

## SCHEDULES

### SCHEDULE 3

Section 579

#### TRANSITIONALS AND SAVINGS

##### PART 1

###### CONTINUITY OF THE LAW

- 1 The repeal of provisions and their enactment in a rewritten form in this Act does not affect the continuity of the law.
- 2 Paragraph 1—
  - (a) does not apply to any change in the law effected by this Act, and
  - (b) is subject to paragraph 8.
- 3 Any subordinate legislation or other thing which—
  - (a) has been made or done, or has effect as if made or done, under or for the purposes of a repealed provision, and
  - (b) is in force or effective immediately before the commencement of the corresponding rewritten provision,has effect after that commencement as if made or done under or for the purposes of the rewritten provision.
- 4 Any reference (express or implied) in any enactment, instrument or document to—
  - (a) a rewritten provision, or
  - (b) things done or falling to be done under or for the purposes of a rewritten provision,is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding repealed provision had effect, a reference to the repealed provision or (as the case may be) things done or falling to be done under or for the purposes of the repealed provision.
- 5 Any reference (express or implied) in any enactment, instrument or document to—
  - (a) a repealed provision, or
  - (b) things done or falling to be done under or for the purposes of a repealed provision,is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to the rewritten provision or (as the case may be) things done or falling to be done under or for the purposes of the rewritten provision.
- 6 Paragraphs 1 to 5 have effect instead of section 17(2) of the Interpretation Act 1978 (but are without prejudice to any other provision of that Act).
- 7 Paragraphs 4 and 5 apply only in so far as the context permits.

## PART 2

### CHANGES IN THE LAW

- 8 (1) This paragraph applies where, in the case of any person—
- (a) a thing is done or an event occurs before the relevant date, and
  - (b) by reason of a change in the law effected by this Act, the tax consequences of that thing or event for a relevant chargeable period are different from what they would otherwise have been.
- (2) If that person so elects, this Act has effect in relation to that period with such modifications as may be necessary to secure that those consequences are the same as they would have been without the change in the law.
- (3) If this paragraph applies in the case of two or more persons in relation to the same thing or event, an election made under sub-paragraph (2) by any one of those persons is of no effect unless a corresponding election is made by the other or each of the others.
- (4) An election under sub-paragraph (2) must be made by notice given to the Inland Revenue—
- (a) for income tax purposes, within the normal time limit for amending a tax return for the tax year in which the chargeable period ends;
  - (b) for corporation tax purposes, no later than 2 years after the end of the chargeable period.
- (5) In this paragraph—
- “relevant chargeable period” means—
- (a) in relation to a change effected by section 536(5)(a) or 537(4), the earliest chargeable period for which the tax consequences of the thing or event are different from what they would otherwise have been;
  - (b) in relation to any other change, a chargeable period which begins before and ends on or after the relevant date;
- “the relevant date” means 6th April 2001 for income tax purposes and 1st April 2001 for corporation tax purposes.

## PART 3

### GENERAL

#### *Capital expenditure*

- 9 Subsections (2) and (3) of section 4 apply with the omission of the words “or property business” in relation to expenditure incurred or sums paid or received before 26th November 1996.

#### *Exclusion of double relief*

- 10 Section 9 does not apply in relation to expenditure incurred before 24th July 1996.

## PART 4

### PLANT AND MACHINERY ALLOWANCES

#### *Introduction*

##### *Use for qualifying activity of plant or machinery provided for other purposes*

- 11 Subsections (4) and (5) of section 13 do not apply if the plant or machinery was brought into use before 21st March 2000.

##### *Use for qualifying activity of plant or machinery which is a gift*

- 12 Section 14 applies with the insertion after subsection (1) of—
- “(1A) This section does not apply unless the donor was required by section 24(6) of CAA 1990 to bring into account for the purposes there mentioned a disposal value equal to the price which the plant or machinery would have fetched if sold in the open market at the time of the gift.”,
- if the plant or machinery was brought into use before 27th July 1989.

#### *Qualifying expenditure*

##### *Buildings, structures and land*

- 13 Sections 21 to 24 do not apply in relation to expenditure—
- (a) incurred before 30th November 1993;
  - (b) incurred before 6th April 1996 in pursuance of a contract entered into before 30th November 1993; or
  - (c) incurred before 6th April 1996 in pursuance of a contract entered into on or after 30th November 1993 for the purpose of securing that obligations under a contract entered into before 30th November 1993 are complied with.

#### *First-year qualifying expenditure*

##### *ICT expenditure incurred by small companies*

- 14 Section 45 does not apply in relation to expenditure incurred before 1st April 2000.

#### *Hire-purchase and similar contracts*

##### *Plant or machinery acquired under hire purchase etc.*

- 15 Section 67(2) applies with the omission of the words in brackets if the contract under which the expenditure was incurred was entered into before 27th July 1989.

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*Plant or machinery on hire purchase etc.: fixtures*

- 16 Section 69(2) does not apply if the plant or machinery became a fixture before 28th July 2000.

*Plant or machinery provided by lessee*

- 17 In section 70(1), paragraphs (c) and (d) do not apply if the lease was entered into before 12th July 1984, or on or after that date under an agreement made before that date.

*Computer software*

*Software and rights to software*

- 18 Section 71 does not apply to expenditure incurred before 10th March 1992.

*Cars, etc.*

*Cars above the cost threshold*

- 19 In relation to expenditure incurred or treated as incurred before 11th March 1992, or incurred under a contract entered into before that date—
- (a) sections 74(2) and 76(3) apply with the substitution of “£8,000” for “£12,000”; and
  - (b) sections 75(1) and 76(2) and (4) apply with the substitution of “£2,000” for “£3,000”.

*Long-life assets*

*Long-life asset expenditure*

- 20 (1) Chapter 10 of Part 2 does not apply to any expenditure incurred—
- (a) before 26th November 1996, or
  - (b) before 1st January 2001 in pursuance of a contract entered into before 26th November 1996.
- (2) Chapter 10 of Part 2 does not apply to expenditure incurred by any person (“the purchaser”) on the acquisition of a long-life asset from another (“the seller”) if—
- (a) the seller has made a Part 2 claim in respect of expenditure incurred on the provision of the asset (“the seller’s expenditure”),
  - (b) the claim is one which the seller was entitled to make,
  - (c) the seller’s expenditure did not fall to be treated as long-life asset expenditure for the purposes of the claim, and
  - (d) the seller’s expenditure would have been so treated if one or more of the assumptions specified in sub-paragraph (3) were made.
- (3) The assumptions are that—
- (a) expenditure falling within sub-paragraph (1) is not prevented by that sub-paragraph from being long-life asset expenditure,

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- (b) the seller's expenditure was not prevented by sub-paragraph (2) from being long-life asset expenditure, and
  - (c) Chapter 10 of Part 2 or any provision corresponding to it applied for chargeable periods ending before 26th November 1996.
- (4) The reference in sub-paragraph (1) to expenditure incurred in pursuance of a contract entered into before 26th November 1996 does not, in the case of a contract varied at any time on or after that date, include a reference to any expenditure incurred under the contract that exceeds the expenditure that would have been incurred if the contract had not been varied.
- (5) Expressions used in this paragraph and in Chapter 10 of Part 2 have the same meaning in this paragraph as in that Chapter; and in particular references in this paragraph to a "Part 2 claim" are to be read in accordance with section 103(3).

### *Overseas leasing*

#### *Meaning of "overseas leasing"*

- 21 Section 105(2) applies with the substitution for paragraph (b) of—
- “(b) does not use the plant or machinery for the purposes of a qualifying activity carried on there or for earning profits chargeable to tax by virtue of section 830(4) of ICTA,”
- in relation to the use of plant or machinery for leasing under a lease entered into before 16th March 1993.

