



# Finance Act 1971

## 1971 CHAPTER 68

### PART III

#### INCOME TAX AND CORPORATION TAX : CAPITAL ALLOWANCES

### CHAPTER I

#### NEW SYSTEM OF ALLOWANCES AND CHARGES IN RESPECT OF TRADE (ETC.) MACHINERY AND PLANT

#### *Introductory*

#### **40 Application of new system**

- (1) Subject to subsections (2) and (3) below, this Chapter applies to capital expenditure on the provision of machinery or plant incurred on or after 27th October 1970; and, in the case of expenditure to which this Chapter applies, no allowances or charges shall be made under Chapter II of Part I of the Capital Allowances Act 1968.
- (2) This Chapter shall not apply to capital expenditure incurred by any person on the provision of second-hand machinery or plant if capital expenditure on providing the machinery or plant was incurred by another person before the said 27th October and—
  - (a) he and that other person are connected with each other within the terms of section 533 of the Taxes Act, or
  - (b) it appears with respect to the transaction under which the first-mentioned expenditure is incurred, or with respect to transactions of which it is one, that the sole or main benefit which, but for this subsection, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under this Chapter.
- (3) Where any capital expenditure is incurred before the said 27th October on the provision of machinery or plant under a contract which provides that a person shall or may become the owner of the machinery or plant on the performance of the contract,

this Chapter shall not apply to any capital expenditure incurred under the contract in respect of that machinery or plant unless it is first brought into use by that person on or after that date.

*First-year allowances, writing-down allowances and balancing adjustments*

#### **41 First-year allowances-general rules**

- (1) Subject to the provisions of this Chapter, where—
- (a) a person carrying on a trade incurs capital expenditure on the provision of machinery or plant for the purposes of the trade, and
  - (b) in consequence of his incurring the expenditure, the machinery or plant belongs to him at some time during the chargeable period related to the incurring of the expenditure, there shall be made to him for that period an allowance (in this Chapter referred to as “a first-year allowance”) which shall be of an amount determined in accordance with section 42 below:

Provided that no first-year allowance shall be made in respect of any expenditure if the chargeable period related to the incurring of the expenditure is also the chargeable period related to the permanent discontinuance of the trade.

- (2) Where a person has incurred capital expenditure on the provision of machinery or plant for the purposes of a trade, and the machinery or plant ceases to belong to him without having been brought into use for the purposes of the trade, a first-year allowance shall not be made in respect of the expenditure, or if previously made shall be withdrawn.
- (3) Where one or more first-year allowances fall to be made for any chargeable period in connection with a trade carried on by a company, the company may, by notice in writing given to the inspector not later than two years after the end of that period, either disclaim the allowance or allowances or require that the amount, or aggregate amount, thereof be reduced to an amount specified in that behalf in the notice; and a claim for one or more first-year allowances to be made for any chargeable period in connection with a trade carried on by a person other than a company may contain a similar requirement as to the amount or aggregate amount thereof:

Provided that this subsection shall not apply to allowances in respect of expenditure on the provision of new ships.

- (4) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to subsection (2) or (3) above.

#### **42 First-year allowances-rates**

- (1) Except in a case falling within subsection (2) below, a first-year allowance shall be of an amount equal to 60 per cent. of the expenditure in respect of which it is made.
- (2) Subject to subsection (4) below, a first-year allowance in respect of expenditure incurred on the provision of—
  - (a) a new ship, or
  - (b) new machinery or plant (not being mobile equipment) for use for industrial purposes in a development area or in Northern Ireland,
 shall be of an amount equal to the whole of that expenditure.

