

## CA26470 - PMA: Fixtures: Changes in ownership: Introduction and Commencement

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### CAA01/S187A - S187B

As a general rule, sections 187A and 187B CAA, introduced by Finance Bill 2012, make the availability of capital allowances to a purchaser of second-hand fixtures conditional on the pooling of relevant expenditure prior to a transfer, and on the seller and purchaser formally agreeing a value for fixtures within two years of a transfer, or on formal proceedings to agree the value being commenced within that time.

These sections also allow a purchaser of second-hand fixtures to claim capital allowances in certain situations where there is no formal agreement or formal proceedings.

Here, 'purchaser' means the person who has acquired an interest in fixtures, whether by purchase of an interest in those fixtures or otherwise and 'seller' means the person who has transferred an interest in fixtures, whether by sale of an interest in those fixtures or otherwise.

### Commencement

In general these rules apply where expenditure is incurred on the transfer of interests in fixtures (by sale or otherwise) on or after 1 April 2012 for corporation tax (6 April 2012 for income tax). However there is an exception as regards the pooling requirement which is explained in [CA26476](#).

## CA26472 - PMA: Fixture: Changes in ownership: Conditions for allowances

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### CAA01/S187A

When a person (the current owner) is treated as owning a fixture, as a result of incurring qualifying expenditure on the provision of the fixture, that another person (the past owner [CA26474](#)) has previously been treated as owning the availability of capital allowances is conditional on

- the past owner pooling their qualifying expenditure in respect of the fixture prior to transfer (**pooling requirement** [CA26476](#)); and either
- the past owner and current owner formally agreeing a value for the fixture within two years of transfer, or else on formal proceedings to agree the value being commenced within that time, or in certain circumstances written statements being supplied (**fixed value requirement** [CA26478](#)); or exceptionally
- the past owner providing a written statement of the amount of the disposal value of fixtures, which they had some time earlier been required to bring into account (for example, when they permanently ceased their business) within two years of a later sale of the property (**disposal value statement requirement** [CA26482](#)).

## CA26474 - PMA: Fixtures: Changes in ownership: Past Owner

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### CAA01/S187A (2) and FA12/SCH10/PARA13

As a general rule, the past owner is the last person who was entitled to claim capital allowances by virtue of incurring qualifying expenditure on the provision of the fixture. A person who was treated as the owner by the contributions legislation in CAA01/S537 [CA14500](#) is not treated as the past owner.

Furthermore, as a consequence of the transitional rules in paragraph 13 of Schedule 10 FA 2012, a past owner does not include a person who ceased to be treated as owning the plant or machinery before 1 April 2012 (corporation tax) or 6 April 2012 (income tax).

#### Example

Jill purchases a freehold building in July 2008 for the purpose of her trade. She claimed plant and machinery allowances on £100,000 which was the part of the cost of the building that related to the fixed plant and machinery. Jill sold the freehold interest in the building in January 2012 to a charity. She brings in a disposal value of £95,000 in respect of the fixed plant and machinery having ascertained that this amount represented the part of the sale value that related to these fixtures.

The charity did not have a qualifying activity and was not able to claim capital allowances.

The charity sells the freehold interest in the building to Jack in February 2013. In this case the new rules do not apply because when the building was sold to Jack it had not been owned by a person who was entitled to claim capital allowances at any time from the commencement of the new rules. The transitional rules in paragraph 13 of Schedule 10 FA 2012 mean that Jill is not treated as the "past owner" for the purpose of section 187A and so section 187A does not apply.

However section 185 CAA 2001 applies to restrict Jack's qualifying expenditure on the fixtures in the building to Jill's disposal value of £95,000 [CA26400](#).

### CAA01/S187B (3)

The current owner and the past owner may be the same person.

## CA26476 - PMA: Fixtures: Changes in ownership: Pooling requirement

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-CAA01/S187A (4) and FA12/SCH10/PARA13

### Transfer after April 2014

If the transfer of interest from a past owner [CA26474](#) takes place on or after 1 April 2014 (corporation tax) or 6 April 2014 (income tax) the current owner will only be able to claim PMA in respect of a fixture if the pooling requirement is met. This requirement is met if the past owner has allocated his or her qualifying expenditure relating to the fixture to a pool [CA23210](#). Pooling includes making a claim for FYA or Annual Investment Allowance in respect of this expenditure. It is not necessary for the last owner to claim writing down allowances. There is no fixed time limit but the past owner must pool the expenditure in a chargeable period where they are treated as owning the fixture. **PMA will not be available for any future owners on any part of the past owner's qualifying expenditure on fixtures that has not been pooled.**

### Transfer before April 2014

Transitional provisions in paragraph 13 of Schedule 10 FA 2012 mean that this requirement does not need to be met if the period for which the plant or machinery is treated as having been owned by the past owner as a result of them having incurred expenditure during his period of ownership ends before 1 April 2014 (corporation tax) or 6 April 2014 (income tax).