#### *Recovery of first-year allowances in case of joint lessees*

- 22 (1) Sub-paragraphs (2) and (3) apply if—
- (a) expenditure has been incurred on the provision of plant or machinery which is leased as described in section 116(1), and
  - (b) the whole or a part of the expenditure has qualified for a first-year allowance under—
    - (i) section 43(4) of CAA 1990, or
    - (ii) paragraph 47(7).
- (2) Section 117(1) applies as if the reference in paragraph (b) to expenditure qualifying for a normal writing-down allowance under section 116(3) included a reference to expenditure qualifying for the first-year allowance.
- (3) Subsections (3) to (5) of section 117 apply as if the reference in section 117(3)(b) to expenditure qualifying for a normal writing-down allowance under section 116(3) included a reference to expenditure qualifying for the first-year allowance.

#### *Letting ships or aircraft to obtain old first-year allowance not a qualifying purpose*

- 23 Subsections (1) and (2) of section 123 do not apply if the main object, or one of the main objects—
- (a) of the letting of the ship or aircraft on charter,
  - (b) of a series of transactions of which the letting of the ship or aircraft on charter was one, or
  - (c) of any of the transactions in such a series,

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was to obtain a first-year allowance in respect of expenditure which was first-year qualifying expenditure under paragraph 47 and was incurred by any person on the provision of the ship or aircraft.

*Ships: deferrals etc.*

*Further registration requirement*

- 24 Section 154 does not apply in the case of a ship that was brought into use before 20th July 1994 for the purposes of a qualifying activity carried on by the person incurring the expenditure on the provision of the ship or a person connected with him.

*Mining and oil industries*

*Pre-trading expenditure on mineral exploration and access*

- 25 Section 161 does not apply if—
- (a) the person incurred the pre-trading expenditure before 1st April 1986; and
  - (b) before the first day of trading, the mineral exploration and access at the source in question had ceased.

*Abandonment expenditure incurred before cessation of ring fence trade*

- 26 Section 164 does not apply if the chargeable period in which the abandonment expenditure was incurred ended before 1st July 1991.

*Abandonment expenditure incurred after cessation of ring fence trade*

- 27 Section 165 does not apply if the abandonment expenditure was incurred before 1st July 1991.

*Oil production sharing contracts*

- 28 Sections 167 to 171 do not apply if—
- (a) the expenditure was incurred before 21st March 2000; or
  - (b) the expenditure is treated as incurred by virtue of section 13 and the conditions mentioned in subsection (1) of that section were fulfilled before that date.

*Fixtures*

*Meaning of “interest in land” for purposes of Chapter 14 of Part 2 (fixtures)*

- 29 (1) Sub-paragraph (2) applies if paragraph 51 of Schedule 12 to the Abolition of Feudal Tenure etc. (Scotland) Act 2000 has not come into force before the commencement of section 175.
- (2) Section 175(1) has effect until the appointed day as if for paragraph (b) there were substituted—

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“(b) in Scotland, the estate or interest of the proprietor of the dominium utile (or, in the case of property other than feudal property, of the owner) and any agreement to acquire such an estate or interest.”.

(3) In sub-paragraph (2) “the appointed day” means such day as may be appointed by the Scottish Ministers under section 71 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 for the coming into force of the Act.

#### *Equipment lessors*

30 Section 177(1)(a)(i) does not apply if the agreement for the lease of the plant or machinery was entered into before 19th March 1997.

#### *Equipment lessee has qualifying activity etc.*

31 Section 178 applies—

- (a) if the agreement for the lease of the plant or machinery was entered into before 19th March 1997, with the omission of the words “which is or is to be” in paragraph (a) and the addition of the word “and” at the end of that paragraph; and
- (b) if that expenditure was incurred before 24th July 1996, with the omission of paragraph (c) and the substitution for paragraph (b) of—
  - “(b) if the equipment lessee had incurred the capital expenditure incurred by the equipment lessor on the provision of the plant or machinery, he would, by virtue of section 176, be treated as the owner of the fixture as a result of incurring the expenditure”.

#### *Equipment lessor has right to sever fixture that is not part of building*

32 Section 179(1) does not apply if the agreement for the lease of the plant or machinery was entered into before 19th March 1997 and applies with—

- (a) the addition at the end of paragraph (e) of the word “and”, and
- (b) the omission of paragraph (g) and the word “and” immediately before it, if the expenditure of the equipment lessor was incurred before 24th July 1996.

#### *Equipment lease is part of affordable warmth programme*

33 Section 180 does not apply if the expenditure of the equipment lessor was incurred before 28th July 2000.

#### *Purchaser of land giving consideration for fixture*

34 Section 181 applies with—

- (a) the omission of the word “and” at the end of paragraph (b) of subsection (1); and
- (b) the insertion after that paragraph of—
  - “(bb) at the time of the purchasers' acquisition of the interest, either no person has previously become entitled to an allowance in respect of any capital expenditure incurred on the provision of the fixture or, if any person has become

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so entitled, that person has been or is required to bring the disposal value of the fixture into account under Chapter 5, and”,

if the purchaser acquired the interest in the relevant land before 24th July 1996.

*Purchaser of land discharging obligations of equipment lessee*

35 Section 182 applies with—

- (a) the omission of the word “and” at the end of paragraph (c) of subsection (1); and
- (b) the insertion after that paragraph of—
  - “(cc) at the time of the purchasers' acquisition of the interest, either no person has previously become entitled to an allowance in respect of any capital expenditure incurred on the provision of the fixture or, if any person has become so entitled, that person has been or is required to bring the disposal value of the fixture into account under Chapter 5, and”,

if the purchaser acquired the interest in the relevant land before 24th July 1996.

*Incoming lessee where lessor entitled to allowances*

36 Section 183 applies with the insertion after subsection (2) of—

“(3) No election may be made under this section if it appears that the sole or main benefit that may be expected to accrue to the lessor from the grant of the lease and the making of an election is the obtaining of an allowance or deduction or a greater allowance or deduction or the avoidance or reduction of a charge under this Part.”,

if the person who had the interest in the relevant land granted the lease before 24th July 1996.

*Incoming lessee where lessor not entitled to allowances*

37 Section 184 applies with—

- (a) the omission of the word “and” at the end of paragraph (c) of subsection (1); and
- (b) the insertion after that paragraph of—
  - “(cc) at the time of the grant of the lease, no person has previously become entitled to an allowance in respect of any capital expenditure incurred on the provision of the fixture, and”,

if the person who had the interest in the relevant land granted the lease before 24th July 1996.



*Fixture on which a plant and machinery allowance has been claimed*

- 38 Section 185 does not apply if the disposal event which required the disposal value to be brought into account as mentioned in subsection (1)(d) occurred before 24th July 1996.

*Fixture on which industrial buildings allowance has been made*

- 39 Section 186 does not apply if the time mentioned in subsection (1)(c)(ii) is before 24th July 1996.

*Fixture on which research and development allowance has been made*

- 40 Section 187 does not apply if the time mentioned in subsection (1)(d)(ii) is before 24th July 1996.

*Disposal value in relation to fixtures: general*

- 41 In relation to a fixture which a person is treated as ceasing to own before 24th July 1996, section 196 applies with the substitution for subsection (6) of—

“(6) If—

- (a) a person (“the former owner”) is treated by virtue of section 188, 190 or 191 as ceasing to own a fixture,
- (b) another person incurs expenditure on the provision of the fixture, and
- (c) the former owner brings a disposal value into account under Chapter 5,

there is to be disregarded for the purposes of this Part so much (if any) of that expenditure as exceeds that disposal value.

- (7) In relation to expenditure incurred before 27th July 1989, subsection (6) has effect with the substitution for the words following “the fixture” in paragraph (b) of the words “there is to be disregarded for the purposes of this Part so much (if any) of that expenditure as exceeds the disposal value which the former owner is required to bring into account under Chapter 5”.