- (3) Where a first-year allowance in respect of a person's expenditure on the provision of an asset falls to be withheld or withdrawn by virtue of section 41(2) above, that person's ownership of the asset shall be disregarded in determining whether the asset is new for the purposes of subsection (2) of this section.
- (4) If, within the period of three years beginning with the date on which expenditure is incurred on the provision of machinery or plant for use as mentioned in paragraph (b) of the said subsection (2), the machinery or plant is used—
- (i) in a place which is neither in a development area nor in Northern Ireland, or
  - (ii) for purposes other than industrial purposes, or
  - (iii) in a building or structure which is prevented by section 7(3) of the Capital Allowances Act 1968 (dwelling-houses, retail shops, showrooms, hotels and offices) from being an industrial building or structure within the meaning of Chapter I of Part I of that Act,
- that subsection shall be deemed not to have applied to the first-year allowance in respect of that expenditure, and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to this subsection.
- (5) A place in Great Britain which ceases at any time to be in a development area shall be treated for the purposes of this section as continuing to be in a development area in relation to machinery or plant which is in use there at that time or is provided for use there under a contract entered into before that time.
- (6) In this section—
- “development area ” has the same meaning as in Part I of the Local Employment Act 1960 ;
- “industrial purposes ” means the purposes of a trade, or a part of a trade, which consists—
- (a) in the carrying on of a dock, water, electricity or hydraulic power undertaking (as defined by section 7(5) of the Capital Allowances Act 1968) or a gas, transport, inland navigation, tunnel or bridge undertaking, or
  - (b) in the working of any mine, oil well or other source of mineral deposits, or
  - (c) in the manufacture of goods or materials, or the subjecting of goods or materials to any process, or
  - (d) in the construction, alteration or demolition of buildings or other fixed works of construction or civil engineering, including roads, or
  - (e) in the distribution of goods by pipe-line, or (f) in the storage—
    - (i) of goods or materials which are to be used in the manufacture of other goods or materials, or
    - (ii) of goods or materials which are to be subjected, in the course of a trade, to any process, or
    - (iii) of goods or materials which, having been manufactured or produced or subjected, in the course of a trade, to any process, have not yet been delivered to any purchaser, or
    - (iv) of goods or materials on their arrival by sea or by air into any part of the United Kingdom;
- “mobile equipment ” means—

- (a) machinery or plant having its own means of propulsion, or constructed or adapted for being towed, but excluding machinery or plant suitable for use only in or about a building or structure used for industrial purposes, at a source of mineral deposits or on or about a building or civil engineering site, and
- (b) containers for use in the transportation of goods.

#### **43 First-year allowances-exclusion of certain road vehicles**

First-year allowances shall not be made in respect of capital expenditure on the provision of mechanically-propelled road vehicles, except—

- (a) vehicles of a construction primarily suited for the conveyance of goods or burden of any description,
- (b) vehicles of a type not commonly used as private vehicles and unsuitable to be so used, and
- (c) vehicles provided wholly or mainly for hire to, or for the carriage of, members of the public in the ordinary course of a trade.

#### **44 Writing-down allowances and balancing adjustments**

- (1) Subject to the provisions of this Chapter, where—
- (a) a person carrying on a trade has incurred capital expenditure on the provision of machinery or plant for the purposes of the trade, and
  - (b) in consequence of his incurring the expenditure, the machinery or plant belongs, or has belonged, to him, and
  - (c) the machinery or plant is or has been in use for the purposes of the trade,
- allowances and charges shall be made to and on him in accordance with the following provisions of this section.
- (2) For any chargeable period for which a person within subsection (1) above has qualifying expenditure as defined in subsection (4) below which exceeds any disposal value to be brought into account by him in accordance with subsection (5) below, there shall be made to him—
- (a) unless the period is the chargeable period related to the permanent discontinuance of the trade, an allowance (in this Chapter referred to as “a writing-down allowance”) of an amount equal to—
    - (i) 25 per cent. of the excess, or
    - (ii) a proportionately reduced percentage of the excess if the period is part only of a year, or if the period is a year of assessment but the trade has been carried on for part only thereof;
  - (b) if the period is the chargeable period related to the permanent discontinuance of the trade, an allowance (in this Chapter referred to as “a balancing allowance”) equal to the whole of the excess:

Provided that a claim for a writing-down allowance to be made for any chargeable period in connection with a trade carried on by a person other than a company may require that the amount of the allowance be reduced to an amount specified in that behalf in the claim.

