



Capital Allowances Act 1990

1990 CHAPTER 1

PART II

MACHINERY AND PLANT

CHAPTER I

ALLOWANCES AND CHARGES: GENERAL PROVISIONS

22 First-year allowances: transitional relief for regional projects

- (1) Subject to the provisions of this Part, where—
- (a) a person carrying on a trade incurs capital expenditure to which this section applies on the provision of machinery or plant wholly and exclusively 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 (“a first-year allowance”) which shall be of an amount equal to the whole of that expenditure.
- (2) This section applies to so much of any expenditure as is certified by the Secretary of State for the purposes of this section to be expenditure which, in his opinion, qualifies for a regional development grant or a grant under Part IV of the relevant Order and consists of the payment of sums on a project—
- (a) either in an area which on 13th March 1984 was a development area, within the meaning of the Industrial Development Act 1982, or in Northern Ireland; and
 - (b) in respect of which a written offer of financial assistance under section 7 or 8 of that Act was made on behalf of the Secretary of State in the period beginning on 1st April 1980 and ending on 13th March 1984 or in respect of

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which a written offer of financial assistance was made in that period by the Highlands and Islands Development Board.

- (3) This section applies to so much of any expenditure as is certified by the Department of Economic Development in Northern Ireland for the purposes of this section to be expenditure which, in the opinion of that Department, qualifies for a grant under Part IV of the relevant Order and consists of the payment of sums on a project—
- (a) in Northern Ireland; and
 - (b) in respect of which a written offer of financial assistance under Article 7 or 8 of the relevant Order was made on behalf of a Department of the Government of Northern Ireland in the period beginning on 1st April 1980 and ending on 13th March 1984 or in respect of which a written offer of financial assistance was made in that period by the Local Enterprise Development Unit.
- (4) Subject to the following provisions of this section, no first-year allowance shall be made in respect of any expenditure—
- (a) if the chargeable period related to the incurring of the expenditure is also the chargeable period related to the permanent discontinuance of the trade; or
 - (b) incurred on the provision of a motor car; or
 - (c) subject to subsections (5), (6) and (11) below, on the provision of machinery or plant for leasing, whether in the course of a trade or otherwise, unless it appears that the machinery or plant will be used for a qualifying purpose in the requisite period and will not at any time in that period be used for any other purpose;
- and section 50 shall apply for the interpretation of paragraph (c) above as it applies for the interpretation of Chapter V of this Part.
- (5) Paragraph (c) of subsection (4) above does not apply to expenditure incurred at any time on the provision of machinery or plant which is to be an integral part of a building or structure if section 1 would apply to expenditure incurred at that time on the construction of that building or structure.
- (6) Nothing in paragraph (c) of subsection (4) above affects expenditure on the provision of vehicles if they are provided wholly or mainly for the use of persons in receipt of—
- (a) mobility allowance under the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975; or
 - (b) a mobility supplement under a scheme made under the Personal Injuries (Emergency Provisions) Act 1939; or
 - (c) a mobility supplement under an Order in Council made under section 12 of the Social Security (Miscellaneous Provisions) Act 1977; or
 - (d) any payment appearing to the Treasury to be of a similar kind and specified by them by order.
- (7) 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 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.
- (8) No disclaimer or claim under subsection (7) above may be made in respect of any ship.

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- (9) All such assessments or adjustments of assessments shall be made as may be necessary to give effect to subsection (7) above.
- (10) In this section—
- “regional development grant” means a grant under Part II of the Industrial Development Act 1982;
 - “the relevant Order” means the Industrial Development (Northern Ireland) Order 1982;
- and any reference to a particular provision of that Act or Order includes a reference to the corresponding provision of any Act or Order which was in force before and repealed by the Industrial Development Act 1982 or the Industrial Development (Northern Ireland) Order 1982.
- (11) Where expenditure is incurred on the provision of machinery or plant which is fixed to a building or land of which the person who incurs the expenditure is the lessor and the circumstances are such that a transfer of his interest in the building or land would operate to transfer his interest in the machinery or plant, then subsection (4)(c) above shall not preclude the making of a first-year allowance in respect of such expenditure.