*Assets provided or used only partly for qualifying activity*

*Effect of significant reduction in use for purposes of qualifying activity*

- 42 Section 208 does not apply if the change of circumstances referred to in subsection (1)(b) of that section occurs before 21st March 2000.

*Anti-avoidance*

*Relevant transactions: sale, hire-purchase (etc.) and assignment*

- 43 Section 213(3) does not apply if the plant or machinery was brought into use before 27th July 1989.

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*Hire purchase etc. and finance leases*

- 44 Sections 220 and 229 do not apply in relation to expenditure incurred before 2nd July 1997, or in the 12 months beginning with that date in pursuance of a contract entered into before that date.

*Sale and finance leasebacks*

- 45 Sections 221, 222 and 224 to 226 do not apply in relation to expenditure incurred before 2nd July 1998 if the relevant transaction—
- (a) is a purchase under a contract entered into before 2nd July 1997;
  - (b) is itself a contract entered into before that date; or
  - (c) is an assignment made before that date, or in pursuance of a contract entered into before that date.

*Additional VAT liabilities and rebates*

*Expenditure which is first-year qualifying expenditure: general*

- 46 (1) For the purposes of section 236(1)(a) (entitlement to first-year allowance in respect of additional VAT liability where original expenditure was first-year qualifying expenditure), first-year qualifying expenditure includes expenditure which is first-year qualifying expenditure under paragraph 47 or 48.
- (2) A first-year allowance under this paragraph is made for the chargeable period in which the additional VAT liability accrues.
- (3) The amount of such an allowance is a percentage of the additional VAT liability in respect of which the allowance is made, as shown in the Table—

Table

AMOUNT OF FIRST-YEAR ALLOWANCES

(pre-commencement original expenditure)

Type of original first-year qualifying expenditure	Amount
Expenditure qualifying under paragraph 47 (expenditure incurred 1992-93).	40%
Expenditure qualifying under paragraph 48 (expenditure incurred 1997-98 by small or medium-sized enterprises) which is not long-life asset expenditure.	50%
Expenditure qualifying under paragraph 48 (expenditure incurred 1997-98 by small or medium-sized enterprises) which is long-life asset expenditure.	12%

*Expenditure incurred 1992-93*

- 47 (1) Expenditure is first-year qualifying expenditure under this paragraph if—

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- (a) it was incurred in the period beginning with 1st November 1992 and ending with 31st October 1993, and
  - (b) it is not excluded by sub-paragraphs (3) to (8).
- (2) In determining whether expenditure is first-year qualifying expenditure under this paragraph, any effect of section 12 on the time at which it is to be treated as incurred is to be disregarded.
- (3) Expenditure is not first-year qualifying expenditure under this paragraph if it was incurred—
  - (a) in the chargeable period in which there was a permanent discontinuance of the qualifying activity, or
  - (b) on the provision of a car other than a qualifying hire car (as defined by section 82).
- (4) Expenditure on the provision of plant or machinery for leasing is not first-year qualifying expenditure under this paragraph if it appears that the expenditure is of the kind described in section 109(2) or 110(2) (expenditure on plant or machinery which is used for overseas leasing etc.).
- (5) Expenditure on the provision of plant or machinery for leasing is not first-year qualifying expenditure under this paragraph if—
  - (a) the expenditure was incurred on or after 14th April 1993,
  - (b) the person to whom the plant or machinery is to be or is leased, or a person who is connected with that person, used the plant or machinery for any purpose at any time before its provision for leasing, and
  - (c) the expenditure does not fall within any of the categories of expenditure on plant or machinery for leasing given in sub-paragraph (6).
- (6) The categories referred to in sub-paragraph (5)(c) are as follows.
  - Category 1. Expenditure on leasing qualifying by reference to Chapter 11 of Part 2 (overseas leasing)*

It appears that the plant or machinery—

    - (a) will be used for a qualifying purpose (as defined by sections 122 to 125) in the designated period (as defined by section 106), and
    - (b) will not be used for any other purpose at any time in that period.
  - Category 2. Enterprise zones*

The circumstances of the incurring of the expenditure are that—

    - (a) the expenditure is incurred on the provision of plant or machinery which is to be an integral part of a building or structure, and
    - (b) expenditure incurred at that time on the construction of the building or structure would be qualifying enterprise zone expenditure to which Chapter 5 of Part 3 (initial allowances for qualifying enterprise zone expenditure) would apply.
  - Category 3. Fixtures*

The circumstances of the incurring of the expenditure are that—

    - (a) expenditure is incurred on the provision of plant or machinery which is fixed to land or a building,
    - (b) the person who incurs it is the lessor of the land or building, and
    - (c) a transfer of the person's interest in the land or building would operate to transfer that person's interest in the plant or machinery.

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*Category 4. Cars hired out to the disabled etc.*

The expenditure is incurred on the provision of a car which is within section 82(4) (cars hired out to persons receiving disability allowances etc.).

- (7) Sub-paragraph (4) does not prevent expenditure being first-year qualifying expenditure, if it appears that—
- (a) the plant or machinery will be leased as described in section 116(1), and
  - (b) the circumstances are such that section 116(3) will require the whole or any part of the expenditure to be treated as not subject to section 107, 109 or 110.
- (8) Any first-year allowance under sub-paragraph (7) (when read with section 236) is to be made on the same basis and subject to the same apportionments (if any) as would be applicable in the case of a writing-down allowance under section 116(5).

*Expenditure by small or medium-sized enterprises, 1997-98*

- 48 (1) Expenditure is first-year qualifying expenditure under this paragraph if—
- (a) it was incurred in the period beginning with 2nd July 1997 and ending with 1st July 1998;
  - (b) it was incurred by a small or medium-sized enterprise; and
  - (c) it is not excluded by sub-paragraph (3).
- (2) In determining whether expenditure is first-year qualifying expenditure under this paragraph, any effect of section 12 on the time at which it is to be treated as incurred is to be disregarded.
- (3) Expenditure is not first-year qualifying expenditure under this paragraph if it is within any of the general exclusions given in section 46(2).
- (4) In this paragraph, “small or medium-sized enterprise” is to be read in accordance with sections 47 to 49, read with paragraph 50.

*Whether a company is a member of large or medium-sized group*

- 49 (1) This paragraph applies in relation to any expenditure incurred before 12th May 1998, and for the purpose of determining—
- (a) whether expenditure incurred under a contract entered into before that date is first-year qualifying expenditure under section 44, or
  - (b) whether expenditure is first-year qualifying expenditure under paragraph 46 or 48.
- (2) Section 49 applies with the substitution in subsection (2) of “parent company” for “parent undertaking” and the omission of the words in brackets in subsection (5).
- (3) In section 49 as it so applies “parent company”—
- (a) except in the case of a company formed and registered in Northern Ireland, has the same meaning as in Part VII of the Companies Act 1985 (c. 6);
  - (b) in the case of such a company, has the same meaning as in Part VIII of the Companies (Northern Ireland) Order 1986 (S.I.1986/1032 (N.I.6)).

*Expenditure which is not first-year qualifying expenditure*

- 50 For the purposes of section 236(1)(a)—

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- (a) section 40 (expenditure for Northern Ireland purposes by small or medium-sized enterprises) does not apply if the expenditure was incurred before 12th May 1998;
- (b) section 44 (expenditure by small or medium-sized enterprises) does not apply if the expenditure was incurred before 2nd July 1998;
- (c) section 45 (ICT expenditure by small enterprises) does not apply if the expenditure was incurred before 1st April 2000.

#### *Anti-avoidance*

- 51 Sections 243(7) and 244 do not apply in relation to expenditure incurred before 2nd July 1998 if the relevant transaction—
- (a) is a purchase under a contract entered into before 2nd July 1997;
  - (b) is itself a contract entered into before that date; or
  - (c) is an assignment made before that date, or in pursuance of a contract entered into before that date.