- (3) For any chargeable period for which a person's qualifying expenditure is less than the disposal value which he is to bring into account, there shall be made on him a charge

(in this Chapter referred to as “a balancing charge”), and the amount on which the charge is made shall be an amount equal to the difference.

- (4) For the purposes of subsections (2) and (3) above, a person's qualifying expenditure for a chargeable period is the aggregate of the following amounts—
- (a) the balance remaining after deducting any first-year allowances made in respect thereof of any capital expenditure incurred by him on the provision for the purposes of the trade of machinery or plant which is in use for those purposes during the chargeable period in question or its basis period, or has at any previous time been in use for those purposes, not being—
    - (i) expenditure which, or any part of which, has formed part of his qualifying expenditure for any previous chargeable period, or
    - (ii) expenditure in respect of which a first-year allowance is or could (assuming a claim therefor in the case of a person other than a company, and disregarding any notice of disclaimer in the case of a company) be made for the chargeable period in question; and
  - (b) if for the chargeable period immediately preceding the chargeable period in question there was an excess of qualifying expenditure over disposal value, the balance of that excess after deducting any writing-down allowance made by reference thereto.
- (5) For the purposes of subsections (2) and (3) above, the disposal value to be brought into account by a person for any chargeable period is the disposal value (calculated in accordance with subsection (6) below) of all machinery or plant on the provision of which for the purposes of the trade he has incurred capital expenditure and which—
- (a) belongs to him at some time in the chargeable period or its basis period, and
  - (b) is in that period, or has at any previous time been, in use for the purposes of the trade, and
  - (c) in that period, either ceases (whether on a sale or in any other circumstances) to belong to him or permanently ceases (whether because of the discontinuance of the trade or for any other reason) to be used for the purposes of the trade :

Provided that this subsection shall not require a person to bring into account the disposal value of any machinery or plant which he disposes of by way of gift in such circumstances that there is a charge to tax under Part VIII of the Taxes Act (Schedule E).

- (6) The disposal value of any machinery or plant depends upon the event by reason of which it falls to be taken into account, and—
- (a) unless paragraph (b) below applies, if that event is the sale of the machinery or plant, equals the net proceeds to the person in question of the sale, together with any insurance moneys received by him in respect of the machinery or plant by reason of any event affecting the price obtainable on the sale, and, so far as it consists of capital sums, any other compensation of any description so received,
  - (b) if that event is the sale of the machinery or plant at a price lower than that which it would have fetched if sold in the open market, and otherwise than in circumstances such that—
    - (i) the buyer's expenditure on the acquisition of the machinery or plant can be taken into account in making allowances to him under this Chapter or Part II of the Capital Allowances Act 1968 (scientific research allowances), or

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- (ii) there is a charge to tax under Part VIII of the Taxes Act (Schedule E), equals the price which the machinery or plant would have fetched if sold in the open market,
- (c) if that event is the demolition or destruction of the machinery or plant, equals the net amount received by the person in question for the remains of the machinery or plant, together with any insurance moneys received by him in respect of the demolition or destruction and, so far as it consists of capital sums, any other compensation of any description so received,
- (d) if that event is the permanent loss of the machinery or plant otherwise than in consequence of its demolition or destruction, equals any insurance moneys received by him in respect of the loss and, so far as it consists of capital sums, any other compensation of any description so received,
- (e) if that event is the permanent discontinuance of the trade before the occurrence of an event within paragraph (a), (b), (c) or (d) above, is the same as the disposal value specified for the last-mentioned event, and
- (f) in the case of any other event, equals the price which the machinery or plant would have fetched if sold in the open market at the time of the event :

Provided that the disposal value of any machinery or plant shall in no case exceed the capital expenditure incurred by the person in question on the provision of the machinery or plant for the purposes of the trade.