23 Information relating to first-year allowances

- (1) A claim by a person other than a company for a first-year allowance in respect of expenditure to which section 22(4)(c) applies, and a return by a company of profits in the computation of which a deduction is made on account of such an allowance, shall be accompanied by a certificate—
- (a) stating that the machinery or plant in question will be used for a qualifying purpose in the requisite period, will not be used for any other purpose and has not been used for any other purpose in any part of that period which has already elapsed; and
 - (b) containing a description of the machinery or plant in question or, if the claim or deduction relates to more than one item of machinery or plant and those items are of different kinds, a description of the different kinds and the amount claimed or deducted in respect of each of them; and
 - (c) where the claim or deduction relates to a first-year allowance which by virtue of section 45(2) is in respect of part only of any expenditure, containing a statement of the extent to which the profits or gains referred to in section 45(2) will be chargeable to tax as there mentioned.
- (2) Where a person other than a company has claimed a first-year allowance in respect of any expenditure, or a deduction on account of such an allowance has been made in computing profits in respect of which a return has been made by a company, and the machinery or plant in question is at any time in the requisite period used otherwise than for a qualifying purpose, the person to whom it then belongs shall give notice of that fact to the inspector, specifying the use to which the machinery or plant has been put; and, subject to subsection (3) below, any such notice shall—
- (a) be given within three months after the end of the chargeable period or its basis period in which the machinery or plant is first used otherwise than for a qualifying purpose; and
 - (b) relate to all the items of machinery or plant (if more than one) in respect of which that person is required to give notice under this subsection in respect of that period.

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In this subsection the reference to machinery or plant being used otherwise than for a qualifying purpose shall include a reference to machinery or plant being treated as so used by virtue of section 45(4).

- (3) If, at the end of the three months mentioned in subsection (2)(a) above, the person concerned does not know and cannot reasonably be expected to know that any item of machinery or plant in respect of which he is required to give a notice under that subsection has been used otherwise than for a qualifying purpose, he shall in respect of that item give the notice within 30 days of his coming to know that it has been so used.
- (4) Where a first-year allowance has been made in respect of any expenditure, the inspector may by notice require—
- (a) any person to whom the machinery or plant belongs or has belonged, or who is or has been in possession of it under a lease, during the requisite period; and
 - (b) the personal representatives of any such person,
- to furnish him, within such period (not being less than 30 days) as may be specified in the notice, with such information as he may require and the person to whom the notice is addressed has or can reasonably obtain about the leasing of the machinery or plant or the use to which it is being or has been put.
- (5) The obligation to give notice by virtue of subsection (2) or (3) above where the machinery or plant becomes used otherwise than for a qualifying purpose shall arise a second time when the machinery or plant becomes used—
- (a) otherwise than for a qualifying purpose, and
 - (b) for the purpose of being leased to such a person as is referred to in section 42(1)(a) and (b),
- (if it were not so used before).
- (6) Section 50 shall apply for the interpretation of this section as it applies for the interpretation of Chapter V of this Part.

24 Writing-down allowances and balancing adjustments

- (1) Subject to the provisions of this Part, where—
- (a) a person carrying on a trade has incurred capital expenditure on the provision of machinery or plant wholly and exclusively for the purposes of the trade, and
 - (b) in consequence of his incurring that expenditure, the machinery or plant belongs or has belonged to him,
- allowances and charges shall be made to and on him in accordance with the following provisions of this section.
- (2) Subject to subsection (3) below, for any chargeable period for which a person within subsection (1) above has qualifying expenditure which exceeds any disposal value to be brought into account in accordance with subsection (6) 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 (“a writing-down allowance”) equal to—
 - (i) 25 per cent. of the excess, or