This means that where the current owner incurs expenditure on acquiring fixtures from a past owner before 1 (or 6) April 2014 and the past owner has not claimed allowances or pooled their expenditure in respect of a qualifying fixture, the current owner may claim PMA on the part of the price they paid which is attributable to that fixture. This is subject to the restrictions imposed by CAA01/S185 in respect of any previous owner who may have claimed allowances in respect of the fixture [CA26400](#).

As is always the case where section 187A applies, the current owner will need to substantiate and quantify his or her entitlement to allowances in these circumstances ([CA26484](#)).

### Example

Jill has owned the freehold interest in an office since 2004 and sells it to Jack for £1 million in 2013. The office contains some fixed plant or machinery for which Jill has claimed capital allowances in the usual way. It also contains wiring, control panels and other electrical equipment (which Jill installed specifically to supply plant and machinery) and general lighting, all installed before 2008, for which Jill has not made any claim to capital allowances, nor is the expenditure on the lighting or electrical equipment pooled. Jill could have claimed capital allowances on the cost of the wiring and equipment installed specifically to supply plant and machinery, but not on the cost of the general lighting as it was installed before the integral fixtures rules were enacted in 2008 [CA22300](#).

Jill and Jack make a section 198 election to the effect that £50,000 of the purchase price relates to the fixed plant or machinery on which Jill has claimed capital allowances.

Jack has evidence from a quantity surveyor that £8,000 of the purchase price relates to the electrical equipment installed specifically to supply plant and machinery in the warehouse and £10,000 relates to the general lighting. Jack will be able to claim capital allowances on that £18,000 in addition to on the £50,000 covered by the section 198 election.

If Jill sold the warehouse in 2015 then, before the new owner could claim capital allowances, the pooling requirement would need to be met in respect of her expenditure on the electrical equipment that she was entitled to claim plant and machinery allowances on but not in respect of her expenditure on the general lighting because she was not entitled to claim plant and machinery allowances on that expenditure.

## CA26478 - PMA: Fixtures: Changes in ownership: Fixed value requirement

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### CAA01/S187A (5)

The fixed value requirement will only apply where the past owner is required to bring a disposal value into account in respect of the fixture in accordance with item 1, 5 or 9 of the Table in section 196 CAA. This will nearly always be the case where the pooling requirement has been satisfied. The fixed value requirement may be satisfied in one of three ways:

#### 1. Election

We expect that in the vast majority of cases the fixed value requirement will be satisfied by the current owner and the past owner making an election under CAA01/S198 or S199 [CA26800](#) to fix the apportionment of either;

- the sale price that relates to the fixture (where the disposal value arises from an event falling within items 1 or 9 of the Table in section 196); or
- the capital sum given by the lessee for the lease (where the disposal value arises from an event falling within items 5 of the Table in section 196).

The election must usually be made within the 'relevant 2 year period' but the time limit is extended where an application has been made to the tribunal, see below. The relevant 2 year period is explained in [CA26480](#) and is essentially the period of 2 years from the date on which the new owner is treated as acquiring the fixture.

#### 2. Application to tribunal

Where the current owner and the past owner are unable to agree an apportionment either party may apply to the First Tier Tribunal to determine the value of the fixture. The application must be made before the end of the relevant two year period. The fixed value requirement will be satisfied when the tribunal determines the value.

If an application has been made to tribunal in time but it has not been determined or withdrawn and the current owner and past owner reach an agreement an election may be made even though the normal time limit for making an election has passed.

#### 3. Preservation of allowances where the intervening owner is not entitled to claim PMA in respect of the fixture

There are special rules that allow allowances to be preserved if an intervening owner is not entitled to claim PMAs, for example where Adam sells a building to a charity in 2015 and the charity sells the building to Ben in 2018.

In this case the charity is not entitled to claim PMA in respect of capital expenditure incurred on the fixtures. Nevertheless, Adam and charity are entitled to make a section 198 election agreeing the apportionment (or apply to the tribunal to determine the value). When the charity sells the building these documents can be passed to the new owner, Ben. This will satisfy the fixed value requirement and so pass on the entitlement to PMA to Ben.

However it may be that the intervening owner, the charity, does not consider making a joint election with Adam. To avoid allowances being lost in these circumstances Ben is able to satisfy the fixed value requirement if he obtains:

- a written statement from the charity (intervening owner) stating that an election was not made and can no longer be made; and
- a written statement made by Adam showing the disposal value that he brought in.