*Application to machinery and plant on hire-purchase  
 etc. or lease, and to activities other than trades*

#### **45 Machinery and plant on hire-purchase etc.**

- (1) Where a person carrying on a trade incurs capital expenditure on the provision of machinery or plant for the purposes thereof under a contract providing that he shall or may become the owner of the machinery or plant on the performance of the contract—
- (a) the machinery or plant shall be treated for the purposes of this Chapter as belonging to him at any time when he is entitled to the benefit of the contract so far as it relates to that machinery or plant, and
- (b) all capital expenditure in respect of that machinery or plant to be incurred by him under the contract after the time when the machinery or plant is brought into use for the purposes of the trade shall be treated for the purposes of this Chapter as having been incurred by him at that time.
- (2) Where a person to whom any machinery or plant is treated as belonging by virtue of subsection (1)(a) above ceases to be entitled to the benefit of the contract in question so far as it relates to that machinery or plant without in fact becoming the owner of the machinery or plant—
- (a) the machinery or plant shall be treated for the purposes of this Chapter as ceasing to belong to him at the time when he ceases to be so entitled, and
- (b) if he ceases to be so entitled after the machinery or plant has been brought into use for the purposes of the trade, the disposal value of the machinery or plant—
- (i) shall not exceed the total capital expenditure which he would have incurred in respect of the machinery or plant if he had wholly performed the contract, but

- (ii) subject to that limitation, shall be taken as an amount equal to any capital sums which he receives, or is entitled to receive, by way of consideration, compensation, damages or insurance moneys in respect of his rights under the contract, or in respect of the machinery or plant, together with so much of the said capital expenditure as he has not in fact incurred.

#### **46 Machinery and plant on lease**

- (1) Where machinery or plant is first let by any person otherwise than in the course of a trade, then, whether or not it is used for the purposes of a trade carried on by the lessee—
  - (a) the capital expenditure incurred by the lessor in providing the machinery or plant shall be treated for the purposes of this Chapter as having been incurred in providing it for the purposes of a trade begun to be carried on by him, separately from any other trade which he may carry on, at the commencement of the letting, and
  - (b) the machinery or plant shall be treated for the purposes of this Chapter as being used for the purposes of the trade from the time when the trade is treated as begun until the time when the lessor permanently ceases to let it otherwise than in the course of a trade, and then as permanently ceasing to be so used;

Provided that this subsection shall not apply to machinery or plant let for use in a dwelling house.

- (2) Where a lessee incurs capital expenditure on the provision for the purposes of a trade carried on by him of machinery or plant which he is required to provide under the terms of the lease, the machinery or plant shall be treated for the purposes of this Chapter as belonging to him for so long as it continues to be used for the purposes of the trade; but, as from the determination of the lease, section 44(5) above shall have effect as if the capital expenditure on providing the machinery or plant had been incurred by the lessor and not by the lessee.

#### **47 Application to activities other than trades**

- (1) Except as otherwise provided, the provisions of this Chapter shall, with any necessary adaptations, apply in relation to—
  - (a) professions, employments, vocations and offices, and
  - (b) the occupation of woodlands, where the profits or gains thereof are assessable under Schedule D,

as they apply in relation to trades:

Provided that—

- (i) in their application to an office or employment, the said provisions shall apply only to machinery or plant which is necessarily provided for use in the performance of the duties thereof, and
- (ii) section 189(2) of the Taxes Act (offices and employments with duties abroad) shall have effect as if the reference therein to Chapter II of Part I of the Capital Allowances Act 1968 included a reference to this Chapter, and the provisions of this Chapter as applied by this subsection shall have effect subject to the said section 189(2).

- (2) Sections 78 and 306 of the Taxes Act (capital allowances for machinery and plant used in estate management or in the management of the business of an investment company or life assurance company) shall each have effect as if the references therein to Chapter II of Part I of the Capital Allowances Act 1968 included a reference to this Chapter, and as if the reference in subsection (2) thereof to section 46 of the said Act of 1968 included a reference to section 48 below.

