

# The end of the road

**Will Silsby** discusses the implications of the cessation of the second straddling period when the new permanent £1m limit for AIA is introduced from 1 April 2023.

In his Autumn Budget in October 2021, Rishi Sunak (then Chancellor of the Exchequer) announced that the temporary increase in the Annual Investment Allowance (AIA) to £1m would be extended to 31 March 2023. That built on his previous extension until 31 December 2021 of what Philip Hammond had announced back in October 2018 as a temporarily increased AIA for just the two calendar years from 1 January 2019 to 31 December 2020. By the time we reach 31 March 2023, the £1m will have been in place for over four years.

“The immediate practical effect of these successive extensions in duration of the increased AIA limit has been to simplify the calculation of the maximum AIA available.”

## Effect of extensions

The immediate practical effect of these successive extensions in duration of the increased AIA limit has been to simplify the calculation of the maximum AIA available in any chargeable period which began before but ended after what would otherwise have been the end dates of the increase – firstly 31 December 2020 and then 31 December 2021. Those extensions had the effect of preventing each of those two chargeable periods from becoming one during which there was a return

### Key points

- There have been a number of extensions to the £1m AIA.
- Legislation differentiates between the ‘first’ and ‘second’ straddling periods.
- The assumption of a universal and seamless transition to the uplifted permanent AIA limit is not supported by the relevant legislation.
- With careful planning, it may be possible for a business to have usable AIA availability of a full £1m for its second straddling period.



© Getty Images/Stockphoto

to the lower permanent AIA level – a so-called ‘second straddling period’. The legislation uses that terminology to distinguish it from the ‘first straddling period’, the term used to identify the chargeable period in which a temporary increased level is introduced.

The somewhat subtler effect of the extensions has been that we have begun to forget the odd arithmetic which statute (FA 2019, Schedule 13) requires us to apply in the calculation of the AIA limit for any chargeable period which is careless enough to become a second straddling period.

At the time that Rishi Sunak announced the extension in the uplifted limit of £1m until 31 March 2023, the permanent AIA limit was just £200,000. Without any further extension or other legislative change, the reversion to the permanent limit would have meant that the AIA limit in respect of qualifying expenditure incurred after 31 March 2023 but in a chargeable period which began on or before that date would have been very considerably limited. That, however, is not what has happened. Instead, in September 2022 the then Chancellor, Kwasi Kwarteng, announced that the permanent limit of AIA would with effect from 1 April 2023 be updated to the £1m level of the temporarily increased AIA. In October 2022, Jeremy Hunt, the new Chancellor confirmed in advance of his Autumn Statement that this element of his predecessor’s mini-budget would survive. The Autumn Statement itself, published on 17 November 2022, noted (in section 2.17):

‘To support businesses to invest and grow, the government is setting the Annual Investment Allowance (AIA) at its highest ever permanent level of £1 million from 1 April 2023. This amounts to full expensing for an estimated 99% of UK businesses, which means that those businesses can write off the cost of qualifying plant machinery investment in one go. A permanent increase provides businesses with stability and makes tax simpler for any business investing between £200,000 and £1 million.’

## Availability of AIA

So which (if any) clients now need to know what about how the availability of AIA is changing? The good news first. For any business (corporate or unincorporated) with a 12-month chargeable period to 31 March 2022, the transition on the following day to a permanent AIA limit of £1m from the temporary limit of the same amount will be seamless. No surprises there – in fact that probably aligns with what many people assume will be the case for all businesses regardless of their year ends.

Now for the less good news. That assumption of a universal and seamless transition to the uplifted permanent AIA limit is not supported by the relevant legislation. In some circumstances, the application of the legislation will actually make no practical difference but in others it could significantly limit the amount of AIA available. The following commentary identifies the situations where some sensible planning of the timing of qualifying expenditure could make the difference between an upfront 100% allowance and having to wait eight years to write off 80% of the balance of expenditure if it qualified for a writing down allowance of 18% or as long as 26 years if it was special rate pool expenditure.

For simplicity, all the examples used assume that the business in question is continuing, that its chargeable periods are all of 12 months and that none of the various restrictions on entitlement to AIA (multiple activities, groups of companies, common control, etc – see CAA 2001, ss 51B to 51N) apply. All calculations are made in rounded months unless stated.

The legislation which determines the maximum AIA available to a business in a chargeable period which straddles 1 April 2023 is found in FA 2019, Sch 13, para 2. As amended by FA 2022, it reads:

*'Chargeable periods which straddle 1 April 2023*

*2(1) This paragraph applies in relation to a chargeable period ("the second straddling period") which begins before 1 April 2023 and ends on or after that date.*

*(2) The maximum allowance under section 51A of CAA 2001 for the second straddling period is the sum of the maximum allowances that would be found if the following were treated as separate chargeable periods—*

*(a) so much of the second straddling period as falls before 1 April 2023;*

*(b) so much of the second straddling period as falls on or after that date.*

*(3) But, so far as concerns expenditure incurred on or after 1 April 2023, the maximum allowance under section 51A of CAA 2001 for the second straddling period is the maximum allowance, calculated in accordance with sub-paragraph (2), for the period mentioned in paragraph (b) of that sub-paragraph.'*

The first sub-paragraph simply defines the second straddling period. It is a chargeable period which begins before 1 April 2023 and ends on or after that date. This explains why a business with a chargeable period ending on 31 March 2023 is insulated from these special provisions.