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- (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 of that year;
 - (b) if the period is the chargeable period related to the permanent discontinuance of the trade, an allowance (“a balancing allowance”) equal to the whole of the excess.
 - (3) 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.
 - (4) For any chargeable period for which a company has qualifying expenditure, the company may, by notice given to the inspector not later than two years after the end of that period, either disclaim a writing-down allowance or require that the allowance be reduced to an amount specified in that behalf in the notice; and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to this subsection.
 - (5) 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 (“a balancing charge”), and the amount on which the charge is made shall be an amount equal to the difference.
 - (6) The disposal value to be brought into account by a person for any chargeable period is the disposal value of all machinery or plant—
 - (a) on the provision of which for the purposes of the trade he has incurred capital expenditure; and
 - (b) which belongs to him at some time in the chargeable period or its basis period; and
 - (c) in respect of which, in the chargeable period or its basis period, one of the following events occurs, namely—
 - (i) the machinery or plant ceases to belong to him;
 - (ii) he loses possession of the machinery or plant in circumstances where it is reasonable to assume that the loss is permanent or, in the case of machinery or plant which was in use for mineral exploration and access, he abandons the machinery or plant at the site where it was in use for that purpose;
 - (iii) the machinery or plant ceases to exist as such (as a result of destruction, dismantling or otherwise);
 - (iv) the machinery or plant begins to be used wholly or partly for purposes which are other than those of the trade;
 - (v) the trade is permanently discontinued (or is treated by virtue of any provision of the Tax Acts as permanently discontinued);and that is the first such event to occur;
- but 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 Schedule E.

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25 Qualifying expenditure

(1) Subject to subsections (2) to (9) below, for the purposes of section 24, 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 being expenditure incurred in the chargeable period in question or its basis period or at any previous time, and 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.

(2) In any case where—

- (a) a company carrying on a trade incurs capital expenditure on the provision of machinery or plant for the purposes of the trade, and
- (b) apart from any disclaimer of the allowance a first-year allowance would fall to be made for any chargeable period in respect of that expenditure, and
- (c) the company disclaims the allowance by notice under section 22(7) or, in the case of ships, 30(1)(a),

then, for the purposes of section 24, that expenditure shall not, by virtue of subsection (1)(a)(ii) above, be excluded from the capital expenditure referred to in subsection (1)(a) above.

(3) In any case where—

- (a) a person carrying on a trade, but not being a company, incurs capital expenditure on the provision of machinery or plant for the purposes of the trade, and
- (b) if a claim were made in that behalf, a first-year allowance would fall to be made in respect of that expenditure for the chargeable period related to the incurring of it, and
- (c) no claim is made but by notice given to the inspector not later than two years after the end of that chargeable period, the person concerned elects that this subsection shall apply,

then, for the purposes of section 24, that expenditure shall not, by virtue of subsection (1)(a)(ii) above, be excluded from the capital expenditure referred to in subsection (1)(a) above.

(4) In any case where—

- (a) a person (whether a company or not) carrying on a trade has incurred capital expenditure on the provision of machinery or plant for the purposes of the trade, and

- (b) a first-year allowance falls to be made to that person in respect of that expenditure (and, in the case of a person other than a company, a claim is made for that allowance), and
- (c) for the chargeable period related to the incurring of that expenditure, the amount of that first-year allowance or, as the case may be, the aggregate amount of that and other first-year allowances which fall to be made to that person is required to be reduced by virtue of section 22(7) or, in the case of ships, 30(1)(b),

then, for the purposes of section 24, an amount equal to the relevant portion of the expenditure giving rise to the first-year allowance or allowances referred to in paragraph (c) above shall be treated as expenditure in respect of which no first-year allowance is or could be made for the chargeable period in question.

- (5) Subject to subsection (6) below, where—
 - (a) a first-year allowance is made in respect of capital expenditure on the provision of machinery or plant, and
 - (b) in the chargeable period related to the incurring of that expenditure, the disposal value of that machinery or plant falls to be brought into account in accordance with section 24(6),

that expenditure shall not be virtue of subsection (1)(a)(ii) above be excluded from the capital expenditure referred to in subsection (1)(a) above.

- (6) Where the event by reason of which disposal value falls to be brought into account as mentioned in subsection (5) above is the assignment of the benefit of a contract, subsection (1) above, as modified by subsection (5) above, shall have effect as if any reference in paragraph (a) to capital expenditure incurred were a reference to the total capital expenditure which the person in question would have incurred in respect of the machinery or plant if he had wholly performed the contract.
- (7) Where an allowance is or has been made under any provision of Part V except section 122 in respect of any capital expenditure, none of that expenditure shall be taken into account in determining qualifying expenditure for the purpose of any allowance or charge under section 24.

This subsection shall not have effect in relation to any chargeable period or its basis period ending after 26th July 1989.