#### *Supplementary provisions*

##### *Successions by beneficiaries*

- 52 Section 266(7) does not apply if the succession occurred before 27th July 1989.
- 53 Subsections (6) and (7) of section 268 do not apply if the election under that section was made before 6th April 1990.

#### *General*

##### *Vehicles provided by employees in 1990-91*

- 54 (1) This paragraph applies if—
- (a) at the beginning of the tax year 1990-91 machinery consisting of a mechanically propelled road vehicle was provided by a person for use in the performance of the duties of an office or employment held by him, and
  - (b) the machinery was also provided by him at the end of the tax year 1989-90 for use in the performance of the duties of that office or employment but without that provision being necessary.
- (2) Part 2 of this Act has effect as if the person had incurred capital expenditure on the provision of the machinery for the purposes of the office or employment in the tax year 1990-91—
- (a) the amount of that expenditure being taken as the price which the machinery would have fetched if sold in the open market on 6th April 1990, and
  - (b) the person being treated as owning the machinery as a result of his having incurred that expenditure.

##### *Certain expenditure incurred before 6th April 1976*

- 55 Part 2 of this Act does not apply to capital expenditure—

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- (a) which was not eligible expenditure within the meaning of section 39 of FA 1976 (which brought expenditure previously not within Chapter I of Part III of FA 1971 within that Chapter but with certain exceptions), and
- (b) which was incurred in a chargeable period ending before 6th April 1976.

## PART 5

### INDUSTRIAL BUILDINGS ALLOWANCES

#### *Industrial buildings*

##### *Bridge undertakings*

- 56 In section 274, item 8 of Table B (bridge undertakings) does not apply if the expenditure was treated as incurred before the end of the tax year 1956-57.

##### *Building used by more than one licensee*

- 57 Section 278 does not apply if the licence was granted before 10th March 1982.

##### *Qualifying hotels*

- 58 (1) Section 279 does not apply if the expenditure on the construction of the building was incurred before 12th April 1978.
- (2) Expenditure is not to be treated for the purposes of sub-paragraph (1) as having been incurred after the date on which it was in fact incurred by reason only of section 10(1) of CAA 1990.

##### *Non-industrial part of building disregarded*

- 59 Section 283(2) applies with the substitution of “10%” for “25%” if the expenditure was incurred before 16th March 1983.

#### *Qualifying expenditure*

##### *Purchase of used building from developer*

- 60 Section 297 does not apply if the purchase price on the sale by the developer mentioned in subsection (1)(b) of that section became payable before 27th July 1989.

##### *Qualifying enterprise zone expenditure*

- 61 Sections 300 and 302 do not apply if—
- (a) the purchase price payable on the sale of the relevant interest in the building before it was used, or
  - (b) if there was more than one such sale before the building was used, the purchase price payable on the last of those sales,
- became payable before 16th December 1991.

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62 Sections 301, 303 and 304 do not apply in relation to buildings first used before 16th December 1991.

63 If—

- (a) the relevant interest in a building was sold on a date falling after the end of the period of two years beginning with the date on which the building or structure was first used; and
- (b) that period ended, and the date on which the relevant interest was transferred fell, within the period beginning with 13th January 1994 and ending with 31st August 1994,

paragraphs (c) and (d) of sections 301(1) and 303(1) apply as if the period there referred to were the period beginning with the date on which the building or structure was first used and ending with 31st August 1994.

#### *Initial allowances*

##### *Building occupied by qualifying licensee*

64 Section 305(1)(b) does not apply if the licence was granted before 10th March 1982.

##### *Grants affecting entitlement to initial allowances*

65 Section 308(2)(c) applies as if the reference to a grant under section 101 of the Greater London Authority Act 1999 (c. 29) included a reference to a grant under section 12 of the London Regional Transport Act 1984 (c. 32) or section 3 of the Transport (London) Act 1969 (c. 35).

#### *Writing-down allowances*

##### *Basic rule for calculating amount of allowance*

66 Section 310(1)(b) applies with the substitution of “2%” for “4%” in the case of expenditure incurred before 6th November 1962.

##### *Calculation of amount after relevant event*

67 Section 311(1) applies with the substitution (in the definition of “B”) of “50 years” for “25 years” in the case of expenditure incurred before 6th November 1962.

#### *Balancing adjustments*

##### *When balancing adjustments are made*

68 Section 314(4) applies with the substitution of “50 years” for “25 years” if the qualifying expenditure was incurred before 6th November 1962.

##### *Net allowance given*

69 (1) Section 324 applies in relation to a mills, factories or exceptional depreciation allowance as it applies in relation to an allowance of any kind mentioned in that section.

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- (2) In sub-paragraph (1) “mills, factories or exceptional depreciation allowance”, in relation to any building or structure, means—
- (a) any allowance granted for a tax year under section 15 of FA 1937 in respect of it or premises of which it forms part, including any amount which under that section was to be allowed as a deduction in computing profits or gains for that year, and
  - (b) any allowance granted under section 19 of FA 1941 in respect of it or premises of which it forms part.
- (3) Where such an allowance as is mentioned in sub-paragraph (2) was granted in respect of premises which include several buildings or structures—
- (a) the whole amount of the allowance is to be apportioned between the buildings and structures, and
  - (b) only that part of the allowance which is apportioned to the building or structure in question is to be taken into account.
- 70 For the purposes of section 324 an allowance is treated as having been made to a woman in relation to any qualifying expenditure if—
- (a) it was made to her husband for a chargeable period ending before 6th April 1990 in respect of an interest of hers which was the relevant interest in relation to that expenditure,
  - (b) a balancing event occurs on or after that date, and
  - (c) she is entitled to all or part of the proceeds from that balancing event.

*Balancing adjustment on realisation of capital value*

- 71 Sections 328 to 331 do not apply if the capital expenditure referred to in section 327 was incurred under a contract which—
- (a) was entered into before 13th January 1994, and
  - (b) was not a conditional contract which became unconditional on or after 26th February 1994.

*Writing off qualifying expenditure*

*Writing off qualifying expenditure when building not an industrial building*

- 72 For the purposes of section 336 a building is not treated as having been an industrial building—
- (a) under item 5(b) or (c) or 6 of Table A in section 274 (working foreign plantations or fishing) for any tax year before 1953-54, or
  - (b) under item 7 of Table B in section 274 (tunnel undertakings) for any tax year before 1952-53.

*Crown or other person not within the charge to tax entitled to the relevant interest*

- 73 Section 339 does not apply by virtue of subsection (1)(b) if the interest was sold before 29th July 1988.



### *Highway undertakings*

#### *Special provisions relating to highway concessions*

- 74 Sections 341(4)(a), 343 and 344 do not apply in relation to expenditure incurred before 6th April 1995.

### *Additional VAT liabilities and rebates*

#### *Additional VAT liabilities and initial allowances: 1992-93 cases*

- 75 (1) This paragraph applies if—
- (a) a person was entitled to an initial allowance in respect of 1992-93 qualifying expenditure,
  - (b) the person entitled to the relevant interest in relation to that expenditure incurs an additional VAT liability in respect of that expenditure, and
  - (c) the additional VAT liability is incurred at a time when the building is, or is to be, an industrial building—
    - (i) occupied for the purposes of a trade carried on by the person entitled to the relevant interest or a qualifying lessee, or
    - (ii) used for the purposes of trade carried on by a qualifying licensee.
- (2) If this paragraph applies, the person entitled to the relevant interest is entitled to an initial allowance on the amount of the additional VAT liability.
- (3) The amount of the initial allowance is 20% of the additional VAT liability.
- (4) The allowance is made for the chargeable period in which the additional VAT liability accrues.
- (5) The persons mentioned in sub-paragraph (1)(a) and (b) need not be the same.
- (6) In this paragraph “qualifying lessee” and “qualifying licensee” have the same meaning as in section 305.