### *Supplementary*

#### **48 Manner of making allowances and charges**

- (1) Subject to subsection (2) below, any allowance or charge made to or on any person under this Chapter shall be made to or on that person in taxing his trade.
- (2) Any allowance made by virtue of section 46(1) above shall be made by way of discharge or repayment of tax, and, subject to subsection (3) below, shall be available primarily against income from the letting of machinery or plant; and effect shall be given to any charge made by virtue of the said section 46(1)—
- (a) if a charge to income tax, by making the charge under Case VI of Schedule D,
  - (b) if a charge to corporation tax, by treating the amount on which the charge is to be made as income from the letting of machinery or plant.
- (3) Where an allowance falling to be made for any chargeable period by virtue of section 46(1) above is in respect of expenditure on the provision of machinery or plant which for the whole or any part of that period or its basis period is not used for the purposes of a trade carried on by the lessee, that allowance or, as the case may require, a proportionate part thereof shall be available primarily against income from the letting of that machinery or plant only.
- (4) The following provisions of the Capital Allowances Act 1968 with respect to the manner of making allowances and charges, that is to say, sections 70 and 71 (allowances and charges under Part I of that Act as it applies for the purposes of income tax) and sections 73 and 74 (corresponding provisions for corporation tax) shall have effect as if the references therein to the said Part I included references to this Chapter:

Provided that, where an allowance falling to be made for any chargeable period by virtue of section 46(1) above is in respect of expenditure on the provision of machinery or plant which for the whole or any part of that period or its basis period is not used for the purposes of a trade carried on by the lessee, the proviso to subsection (1) of the said section 71 or, as the case may be, subsection (4) of the said section 74 shall not apply to that allowance or, as the case may require, to a proportionate part thereof.

#### **49 Minor rules, and consequential amendments**

The provisions of Schedule 8 to this Act shall have effect, being provisions supplementing the foregoing provisions of this Chapter, and provisions making consequential amendments in certain enactments.

#### **50 Interpretation etc.**

- (1) In this Chapter—



“capital expenditure ” means capital expenditure to which this Chapter applies in accordance with section 40 above;

“chargeable period ” means an accounting period of a company or a year of assessment; and

(a) a reference to a “chargeable period or its basis period ” is a reference to the chargeable period if it is an accounting period and to the basis period for it if it is a year of assessment,

(b) a reference to a “chargeable period related to ” the incurring of expenditure, or a sale or other event, is a reference to the chargeable period in which, or to that in the basis period for which, the expenditure is incurred or the sale or other event takes place, and means the latter if, but only if, the chargeable period is a year of assessment;

“income ” includes any amount on which a charge to tax is authorised to be made under this Chapter;

“new ” means unused and not second-hand.

“tax ”, where neither income tax nor corporation tax is specified, means either of those taxes.

- (2) In this Chapter as it applies for income tax purposes “basis period” shall be construed in accordance with subsections (2) to (5) of section 72 of the Capital Allowances Act 1968, with references in those provisions to Part I of that Act or Chapter II of that Part read for the purpose as references to this Chapter.
- (3) Section 82(1) of the Capital Allowances Act 1968 (construction of references to capital expenditure and capital sums) shall apply for the purposes of this Chapter as it applies for the purposes of Part I of that Act.
- (4) Any reference in this Chapter to the date on which expenditure is incurred shall be construed as a reference to the date when the sums in question become payable; and for the purposes of this Chapter, any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by him on the first day on which he does carry it on.
- (5) Any reference in this Chapter to an allowance made includes a reference to an allowance which would be made but for an insufficiency of profits or gains, or other income, against which to make it.
- (6) Any reference in this Chapter to any machinery, plant, building, structure or works shall be construed as including a reference to a part of any machinery, plant, building, structure or works.
- (7) The provisions of this Chapter, and the provisions applying for the purposes of this Chapter, shall apply in relation to a share in machinery or plant as they apply in relation to a part of machinery or plant; and, for the purposes of the said provisions, a share in machinery or plant shall be deemed to be used for the purposes of a trade so long as, and only so long as, the machinery or plant is used for the purposes thereof.
- (8) In section 411(1)(c) of the Taxes Act (use of asset for providing business entertainment to be treated for capital allowances purposes as use otherwise than for the purposes of a trade), the reference to Chapter II of Part I of the Capital Allowances Act 1968 shall include a reference to this Chapter.

