would have been required to bring the market value of the fixtures, at that time, into account, in accordance with item 7 of the Table in section 61 of CAA. If, some years later, he then decided to sell his former business premises with its fixtures to a purchaser, “the disposal value statement requirement” would apply.
13. New subsection (10) explains how “the disposal value statement requirement” is satisfied. This is done by the past owner making a written statement of the amount of the disposal value of the fixtures that he is, or has been, required to bring into account, within 2 years of the date when he ceased to own them. The current owner must obtain this statement, or a copy of it, either directly or indirectly from the past owner.

Thus if, for example, the immediate purchaser is not a business, but a later purchaser is a business, the later purchaser may obtain the required statement either directly from the past owner, or indirectly from the intermediate owner, who sold the property to the current owner. As with the “fixed value requirement”, an intermediate purchaser, who is not a business should ensure that he obtains this written statement from the past owner, if he wants to make sure that he is able to pass on an entitlement to claim on those fixtures to a future owner. However, the later owner is free to try to obtain the statement, or a copy of it, directly from the past owner, if the past owner is still contactable and willing to oblige.

14. New subsection (11) provides that it is for the current owner seeking to claim allowances to demonstrate whether:
 - the fixed value requirement applies and, if so, is satisfied, and
 - the disposal value statement requirement applies and, if so, is satisfied

and, for this purpose, to provide a copy of any relevant tribunal decision, election or statement, satisfying the relevant requirement, to HM Revenue and Customs (HMRC) on request. (Although it is

considered that it is for the taxpayer to substantiate a claim to capital allowances, so that, from this perspective, and to this extent, this new subsection could be viewed as somewhat superfluous, one of the main policy purposes of the new provisions is to increase the operational clarity and certainty of the fixtures regime. This new subsection is, therefore, intended to put beyond doubt what a current owner will need to obtain and retain in order to substantiate a fixtures claim under the new provisions.)

As previously indicated, if a non-business purchases fixtures from a past owner who was entitled to claim allowances on those fixtures, the non-business should ensure that the required election, tribunal decision or value statement is obtained, if it wishes to ensure that an entitlement to claim may be passed on to a future owner. In general, current owners will require to hold on to the appropriate paperwork to demonstrate their entitlement to claim in respect of historic expenditure on fixtures.

15. New subsection (13) explains what is meant by ‘relevant earlier time’ in new subsection (1)(b). It is any time that falls before the earliest time when the current owner is treated as owning the fixtures, but that time must be on or after 24 July 1996.
16. New subsection (14) ensures that the legislation does not apply where there has been a sale of an asset that is no longer a fixture at the time of sale, unless that sale is to a connected person. For example: company A owns a building, containing an antique copper water heater, which it strips out and sells to an architectural salvage dealer. Company B, not connected with company A, buys the copper water heater from the dealer and installs it in a property it owns. Company B is not required to establish the disposal value brought into account by Company A and is not precluded from claiming allowances based on what it paid for the asset.
17. Paragraph 3 makes certain consequential amendments to section 198, CAA.
18. Paragraph 4 introduces changes to section 201 CAA.
19. Paragraph 4(3) introduces a new subsection 1A into section 201. The new subsection provides that where new subsection (7) of new section 187A applies, and an application is made to the tribunal, then the time limit in section 201(1) does not apply, but is modified to run to the time the tribunal determines the application or the application is withdrawn.
20. Paragraph 5(1) makes a change to section 563, CAA, so that a question concerning the amount to be fixed in relation to the fixed value requirement can be referred to the tribunal, even if it only

affects the liability to tax of one person, rather than of two or more persons. For example, where a taxpayer sells a fixture to a non taxpayer and agreement cannot be reached, then, absent the change to section 563, that matter could not have been referred to the tribunal, but in future it may be referred. Paragraph 5(2) makes a consequential change to the heading of section 563, CAA.