The second sub-paragraph identifies the maximum AIA available for the whole of the second straddling period. It requires the AIA to be calculated on a time-apportioned basis

for both the part of that period before 1 April 2023 and the part which begins on that date. It is the sum of those parts which gives the maximum AIA amount for the whole period. (The use of the term *maximum allowance* in both sub-paragraphs 2(2) and 2(3) is potentially confusing. In this article, the term *limited allowance* is used instead to describe the amount calculated under sub-paragraph 2(3).)

“When the legislation was designed, it is reasonable to assume that it was anticipated that there would always be a dramatic drop from the temporarily increased AIA limit to its permanent limit.”

When the legislation was designed, it is reasonable to assume that it was anticipated that there would always be a dramatic drop from the temporarily increased AIA limit to its permanent limit. In that situation, the second sub-paragraph required so many months' worth of the higher AIA limit to be added to so many months' worth of the lower AIA limit in order to establish the AIA limit for the whole of the second straddling period. The government's decision to increase the permanent AIA level up to the temporarily increased level with effect from 1 April 2023 means that regardless of the end date of the second straddling period, the maximum level will always be £1m. Take, for example, a chargeable period ending on 31 December 2023 (see **Example A** below). There will be three months' worth of the temporarily increased AIA limit of £1m (£250,000) and nine months' worth of the new permanent AIA limit of £1m (£750,000). So the maximum AIA for that chargeable period (and indeed any other second straddling period of 12 months) is necessarily £1m.

So far, so good? That doesn't look as if it's going to need any further thought. That, however, would be to ignore sub-paragraph 2(3) which introduces a limitation in the amount of AIA available in respect of expenditure incurred on, or after, 1 April 2023. Only the amount of AIA calculated under sub-paragraph 2(2)(b) is available in relation to the qualifying expenditure incurred after 31 March 2023. By contrast, the whole of the maximum allowance for the second straddling period is available to use on expenditure incurred up to 31 March 2023.

### Limiting AIA available

Whether, and the extent to which, the sub-paragraph 2(3) restriction has a limiting effect on the AIA available to a

#### Example A: Second straddling period to 31 December 2023

Sub-paragraph 2(2)(a) calculation	$3/12 \times \text{Temporary limit of } \pounds 1,000,000 = \pounds 250,000$
Sub-paragraph 2(2)(b) calculation	$9/12 \times \text{Permanent limit of } \pounds 1,000,000 = \pounds 750,000$
Sub-paragraph 2(2) maximum allowance	£1,000,000

business in its second straddling period will depend on two factors:

- the end date of the second straddling period;
- the timing and spread of qualifying expenditure in that period.

### First factor

The earlier the end date of the second straddling period occurs after 31 March 2023, the lower will be the amount of AIA calculated under sub-paragraph 2(2)(b) which determines the limited amount of AIA available for expenditure incurred on or after 1 April 2023. Extending *Example A*, the limited allowance with a second straddling period to 31 December 2023 would be £750,000 and more than enough for many businesses. However, in the extreme case of a business with a second straddling period ending on 5 April 2023 (typically an unincorporated business), the limited allowance for expenditure incurred in that five-day period would (with time apportionment on a days' basis) be only £13,699 (see *Example B*).

“The earlier the end date of the second straddling period occurs after 31 March 2023, the lower will be the amount of AIA calculated under sub-paragraph 2(2)(b).”

The table *Illustration of AIA limits in 12-month chargeable periods straddling 1 April 2023* (see opposite) summarises the position for different end dates. This shows (using round months) that the sub-paragraph 2(3) restricted AIA limit can be as low as £83,333 or as high as £916,667.

Having mentioned unincorporated businesses, it is important to note in passing that any such business with a second straddling period which ended *after* 5 April 2023 might have to contend not only with an unexpected limitation in its AIA entitlement but also with the transitional basis period rules for 2023/24. That latter subject is outside the scope of this article.