## CHAPTER II

### OTHER PROVISIONS

#### **51 Initial allowances for industrial buildings-continuance of increased rate for development and intermediate areas and Northern Ireland**

The rate of initial allowance under section 1 of the Capital Allowances Act 1968 (industrial buildings and structures) provided for by section 15(1) of the Finance Act 1970 in a case falling within subsection (2) of that section (that is to say, a rate of two-fifths in the case of buildings and structures in development areas, intermediate areas and Northern Ireland) shall apply in relation to expenditure incurred after 5th April 1972 as well as in relation to expenditure incurred during the period beginning on 6th April 1970 and ending on the said 5th April; and accordingly, the said section 15(1) shall be amended by inserting after the words “In relation to capital expenditure incurred” the words “in a case falling within subsection (2) below on or after 6th April 1970, and in any other case”.

#### **52 Initial allowances for mining etc. works-increased rate for development areas and Northern Ireland, and right of disclaimer**

(1) In relation to expenditure within section 56(1) of the Capital Allowances Act 1968 (works in connection with mines, oil wells and other sources of mineral deposits of a wasting nature) which is incurred on or after 27th October 1970 on the construction of works situated—

(a) in an area which is a development area (within the meaning of Part I of the Local Employment Act 1960) on the date on which the expenditure is incurred or, if the expenditure is incurred under a contract entered into on or after the said 27th October, on the date on which the contract was entered into, or

(b) in Northern Ireland,

section 56(2) of that Act (which provides for an initial allowance of an amount equal to two-fifths of any expenditure within the said section 56(1)) shall have effect with the substitution for the words “two-fifths” of the words “the whole”.

Expenditure shall not be treated for the purposes of this subsection as having been incurred after the date on which it was in fact incurred by reason only of section 64 of the said Act of 1968 (expenditure incurred before trade began).

(2) A company to whom an initial allowance under the said section 56(1) falls to be made for any chargeable period in respect of expenditure incurred on or after 27th October 1970 may, by notice in writing given to the inspector not later than two years after the end of that period, either disclaim the allowance or require that the amount thereof be reduced to an amount specified in the notice; and a person other than a company claiming an initial allowance under the said section 56(1) in respect of expenditure so incurred may require the amount thereof to be reduced to an amount specified in the claim.

#### **53 Writing-down allowances-increased rates for machinery and plant provided before 6th November 1962**

Paragraph 2(1) of Schedule 4 to the Capital Allowances Act 1968 (under which the increased rates of writing-down allowances provided for by that Schedule apply only

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to new machinery and plant capital expenditure on the provision of which was incurred after 5th November 1962) shall be amended by inserting at the end the words " and, for accounting periods ending on or after 27th October 1970 and years of assessment from the year 1971-72 onwards, also to any machinery or plant not within the meaning of that expression. "

#### **54 Double taxation relief and overspill relief**

- (1) In any claim under section 515 of the Taxes Act (postponement of capital allowances to secure double taxation relief), no account shall be taken of expenditure incurred, or treated for the purposes of Chapter I of this Part of this Act as incurred, on or after 27th October 1970.
- (2) Section 84 of, and Schedule 20 to, the Finance Act 1965 (transitional relief for existing companies with overseas trading income) shall have effect as if the said Chapter I and subsection (1) above had not been enacted.