#### *Additional VAT liabilities and initial allowances: further case*

- 76 (1) This paragraph applies if—
- (a) a person was entitled to an initial allowance in respect of qualifying enterprise zone expenditure, and
  - (b) the person entitled to the relevant interest in relation to that expenditure incurs an additional VAT liability in respect of that expenditure,
- but there is no entitlement to an initial allowance under section 346 because the condition in subsection (1)(d) of that section is not met.
- (2) If in such a case—
- (a) the conditions in paragraph 74(1) are met except for the condition that the original entitlement to an initial allowance was in respect of 1992-93 qualifying expenditure, and
  - (b) some or all of the qualifying enterprise zone expenditure would have been 1992-93 qualifying expenditure but for paragraph 76(2),

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the person entitled to the relevant interest is entitled to an initial allowance under paragraph 74(3) on the appropriate part or on all of the additional VAT liability (as the case may be).

- (3) The allowance is made for the chargeable period in which the additional VAT liability accrues.

*1992-93 qualifying expenditure*

- 77 (1) “1992-93 qualifying expenditure” means expenditure which is—
- (a) qualifying expenditure which is within section 294 and is 1992-93 construction expenditure, or
  - (b) the 1992-93 element of qualifying expenditure which is within section 295 or 296.
- (2) Qualifying enterprise zone expenditure is not to be taken into account as 1992-93 qualifying expenditure for the purposes of sub-paragraph (1).
- (3) Expenditure is 1992-93 construction expenditure if it was incurred on the construction of a building under a contract which was entered into—
- (a) in the period beginning with 1st November 1992 and ending with 31st October 1993, or
  - (b) for the purpose of securing compliance with obligations under a contract entered into in that period,
- and which was not entered into for the purpose of securing compliance with obligations under a contract entered into before 1st November 1992.
- (4) The 1992-93 element of qualifying expenditure within section 295 or 296 is—

$$QE \times \frac{E}{T}$$

where—

QE is the amount of qualifying expenditure,

E is the amount of 1992-93 construction expenditure, and

T is the amount of expenditure on the construction of the building.

- (5) If the expenditure on the construction of the building was incurred by a person carrying on a trade as a developer who—
- (a) was entitled to the relevant interest in the building before 1st November 1992, and
  - (b) sold that interest in the course of that trade under a contract entered into in the period beginning with 1st November 1992 and ending with 31st October 1993,

the 1992-93 construction expenditure for the purposes of sub-paragraph (4) includes any expenditure on the construction of the building incurred under a contract entered into before 1st November 1993 or for the purpose of securing compliance with obligations under such a contract.

### *Supplementary provisions*

#### *Arrangements having an artificial effect on pricing*

- 78 Section 357 does not apply if the sale price fixed as mentioned in subsections (1) and (2)—
- (a) became payable before 29th November 1994; or
  - (b) was fixed by a contract entered into before 29th November 1994 and became payable before 6th April 1995.

### *General*

#### *Expenditure on preparatory work on land where building used before 6th April 1956*

- 79 (1) Sub-paragraph (2) applies where section 21(9) of CAA 1990 (expenditure on preparatory work on land where building used before 6th April 1956) applied to any expenditure immediately before the commencement of Part 3 of this Act, so that Part I of that Act (industrial buildings and structures) except for section 1 (initial allowances) applied to part of the expenditure separately from the remainder.
- (2) Where this sub-paragraph applies, Part 3 of this Act, except for Chapter 5, similarly applies to the part of the expenditure separately from the remainder.

## **PART 6**

### **AGRICULTURAL BUILDINGS ALLOWANCES**

#### *Overall limit on balancing charge*

- 80 For the purposes of section 387 an allowance is treated as having been made to a woman in relation to any qualifying expenditure if—
- (a) it was made to her husband for a chargeable period ending before 6th April 1990 in respect of an interest of hers which was the relevant interest in relation to that expenditure,
  - (b) a balancing event occurs on or after that date, and
  - (c) she is entitled to all or part of the proceeds from that balancing event.

#### *Meaning of “freehold interest in land” for purposes of Part 4*

- 81 (1) Sub-paragraphs (2) and (3) apply if paragraph 51 of Schedule 12 to the Abolition of Feudal Tenure etc. (Scotland) Act 2000 has not come into force before the commencement of Part 4 of this Act.
- (2) Section 393(1) has effect until the appointed day as if for paragraph (b) there were substituted—
- “(b) in relation to Scotland, the estate or interest of the proprietor of the dominium utile (or, in the case of property other than feudal property, of the owner);”.
- (3) Section 393(2) has effect until the appointed day as if for paragraph (b) there were substituted—

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“(b) in relation to Scotland, an agreement to acquire the estate or interest mentioned in subsection (1)(b);”.

(4) In sub-paragraphs (2) and (3) “the appointed day” means such day as may be appointed by the Scottish Ministers under section 71 of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 for the coming into force of the Act.

*Exclusion of expenditure incurred before 1st April 1986*

82 References in Part 4 of this Act to qualifying expenditure do not include—

- (a) expenditure incurred before 1st April 1986; or
- (b) payments made before 1st April 1987 under a contract entered into before 14th March 1984.

*The writing-down period*

83 (1) This paragraph applies where it is provided under Part 4 that writing-down allowances are to be made in respect of any expenditure during a writing-down period of any specified length.

(2) If allowances were made under paragraph 27(2) of Schedule 14 to FA 1965—

- (a) for income tax purposes, for either of the tax years 1964-65 and 1965-66, and
- (b) for accounting periods of a company falling wholly or partly within either of those years,

the periods for which allowances were made are added together in calculating the writing-down period, even though (according to the calendar) the same time is counted twice.

**PART 7**

MINERAL EXTRACTION ALLOWANCES

*Qualifying expenditure on acquiring a mineral asset*

*Qualifying expenditure where buildings or structures cease to be used*

84 In section 405(3) “A” does not include, in cases where the buildings or structures have permanently ceased to be used for any purpose before 27th July 1989, the amount of any agricultural buildings allowances.

*Qualifying expenditure: second-hand assets*

*Claims before 26th November 1996 in respect of acquisition of mineral asset owned by previous trader*

85 Section 407(4) does not apply in relation to claims made before 26th November 1996.

*Acquisition of oil licence from non-trader before 13th September 1995*

86 Section 408 does not apply to acquisitions occurring before 13th September 1995.

*Restrictions on qualifying expenditure in case of UK oil licence and certain other assets  
inapplicable for expenditure pre-16th July 1985*

- 87 (1) The sections listed in sub-paragraph (2) do not apply if—
- (a) asset X is a mineral asset situated in the United Kingdom, and
  - (b) the capital expenditure incurred by the buyer consists of the payment of sums under a contract entered into by him before 16th July 1985.
- (2) The sections are—
- (a) section 407 (acquisition of mineral asset owned by previous trader),
  - (b) section 410 (UK oil licence: qualifying expenditure limited by reference to original licence payment), and
  - (c) section 411 (assets generally: qualifying expenditure limited by reference to previous trader’s unrelieved qualifying expenditure).
- (3) Sections 407 and 411 apply, in relation to a case where asset X is a mineral asset situated in the United Kingdom, as if the references to an earlier owner of the asset did not include a person who has not owned the asset at any time after 31st March 1986.
- (4) In the case of a mineral asset which consists of or includes an interest in or right over mineral deposits or land, the asset is not to be regarded for the purposes of this paragraph as situated in the United Kingdom unless the deposits or land are or is so situated.
- (5) Expressions used in this paragraph and Chapter 4 of Part 5 have the same meaning in this paragraph as they have in that Chapter.