### Example B: Second straddling period to 5 April 2023

Sub-paragraph 2(2)(a) calculation  $360/365 \times$  Temporary limit of £1,000,000 = £986,301

Sub-paragraph 2(2)(b) calculation  $5/365 \times$  Permanent limit of £1,000,000 = £13,699

Sub-paragraph 2(2) maximum allowance £1,000,000

### Second factor

The timing of qualifying expenditure in the second straddling period will determine whether there is any need to consider the potentially limiting impact of sub-paragraph 2(3). There are three possible scenarios:

- If all the expenditure is incurred no later than 31 March 2023, the whole of the maximum £1 million AIA is available (see para 2(2) maximum allowance column in the *Illustration of AIA limits in 12-month chargeable periods straddling 1 April 2023* table). In this case, the sub-paragraph 2(3) limitation has no impact.
- If all the expenditure is incurred on or after 1 April 2023, only the limited allowance is available and that will vary with the end date of the second straddling period as explained above and as shown in the para 2(3) limited allowance column in the *Illustration of AIA limits in 12-month chargeable periods straddling 1 April 2023* table. In this situation, the sub-paragraph 2(3) limitation bites fully. That applies despite no use having been made of the AIA attributable to the part of the period up to 31 March 2023.
- If the expenditure is incurred partly before 1 April 2023 and partly on or after that date, the two parts require separate consideration:
  - The AIA availability in relation to expenditure incurred before 1 April 2023 will always be £1m. It will, however, be for the business to choose whether to dip into the AIA attributable (within the sub-paragraph 2(2)(b) calculation) to the months starting from 1 April 2023 or whether to confine its AIA claims in respect of that expenditure to the time-apportioned amount of AIA for the months up to 31 March 2023.
  - The AIA availability in relation to expenditure incurred on or after 1 April 2023 will always be confined to the limited allowance as described above. While

**Illustration of AIA limits in 12-month chargeable periods straddling 1 April 2023**

Year to:	Months to 31/03/2023	Time-apportioned AIA [A]	Months from 01/04/2023	Time-apportioned AIA [B]	Sub-para 2(2) Maximum allowance [A+B]	Sub-para 2(3) Limited allowance [Only B]
30 April 2023	11	916,667	1	83,333	1,000,000	83,333
31 May 2023	10	833,333	2	166,667	1,000,000	166,667
30 June 2023	9	750,000	3	250,000	1,000,000	250,000
31 July 2023	8	666,667	4	333,333	1,000,000	333,333
31 August 2023	7	583,333	5	416,667	1,000,000	416,667
30 September 2023	6	500,000	6	500,000	1,000,000	500,000
31 October 2023	5	416,667	7	583,333	1,000,000	583,333
30 November 2023	4	333,333	8	666,667	1,000,000	666,667
31 December 2023	3	250,000	9	750,000	1,000,000	750,000
31 January 2024	2	166,667	10	833,333	1,000,000	833,333
29 February 2024	1	83,333	11	916,667	1,000,000	916,667

(See Note 1)

(See Note 2)

(See Note 3)

Notes:

1. A twelve-month chargeable period ending on 31 March 2024 is not a 'straddling period'.
2. A business can claim the maximum allowance [A+B above] on expenditure incurred **before** 1 April 2023.
3. The AIA limit on expenditure incurred **after** 31 March 2023 is the **lower** of:
  - (a) the limited allowance [B above]; and
  - (b) any part of the maximum allowance [A+B above] unused by expenditure incurred up to 31 March 2023.

the legislation permits expenditure incurred before 1 April 2023 to use the time-apportioned AIA for the months from that date, it is never possible to bring forward any unused AIA entitlement from before 1 April 2023.

In the third scenario (expenditure in both parts of the second straddling period), provided the combined expenditure does not exceed £1m and it is spread proportionately to the length of the two parts, the sub-paragraph 2(3) restriction will have no practical effect – see *Example C* below.

**Example C: Second straddling period to 30 June 2023**

Expenditure in 9 months to 31 March 2023	£M
Expenditure in 3 months to 30 June 2023	£J

Provided that £M + £J does not exceed £1m and that J/M is no more than 3/9, no restriction actually arises.

Because the expenditure is proportionately spread, the equalisation of the new £1m permanent AIA limit to the previous temporary £1m AIA limit ensures that AIA is available in respect of all that expenditure.

**LexisNexis webinars**

XXXXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXXXXX  
 Date: XXXXXXXX  
 Location: Book online at  
[www.lexiswebinars.co.uk/tax](http://www.lexiswebinars.co.uk/tax) or call +44 (0)330 161 2401

**Conclusion**

With careful planning of expenditure and taking into account the factors identified above, it may be possible for a business to have usable AIA availability of a full £1m for its second straddling period. That does, however, prompt the question whether it should be necessary to consider those factors at all. The Autumn Statement (section 2.17 quoted above) indicated that the dramatic increase in the level of the permanent AIA limit to that of the temporary AIA limit was intended to support businesses to invest and grow, provide full expensing for an estimated 99% of UK businesses and stability and make tax simpler for any business investing between £200,000 and £1m.

It is difficult to imagine that no one in the Treasury or HMRC has already identified the need to take the simple step of deleting FA 2019, Sch 13, sub-paragraph 2(3) in order to achieve the outcome which the Autumn Statement promised. Hopefully, the publication of this article will assist the achievement of that happy outcome. ●

**Author details**

Will Silsby retired at the end of December 2022 after serving the last ten years (out of 51 years in taxation) as an ATT technical officer.



**FIND OUT MORE**  
 On [Taxation.co.uk](http://Taxation.co.uk)

- Annual investment allowance reduction: [tinyurl.com/6wad5abn](https://tinyurl.com/6wad5abn)