21. Paragraph 6 introduces new section 186A into CAA

186A Fixtures on which a business premises renovation allowance has been made

22. There is a general rule in section 9 of CAA that if any person has claimed an allowance under any Part other than Part 2, then no other person is able to claim a fixture allowance under Part 2. The general rule is relaxed in the case of fixtures on which industrial buildings allowances, or research and development allowances, have been claimed. New section 186A introduces a similar relaxation in relation to business premises renovation allowances (BPRA), ensuring that where a property which has qualified for BPRA, under Part 3A, is sold and a balancing charge arises, then the new owner can claim allowances under Part 2, to the extent that a balancing charge arose on the fixtures, but only to that extent. In all other cases no allowances are available to the new owner. The drafting of new section 186A follows section 186 in all material respects.
23. Paragraphs 7 to 10 make minor consequential amendments to sections 9, 57, 198 and 199 of CAA to include references to the amendments in respect of BPRA and the new section 186A.
24. Paragraph 11 explains that the amendments made by paragraphs 1 to 5 have effect:
- for income tax purposes, in relation to new expenditure incurred on or after 6 April 2012, and
 - for corporation tax purposes, in relation to new expenditure incurred on or after 1 April 2012
25. Paragraph 12 explains that the amendments made in relation to BPRA by paragraphs 6 to 10 have effect:
- for income tax purposes, in relation to balancing events which occur on or after 6 April 2012, and
 - for corporation tax purposes, in relation to balancing events which occur on or after 1 April 2012

26. Paragraph 13(1) deals with expenditure of a past owner where the period of ownership was entirely before 1/6 April 2012 and provides that neither the pooling requirement nor requirements to fix formally the value of fixtures apply in relation to such a period of ownership.
27. Paragraph 13(2) disapplies the pooling requirement in relation to the new section 187A for transitional periods as defined in paragraph 10(3).
28. Paragraph 13(3) gives the meaning of commencement date as used in paragraph 13(1) and the transitional period as used in paragraph 13(2).

The commencement date means

- for income tax purposes, 6 April 2012, and
- for corporation tax purposes, 1 April 2012

The transitional period means

- for income tax purposes, the period beginning with the commencement date and ending with 5 April 2014, and
- for corporation tax purposes, the period beginning with the commencement date and ending with 31 March 2014.

BACKGROUND NOTE

29. At Budget 2011, the Government announced that it would consult on proposals to ensure that the capital allowances rules for fixtures secured their original policy purpose of limiting allowances overall to the fixture's original cost. That is, that the cost of a fixture should be written-off once, and once only, during that fixture's useful economic life.
30. The Government decided to act in order to protect the Exchequer from further tax leakage and to make the rules fairer and clearer for businesses to understand and operate - without giving rise to disproportionate administrative burdens.
31. A formal consultation was launched on 31 May and closed on 31 August 2011. The Government's formal response to the consultation was published on 6 December 2011.
32. The fixtures legislation is contained in Chapter 14 of Part 2 of the Capital Allowances Act 2001 (CAA). To deliver the policy purpose - that expenditure on a fixture should be written-off against taxable profits only once over its economic life - the current legislation

contains rules to limit the allowances that can be given to the lower of original cost (section 62 CAA) or the last disposal value that has been brought into account by any previous owner of the fixture (section 185 CAA).

33. However, the current law does not prescribe when expenditure on fixtures should be pooled, and there is no time limit laid down to govern when a seller and purchaser should agree the part of the sale price of a property that should be attributed to the fixtures.
34. These gaps have given rise to uncertainties and difficult questions of proof. They have led to a large number of 'late' claims by current owners at a time when a single sale value for fixtures can no longer be agreed and brought into account by both parties.
35. This Clause and Schedule are designed to address these practical problems with the existing legislation, in order to ensure that the fixtures regime operates as originally intended in future.
36. An additional technical, fixtures issue, in relation to the Business Premises Allowances scheme (in Part 3A of CAA), emerged during the Government's consideration of its proposed fixtures changes for Finance Bill 2012. The Government decided to address this issue at the same time as the other changes.
37. If you have any questions about this change, or comments on the legislation, please contact Joy Guthrie (email: joy.guthrie@hmrc.gsi.gov.uk) or Malcolm Smith on 020 7147 2610 (email: malcolm.smith3@hmrc.gsi.gov.uk).