#### **CAA01/S187B (6)**

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 current 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 CAA01/S196.

## CA26480 - PMA: Fixtures: Changes in ownership: Relevant two year period

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### CAA01/S187A (9)

The 'relevant 2 year period' is –

- in a case falling within item 1 or 9 of the Table in section 196 (sale of qualifying interest or discontinuance followed by sale), the period of 2 years beginning with the date when the purchaser from the past owner acquires the qualifying interest;
- in a case falling within item 5 of that Table (incoming lessee), the period of 2 years beginning with the date when the lessee is granted the lease.



## CA26482 - PMA; Fixtures: Changes in ownership: Disposal value statements

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### CAA01/S187A (10)

In some cases it may be necessary to satisfy the disposal value statement requirement rather than the fixed value requirement. This is when the past owner is required to bring a disposal value into account in respect of the fixture in accordance with

- item 2 or 3 of the Table in section 196 (sale of qualifying interest at less than market value; cessation of ownership under section 188 where qualifying interest continues or would but for merging with another interest), or
- item 7 of the Table in section 61.

An example of the latter category is where a person's qualifying activity is permanently discontinued but there is no immediate change of ownership of the fixture. In such circumstances the past owner is required to bring in a disposal value for the fixture in his or her final tax return without having sold the property. If the past owner then sold the property some years later he or she would be too late to enter into an election with the purchaser to fix the apportionment of the expenditure relating to fixtures.

In all these circumstances the current owner must obtain a written statement from the past owner of the disposal value he or she was required to bring into account. This statement must be made by the last owner within two years of the date he disposed of the property.

## CA26484 - PMA: Fixtures: Changes in ownership: Evidence necessary to substantiate a claim

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### CAA01/S187B (1)

It is for the current owner to show whether or not the fixed value requirement applies or (where appropriate) whether the disposal value statement requirement applies. **If the current owner is not able to supply evidence, on request, to an officer of Revenue and Customs that these requirements have been met; his or her entitlement to PMA on fixtures acquired from a past owner will be nil.**

The current owner must be able to provide a copy of a section 198 or section 199 election, tribunal decision or written statements as applicable. These documents will also, in effect, provide evidence that the pooling requirement has been met because they can only show expenditure relating to fixtures that have been pooled.

(It is worth noting that HMRC consider that, in any event, it is for the taxpayer to substantiate a claim to capital allowances. Therefore, from this perspective, and to this extent, this rule could be viewed as somewhat superfluous. However, one of the main policy purposes of the rules in sections 187A and 187B is to increase the operational clarity and certainty of the fixtures regime. Section 187B (1) puts beyond doubt what a current owner will need to obtain and retain in order to substantiate a fixtures claim under these rules.)

### CAA01/S187B (2)

Where a written statement is provided to satisfy either the fixed value requirement [CA26478](#) or the disposal value statement requirement [CA26482](#) the amount specified in the written statement replaces any apportionment that would have been made under CAA01/S562 [CA12300](#).

There may be cases where because of circumstances arising after the making of the written statement the maximum disposal value brought in by the past owner is reduced below the amount specified in the statement. If this happens the statement is deemed to have specified the reduced amount

## CA26486 - PMA: Fixtures: Changes in ownership: Sale of an asset that is no longer a fixture

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### CAA01/S187B (5)

The rules do 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.

#### Example

Jill owns a building, containing an antique copper water heater, which she strips out and sells to an architectural salvage dealer. Simon, who is not connected with Jill, buys the copper water heater from the dealer and installs it in a property he owns. Simon is not required to establish the disposal value brought into account by Jill and is not precluded from claiming allowances based on what he paid for the asset.

## CA29040 - PMA: Partnerships and successions: Election where predecessor and successor are connected

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The following paragraphs will be added to the existing guidance at [CA29040](#) to clarify that where an election is made under CAA01/S266, to treat plant and machinery transferred as sold by the predecessor to the successor at a price which does not give rise to a balancing allowance or charge, an election under CAA01/S198 will also be necessary to give the successor an entitlement to capital allowances on the fixtures –

If the succession takes place on or after 1 April 2012 for corporation tax (6 April for income tax) and if any of the assets are fixtures the predecessor and the successor will also need to make a joint election under CAA01/S198 in order for the successor to be able to claim allowances [CA26470](#).

The section 266 election allows for the transfer of all plant or machinery at a value that does not give rise to a balancing allowance or a balancing charge. The section 198 election allows the successor to claim capital allowances on any fixtures that are transferred and, as such, the amount in the section 198 election cannot exceed that amount in the section 266 election.