*Expenditure incurred pre-1st April 1986*

- 88 (1) Part 5 of this Act does not apply in relation to expenditure incurred before 1st April 1986 (“old expenditure”) except as provided by the following provisions of this paragraph.
- (2) Sections 401 and 402 apply to old expenditure if—
- (a) that expenditure was incurred on mineral exploration and access,
  - (b) immediately before 1st April 1986, no allowance had been made under Chapter III of Part I of CAA 1968 in respect of it, and
  - (c) after that day and before mineral exploration and access ceases at the source in question, the person by whom the expenditure was incurred began or begins to carry on a trade of mineral extraction.
- In this sub-paragraph “source” has the same meaning as it had in Schedule 14 to FA 1986.
- (3) For the purposes of Part 5—
- (a) expenditure which by virtue of any provision of section 119 of CAA 1990 (read with any provision of Schedule 14 to FA 1986) was treated immediately before the coming into force of this Act as expenditure incurred on 1st April 1986 for any purpose or purposes is to continue to be so treated;

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- (b) any allowances treated as having been made under Schedule 13 to FA 1986 is to continue to be so treated;
  - (c) any amount treated as qualifying expenditure for the purposes of that Schedule is to continue to be so treated; and
  - (d) in relation to any expenditure to which paragraph 6(4)(a) of Schedule 14 to FA 1986 applied, section 424 does not apply (so that no deduction is to be made from the amount of any disposal receipt by reference to the undeveloped market value of the land in question).
- (4) In the case of expenditure incurred in the acquisition of a mineral asset, nothing in sub-paragraph (3)(c) affects the time as at which under section 404 the undeveloped market value of an interest is to be determined.
- (5) In a case where—
- (a) by virtue of any provision of this paragraph, the whole or any part of the outstanding balance (within the meaning of paragraph 1 of Schedule 14 to FA 1986) of an item of old expenditure is treated for the purposes of Part 5 as qualifying expenditure, and
  - (b) a balancing charge falls to be made under Chapter 6 of that Part in respect of the expenditure,
- then, in determining the amount on which that charge falls to be made, subsection (4) of section 418 has effect (subject to sub-paragraph (6)) as if paragraph (b) of that subsection included a reference to allowances made in respect of the item under Chapter III of Part I of CAA 1968.
- (6) Where the qualifying expenditure in respect of which a balancing charge falls to be made represents part only of the outstanding balance of an item of old expenditure, the reference in sub-paragraph (5) to allowances made in respect of that item is to be construed as a reference to such part of those allowances as it is just and reasonable to apportion to that part of the balance (having regard to any apportionment made under paragraph 3(2) of Schedule 14 to FA 1986).

## PART 8

### RESEARCH AND DEVELOPMENT ALLOWANCES

#### *Expenditure incurred partly on research and development*

89        Section 439(4) does not apply to expenditure incurred before 27th July 1989.

#### *References to research and development in relation to new trades*

- 90        (1) Where—
- (a) a trade is set up and commenced in the year of assessment 1999-00, and
  - (b) its first period of account ends after 6th April 2001,
- Part 6 of this Act has effect in relation to that year as if references to research and development were references to scientific research.
- (2) In this paragraph “scientific research” means any activities in the fields of natural or applied science for the extension of knowledge.

### *Disposal of oil licences*

- 91 (1) Sub-paragraphs (2) and (3) apply where—
- (a) a person (“the transferor”) disposes of any interest in an oil licence to another (“the transferee”) during the transitional period,
  - (b) part of the value of the interest is attributable to allowable exploration expenditure incurred by the transferor, and
  - (c) an election is made in accordance with this paragraph specifying an amount as the amount to be treated as so attributable.
- (2) Chapter 3 of Part 6 has effect in relation to the disposal as if—
- (a) the disposal were a disposal by which an asset representing the allowable exploration expenditure ceases to belong to the transferor, and
  - (b) the disposal value of that asset were an amount equal to the amount specified in the election.
- (3) For the purposes of Part 5 of this Act, the amount of any expenditure incurred—
- (a) by the transferee in acquiring the interest from the transferor, or
  - (b) by any person subsequently acquiring the interest (or an interest deriving from the interest),
- which is taken to be attributable to expenditure incurred, before the disposal to the transferee, on mineral exploration and access is the lesser of the amount specified in the election and the amount which, apart from this sub-paragraph, would be taken to be so attributable.
- (4) An election—
- (a) must be made by notice to the Board of Inland Revenue given by the transferor, and
  - (b) subject to sub-paragraph (5), does not have effect unless a copy of it is served on the transferee and the transferee consents to it.
- (5) If the Special Commissioners are satisfied—
- (a) that the disposal was made under or in pursuance of an agreement entered into by the transferor and the transferee on the mutual understanding that a quantified (or quantifiable) part of the value of the interest disposed of was attributable to allowable exploration expenditure, and
  - (b) that the part quantified in accordance with that understanding and the amount specified in the election are the same,
- they may dispense with the need for the transferee to consent to the election.
- (6) Any question falling to be determined by the Special Commissioners under sub-paragraph (5) is to be determined by them in the same way as an appeal; but both the transferor and the transferee are entitled to appear and be heard by those Commissioners or to make representations to them in writing.
- (7) Subject to sub-paragraph (8), an election may specify any amount, including a nil amount, as the amount to be treated as mentioned in sub-paragraph (1)(c).
- (8) Where—
- (a) a return has been made for a chargeable period of the transferor, and
  - (b) the return includes, at the time when it is made, an amount which, disregarding the provisions of this paragraph, would be treated under Chapter 3 of Part 6 as a trading receipt accruing in that period,

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the election must not specify an amount less than the amount included in the return unless the Board of Inland Revenue agrees the lesser amount in question.

- (9) An election made in accordance with this paragraph—
- (a) is irrevocable, and
  - (b) may not be varied after it is made.
- (10) For the purposes of this paragraph a disposal is a disposal made during the transitional period if it is one made—
- (a) before 13th September 1995, or
  - (b) on or after that date in pursuance of any obligation to make the disposal which, immediately before that date, was an unconditional obligation.
- (11) For the purposes of sub-paragraph (10), the fact that a third party who is not connected with the transferor or the transferee may, by exercising any right or withholding any permission, prevent the fulfilment of an obligation does not prevent the obligation from being treated as unconditional.
- (12) In sub-paragraph (11) the reference to a third party is a reference to any person, body, government or public authority, whether within or outside the United Kingdom.
- (13) In this paragraph—
- “allowable exploration expenditure” has the same meaning as in section 555;
- “mineral exploration and access” has the same meaning as in Part 5.
- (14) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this paragraph.

## PART 9

### PATENT ALLOWANCES

#### *Expenditure incurred before 1st April 1986*

##### *Scope of paragraphs 93 to 101*

- 92 (1) Paragraphs 93 to 101 apply to capital expenditure incurred by a person before 1st April 1986 on the purchase of patent rights.
- (2) Chapters 2 to 4 of Part 8 do not apply to such expenditure, except for certain provisions which are specifically applied by paragraph 101.

##### *Qualifying expenditure and unrelieved qualifying expenditure*

- 93 (1) In this paragraph and paragraphs 94 to 101, “qualifying expenditure” means capital expenditure incurred before 1st April 1986 on the purchase of patent rights.
- (2) The result of Steps 1 to 3 is the unrelieved qualifying expenditure for a chargeable period.

##### *Step 1*

Take an item of qualifying expenditure.



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*Step 2*

Subtract any writing-down allowances made in respect of that expenditure for earlier chargeable periods.

*Step 3*

If the person who incurred the expenditure sold any part of the patent rights before the beginning of the chargeable period, subtract the net proceeds of sale (so far as they consist of capital sums).