- (8) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to subsections (5) and (6) above.
- (9) In subsection (4) above “the relevant portion” of expenditure giving rise to a first-year allowance or allowances is that which bears to the whole of that expenditure the same proportion as the amount of the reduction mentioned in subsection (4)(c) above bears to what the amount of the allowance or allowances would have been apart from that reduction.

26 The disposal value

- (1) Subject to subsection (2) below, for the purposes of section 24 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

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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 Part or under Part VII and the buyer is not a dual resident investing company which is connected with the seller within the terms of section 839 of the principal Act, or
 - (ii) there is a charge to tax under 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.

(2) 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.

(3) Where the person mentioned in subsection (2) above has acquired the machinery or plant as a result of a transaction which was, or a series of transactions each of which was, between connected persons within the terms of section 839 of the principal Act, that subsection shall have effect as if it referred to the capital expenditure on the provision of the machinery or plant incurred by whichever party to that transaction, or to any of those transactions, incurred the greatest such expenditure.

27 Professions, employments, vocations etc

- (1) Except as otherwise provided and subject in particular to subsections (2) and (3) below, the provisions of this Part 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.

- (2) The provisions of this Part in their application in accordance with this section to an office or employment—

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- (a) shall apply only to machinery or plant which is necessarily provided for use in the performance of the duties thereof, and
 - (b) shall have effect subject to section 198(2) of the principal Act (offices and employments with duties abroad).
- (3) This section shall have effect from 6th April 1993 with the omission of subsection (1) (b).

28 Investment companies and life assurance companies

- (1) Subject to subsections (2) to (6) below, this Part and such other provisions of the Corporation Tax Acts as relate to allowances or charges under this Part shall apply with any necessary adaptations in relation to machinery and plant provided for use or used for the purposes of the management of the business—
- (a) of an investment company (as defined in section 130 of the principal Act), or
 - (b) of a company carrying on the business of life assurance,
- as they apply in relation to machinery or plant provided for use or used for the purposes of a trade; and, except as provided by subsection (2) below, in relation to any allowances and balancing charges which fall to be made by virtue of this section, the Corporation Tax Acts shall apply as if they were to be made in taxing a trade.
- (2) As respects allowances or charges falling to be made by virtue of this section in relation to any business—
- (a) allowances for any accounting period shall, as far as may be, be given effect by deducting the amount of the allowance from any income for the period of the business, and in so far as effect cannot be so given, section 75(4) of the principal Act shall apply; and
 - (b) effect shall be given to any charge by treating the amount on which the charge is to be made as income of the business;
- and sections 73, 144 and 145 shall not apply.
- (3) No allowance and no balancing charge shall be made by virtue of this section for any accounting period in respect of expenditure incurred by any person on machinery or plant, except in pursuance of an election made by him for that accounting period; but an election for any chargeable period shall have effect as an election for that and all subsequent chargeable periods.
- (4) An election under subsection (3) above shall be made by notice to the inspector either for all machinery or plant provided for use or used for the purposes of the management of the relevant business, or for any class of machinery or plant so provided or used; but an election for machinery or plant of any class shall not be made for any accounting period after an assessment in respect of the business for that or a subsequent accounting period has been finally determined without such an election.
- (5) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under this Part both under subsection (2) above and in some other way; and, on any assessment to tax, expenditure to which an election under this section applies shall not be taken into account otherwise than under this Part and except as provided by section 75(4) of the principal Act.
- (6) In this section references to the purposes of the management of a business are to be taken as referring to those purposes expenditure on which would, apart from this

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section, be treated as expenses of management within the meaning of section 75 of the principal Act.

29 Furnished holiday lettings

- (1) For the purposes of this Part—
 - (a) the commercial letting of furnished holiday accommodation in the United Kingdom in respect of which the profits or gains are chargeable under Case VI of Schedule D shall be treated as a trade; and
 - (b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.
- (2) Subsection (1) above shall be construed as one with section 503 of the principal Act and, accordingly, section 504 of that Act shall also apply for the purposes of this section.
- (3) Where there is a letting of accommodation only part of which is holiday accommodation, such apportionments shall be made for the purposes of this section as appear to the inspector, or on appeal the Commissioners, to be just and reasonable.