*Entitlement to writing-down allowances*

- 94 (1) A writing-down allowance is made for a chargeable period in respect of an item of qualifying expenditure if—
- (a) the chargeable period falls wholly or partly within the writing-down period for that expenditure (as determined in accordance with paragraph 95),
  - (b) paragraph 97 does not prohibit writing-down allowances for that period, and
  - (c) either—
    - (i) the trade use condition is met for that period, or
    - (ii) any income receivable by that person in respect of the patent rights in that period would be liable to tax.
- (2) The trade use condition is that—
- (a) the person is carrying on in the chargeable period a trade which is within the charge to tax, and
  - (b) at any time in the chargeable period the patent rights, or other rights out of which they were granted, were, or were to be, used for the purposes of the trade.
- (3) The total writing-down allowances made in respect of an item of qualifying expenditure (whether to the same or to different persons) must not exceed the amount of that expenditure.

*The writing-down period*

- 95 (1) The writing-down period for an item of qualifying expenditure—
- (a) begins at the beginning of the chargeable period in respect of which the expenditure is incurred, and
  - (b) is of a length determined in accordance with the Table, which shows the basic rule, and the rules which apply instead of the basic rule in the cases described in items 2 and 3.

Table

LENGTH OF WRITING-DOWN PERIODS  
FOR QUALIFYING EXPENDITURE

Rule	Length of writing-down period
1. Basic rule.	17 years.
2. Patent rights are purchased for a specified period.	Whichever is shorter— (a) 17 years;

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Rule	Length of writing-down period
	(b) the number of years comprised within the specified period.
3. Patent rights begin one complete year or more after the commencement of the patent, and item 2 does not apply.	17 years, less the number of complete years which, when the rights began, have elapsed since the commencement of the patent; or if 17 complete years have so elapsed, one year.

(2) For the purpose of determining the writing-down period, expenditure incurred for the purposes of a trade by a person about to carry on the trade is treated as if incurred on the first day on which that person carries on that trade, unless that person has by then sold all the rights on which the expenditure was incurred.

(3) “The commencement of the patent”, means, in relation to a patent, the date as from which the patent rights become effective.

#### *Calculation of writing-down allowances*

96 (1) The basic rule for calculating a writing-down allowance for an item of qualifying expenditure is—

$$\text{Ex } \frac{C}{W}$$

where—

E is the amount of the qualifying expenditure;

C is the length of the part of the chargeable period falling within the writing-down period;

W is the length of the writing-down period.

(2) The basic rule is subject to the rules about—

- (a) cessation of writing-down allowances (paragraph 97), and
- (b) reduced writing-down allowances (paragraph 98).

#### *End of writing-down allowances*

97 (1) No writing-down allowance is to be made to a person for a chargeable period in respect of qualifying expenditure incurred on the purchase of patent rights if any of the following occur in that period—

- (a) the patent rights come to an end without being subsequently revived,
- (b) the person sells all of those rights, or so much of them as that person still owned at the beginning of the chargeable period, or
- (c) the person sells part of those rights, and the net proceeds of sale for that period (so far as they consist of capital sums) are not less than the amount of the unrelieved qualifying expenditure for that period.

(2) If a writing-down allowance in respect of qualifying expenditure is prohibited by sub-paragraph (1) for a chargeable period, no writing-down allowance is to be made in respect of that expenditure for any subsequent chargeable period.

### *Reduced writing-down allowance*

- 98 (1) If a person sells part of any patent rights in a chargeable period, and for that period U is greater than N, the writing-down allowance for that period is—

$$\frac{U-N}{Y}$$

where—

- U is the unrelieved qualifying expenditure for the chargeable period,  
N is the net proceeds of any sales of the patent rights which take place in the chargeable period (so far as those proceeds consist of capital sums), and  
Y is the number of complete years of the writing-down period remaining at the beginning of the chargeable period.
- (2) If an amount is calculated under sub-paragraph (1) for a chargeable period, that amount is also the amount of the writing-down allowance for subsequent chargeable periods until another sale in a period for which U is greater than N causes a fresh calculation to be made under sub-paragraph (1).
- (3) If a chargeable period is more or less than a year, an allowance calculated under sub-paragraph (1) or (2) is proportionately increased or reduced.

### *Balancing allowance on sale or expiry of patent rights*

- 99 (1) A person is entitled to a balancing allowance for a chargeable period in respect of qualifying expenditure if there is unrelieved qualifying expenditure for that period and any of the following occur in that period—
- the patent rights come to an end without subsequently being revived, or
  - the person sells all of those rights, or so much of them as that person still owned at the beginning of the period.

This is subject to sub-paragraph (2).

- (2) The person is not entitled to a balancing allowance unless—
- a writing-down allowance has been given in respect of the expenditure, or
  - a writing-down allowance could, but for the rights coming to an end or being sold, have been given in respect of the expenditure.
- (3) The amount of the balancing allowance is—
- in the case of a sale, equal to the unrelieved qualifying expenditure for the chargeable period, less the net proceeds of sales taking place in the chargeable period (so far as they consist of capital sums), and
  - in any other case, equal to the unrelieved qualifying expenditure for the chargeable period.

### *Balancing charges*

- 100 (1) A balancing charge is made on a person for a chargeable period in respect of qualifying expenditure if in that period—
- the person sells some or all of the patent rights, and
  - the net proceeds of sale (so far as they consist of capital sums) from the sales in that period exceed any unrelieved qualifying expenditure for that period.

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The charge is calculated in accordance with sub-paragraphs (2) to (5).

- (2) If there is no unrelieved qualifying expenditure, the amount of the balancing charge is equal to the net proceeds of sale (so far as they consist of capital sums).

This is subject to sub-paragraphs (4) and (5).

- (3) If there is some unrelieved qualifying expenditure, the amount of the balancing charge is equal to the amount by which the net proceeds of sale (so far as they consist of capital sums) exceed the unrelieved qualifying expenditure.

This is subject to sub-paragraphs (4) and (5).

- (4) The total amount of the first balancing charge must not exceed the total writing-down allowances actually given in respect of the expenditure.

- (5) The total amount on which a second or further balancing charge is made must not exceed the total writing-down allowances actually made in respect of the expenditure, less the amount of any earlier charge.

#### *Giving effect to allowances and charges*

- 101 (1) Sub-paragraph (2) applies if—
- (a) a person is entitled to a writing-down allowance or a balancing allowance or liable to a balancing charge in respect of qualifying expenditure, and
  - (b) the trade use condition is met.
- (2) The allowance or charge is to be given effect in calculating the profits of that person's trade, by treating—
- (a) the allowance as an expense of the trade, and
  - (b) the charge as a receipt of the trade.
- (3) Sub-paragraph (4) applies if—
- (a) a person is entitled to a writing-down allowance or a balancing allowance or liable to a balancing charge in respect of qualifying expenditure, and
  - (b) the trade use condition is not met.
- (4) Sections 479 and 480 apply in relation to giving effect to the allowance or charge referred to in sub-paragraph (3) as they apply in relation to giving effect to an allowance or charge under Chapter 3 of Part 8 in respect of qualifying non-trade expenditure.
- (5) For the purposes of Part 8 a person's "income from patents" includes balancing charges to which the person is liable in respect of qualifying expenditure.

#### *Supplementary provisions*

##### *Limit on qualifying expenditure*

- 102 Section 481 does not apply to expenditure incurred before 1st April 1986, and subsections (5) and (6) of that section do not apply to expenditure incurred before 27th July 1989.

## PART 10

### DREDGING ALLOWANCES

#### *Writing-down allowances*

- 103 (1) Section 487(2) applies with the substitution of “50 years” for “25 years” in the case of expenditure incurred before 6th November 1962.
- (2) Section 487(3) applies with the substitution of “2%” for “4%” in the case of expenditure incurred before 6th November 1962.

#### *Balancing allowances*

- 104 The reference in section 488(1)(d) to allowances previously made in respect of the expenditure—
- (a) includes any initial allowance made in respect of it under section 17 of FA 1956 or section 67 of CAA 1968, and
  - (b) except in relation to initial allowances, is to be construed as if section 17 of FA 1956 had always had effect (instead of having effect only for chargeable periods after the year 1955-56).

#### *The writing-down period*

- 105 (1) This paragraph applies where it is provided under Part 9 that writing-down allowances are to be made in respect of any expenditure during a writing-down period of any specified length.
- (2) If allowances were made under paragraph 27(2) of Schedule 14 to the Finance Act 1965—
- (a) for income tax purposes, for either of the tax years 1964-65 and 1965-66, and
  - (b) for accounting periods of a company falling wholly or partly within either of those years,
- the periods for which allowances were made are added together in calculating the writing-down period, even though (according to the calendar) the same time is counted twice.

## PART 11

### CONTRIBUTIONS

#### *Regional development grants*

- 106 (1) Section 534(1) applies as if a grant falling within that subsection included—
- (a) a grant made under Part II of the Industrial Development Act 1982 (c. 52) on an application made before 1st April 1988;
  - (b) a grant made under Part I of the Industry Act 1972 (c. 63), or a grant made under Northern Ireland legislation and declared by the Treasury to correspond to a grant under that Part.
- (2) Section 534(2) does not apply if the expenditure was incurred, or the grant was paid, before 10th March 1982.

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*Status: This is the original version (as it was originally enacted).*

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*Contributions not made by public bodies and not eligible for tax relief*

- 107 Section 536 applies with the omission of subsection (3)(b) in relation to contributions made before 27th July 1989.

*Conditions for allowances*

- 108 In section 536(5), as it applies for the purposes of section 537(2), paragraphs (a)(iv) and (b) do not apply in relation to contributions made before 27th July 1989.

*Agricultural buildings*

- 109 Section 538(2)(b)(ii) applies in relation to contributions made before 6th April 1990 with the omission of “or to allocate the expenditure to a pool under Part 2”.
- 110 Sections 368, 375 and 379 apply with the necessary modifications, instead of section 542, in relation to contributions made before 27th July 1989.

**PART 12**

SUPPLEMENTAL

*Transfer of insurance company business*

- 111 Section 560 applies with—
- (a) the substitution for subsection (1) of—
- “(1) This section applies if assets are transferred as part of, or in connection with, a transfer of the whole or part of the long term business of an insurance company to another company in accordance with a scheme sanctioned by a court under section 49 of the Insurance Companies Act 1982.”; and
- (b) the omission of subsection (2),
- in relation to transfers sanctioned or authorised before 1st July 1994.

*Election regarding sale consideration*

- 112 (1) In relation to a transfer to which this paragraph applies, section 569(3) applies with the substitution for paragraph (a) of—
- “(a) any of the parties is not resident in the United Kingdom at the time of the transfer and the circumstances are not at that time such that a relevant allowance or charge falls or might fall to be made to or on that party as a result of the transfer;”.
- (2) This paragraph applies to—
- (a) a transfer before 16th March 1993;
- (b) a transfer in pursuance of a contract entered into before that date; and
- (c) a transfer in pursuance of a contract entered into for the purpose of securing that obligations under a contract entered into before that date are complied with.

## PART 13

### OTHER ENACTMENTS

- 113 (1) Subsections (2) and (3) of section 578A of ICTA (expenditure on car hire) apply with the substitution of “£8,000” for “£12,000” in relation to expenditure incurred under a contract entered into before 11th March 1992.
- (2) Subsection (4) of that section does not apply in relation to rebates made or transactions occurring before 29th April 1996.
- 114 Paragraph 18A of Schedule 30 to ICTA (transitional provisions and savings) continues to have effect in relation to any relief to which it applied before the commencement of this Act despite the repeal by this Act of paragraph 8(43) of Schedule 1 to CAA 1990.
- 115 The repeals made by CAA 1990 do not have effect in relation to capital expenditure—
- (a) which was not eligible expenditure within the meaning of section 39 of FA 1976 (which brought expenditure previously not within Chapter I of Part III of FA 1971 within that Chapter but with certain exceptions), and
  - (b) which was incurred in a chargeable period ending before 6th April 1976.
- 116 (1) Sections 40A to 40D of F(No.2)A 1992 (films) apply with the necessary modifications in relation to—
- (a) expenditure on the production of a film—
    - (i) completed before 21st March 2000, or
    - (ii) completed on or after that date, if the first day of principal photography is before that date, unless the person incurring the expenditure elects that those modifications should not apply;
  - (b) expenditure on the acquisition of a film, tape or disc incurred before 6th April 2000.
- (2) The necessary modifications are—
- (a) the substitution for section 40A(1) of—
    - “(1) Expenditure which—
      - (a) is incurred on the production or acquisition of a film, tape or disc, and
      - (b) would, apart from this subsection, constitute capital expenditure on the provision of plant or machinery for the purposes of Part 2 of the Capital Allowances Act,is to be regarded for the purposes of the Tax Acts as expenditure of a revenue nature unless an election under section 40D below has effect with respect to it.”;
    - (b) in section 40A(2), the substitution of “the production or acquisition of a film, tape or disc” for “the master version of a film” and of “of the film, tape or disc” for “of the master version”;
    - (c) in section 40A(3), the substitution of “film, tape or disc” for “master version of a film” and of “the film, tape or disc” for “the master version” (in both places);
    - (d) the substitution for section 40A(5) of—
      - “(5) In this section and sections 40B to 40D below—

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- (a) any reference to a film is a reference to an original master negative of the film and its soundtrack, if any;
  - (b) any reference to a tape is a reference to an original master film tape or original master audio tape; and
  - (c) any reference to a disc is a reference to an original master film disc or original master audio disc;
- and any reference to the acquisition of a film, tape or disc includes a reference to the acquisition of any description of rights in a film, tape or disc.”;
- (e) in section 40B(1), the substitution of “films, tapes or discs” for “master versions of films” and of “film, tape or disc” for “master version of a film”;
  - (f) in section 40B(4), the substitution of “film, tape or disc” for “master version of the film” and of “film, tape or disc” for “master version”;
  - (g) in section 40B(5), the substitution of “film, tape or disc” for “master version of the film”;
  - (h) in section 40C(1), the substitution of “film, tape or disc” for “master version of the film”;
  - (i) in section 40C(2), the substitution of “film, tape or disc” for “master version of the film”;
  - (j) in section 40D(2), the substitution of “films, tapes or discs” for “master versions of films”, of “film, tape or disc” for “master version of a film” and of “the film, tape or disc” for “the master version” (in both places);
  - (k) in section 40D(3), the substitution of “film, tape or disc” for “master version”;
  - (l) in section 40D(4), the substitution of “film, tape or disc” for “master version of the film” (in both places);
  - (m) in section 40D(6), the substitution of “a film, tape or disc” for “the master version of a film” and of “of the film, tape or disc” for “of the master version”; and
  - (n) in section 40D(7), the substitution of “film, tape or disc” for “master version of a film”.

(3) An election under sub-paragraph (1)(a) is irrevocable.

(4) For the purposes of sub-paragraph (1)(a) a film is completed at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.

(5) In sub-paragraph (1)(b)—

- (a) “film” means an original master negative of the film and its soundtrack, if any;
- (b) “tape” means an original master film tape or original master audio tape; and
- (c) “disc” means an original master film disc or original master audio disc;

and the acquisition of a film, tape or disc includes the acquisition of any description of rights in a film, tape or disc.

117 Section 40D of F(No.2)A 1992 (election relating to tax treatment of films expenditure) applies with the omission of—

- (a) paragraph (a) of subsection (1); and
- (b) subsections (3) to (7),

if the film, tape or disc of the film was completed before 10th March 1992.