



# Capital Allowances Act 1990

## 1990 CHAPTER 1

### PART II

#### MACHINERY AND PLANT

#### CHAPTER IV

##### SHORT-LIFE ASSETS

### **37 Election for certain machinery or plant to be treated as short-life assets**

(1) This section applies where—

- (a) a person carrying on a trade (“the trader”) incurs capital expenditure on the provision of machinery or plant wholly and exclusively for the purposes of the trade; and
- (b) the machinery or plant is not of a description specified in section 38; and
- (c) the trader makes an election under this section requiring the machinery or plant to be treated as a short-life asset;

and any machinery or plant to which an election under this section applies is in the following provisions of this section referred to as a short-life asset.

(2) An election under this section—

- (a) shall be made in writing to the inspector;
- (b) shall specify the short-life asset, the capital expenditure concerned and the date on which it was incurred;
- (c) may not be made more than two years after the end of the chargeable period or its basis period in which the capital expenditure was incurred; and
- (d) shall be irrevocable;

and if different parts of the capital expenditure are incurred at different times, only that part of the expenditure which is first incurred shall be taken into account for the purposes of paragraph (c) above.

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- (3) Where an election is made under this section, it shall be assumed for the purposes of sections 24, 25 and 26—
- (a) that the trader incurred the expenditure on the provision of the short-life asset wholly and exclusively for the purposes of a trade (“the notional trade”) carried on by him separately from the trade referred to in subsection (1) above (“the actual trade”) and from any other trade which he in fact carries on or is assumed for any other purpose to carry on; and
  - (b) that, without prejudice to section 24(6)(c)(i) to (iii), the notional trade is permanently discontinued when the short-life asset begins to be used wholly or partly for purposes other than those of the actual trade.
- (4) Any allowance or charge which, on the assumptions in subsection (3) above, would fall to be made for any chargeable period in the case of the notional trade shall be made for that period in the case of the actual trade; and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to an election under this section.
- (5) If the disposal value of a short-life asset does not fall to be brought into account in accordance with sections 24, 25 and 26 for any of the chargeable periods ending on or before the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned or, as the case may be, the first part of that expenditure, then—
- (a) in the first chargeable period ending after that fourth anniversary or, as the case may be, in its basis period, the notional trade shall be treated as permanently discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof; and
  - (b) the amount which, apart from this subsection, would be the trader’s qualifying expenditure for the chargeable period referred to in paragraph (a) above in respect of the notional trade shall be added to his qualifying expenditure for that period in respect of his actual trade.
- (6) If, at a time before the notional trade would otherwise be permanently discontinued for the purposes of sections 24, 25 and 26, a short-life asset provided for leasing begins to be used otherwise than for a qualifying purpose, within the meaning of section 39 and the occasion of its being so used falls within the requisite period, within the meaning of section 40, then at that time—
- (a) the notional trade shall be treated as permanently discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof; and
  - (b) the amount which, apart from this subsection, would be the trader’s qualifying expenditure in respect of the notional trade for the chargeable period in which, or in the basis period for which, the asset began to be so used shall for the purposes of sections 24, 25 and 26 be added to the trader’s qualifying expenditure for that chargeable period in respect of his actual trade.
- (7) Subsection (6)(b) above shall have effect—
- (a) in relation to any short-life asset which is a motor car, with the substitution for the words from “be added” to the end of the words “as they have effect in accordance with section 41 be, or be added to, the trader’s qualifying expenditure for that chargeable period.”; and
  - (a) in relation to any short-life asset the expenditure on the provision of which is old expenditure (within the meaning of section 50)—

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- (i) with the omission of the words “in respect of the notional trade”, and
  - (ii) with the addition after the words “sections 24, 25 and 26” of the words “as they have effect in accordance with section 41”.
- (8) Subject to subsection (9) below, if, at a time before the notional trade is permanently discontinued for the purposes of sections 24, 25 and 26, the trader disposes of a short-life asset to a person with whom he is connected within the terms of section 839 of the principal Act—
- (a) the disposal shall be treated for the purposes of sections 24, 25 and 26 (in its application both to the trader and to the connected person) as a sale of the short-life asset at a price equal to the amount of the trader’s qualifying expenditure in respect of the notional trade for the chargeable period related to the disposal;
  - (b) nothing in section 75 shall apply in relation to the disposal;
  - (c) immediately after his acquisition of the short-life asset, the connected person shall be taken to have made an election under this section (so that, in his hands, the machinery or plant concerned is also a short-life asset for the purposes of this section); and
  - (d) in relation to the connected person, subsection (5) above shall have effect as if any reference to the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned were a reference to the date which was (or which, by virtue of the previous operation of this paragraph, had effect as) that fourth anniversary in relation to the trader.
- (9) Paragraphs (a) and (b) of subsection (8) above do not apply in relation to a disposal unless, by notice given to the inspector not more than two years after the end of the chargeable period or its basis period in which the disposal occurred, the trader and the connected person so elect.
- (10) In the application of subsection (1) of section 26 where a short-life asset is disposed of at a price lower than that which it would have fetched if sold in the open market, paragraph (b)(i) of that subsection shall not apply unless an election is made under subsection (9) above.

### **38 Assets which cannot be treated as short-life assets**

The machinery and plant which by virtue of section 37(1)(b) cannot be treated as short-life assets are the following, that is to say—

- (a) ships;
- (b) motor cars;
- (c) machinery or plant to which section 61 applies;
- (d) machinery or plant falling within section 79(2);
- (e) machinery or plant where the capital expenditure on its provision is expenditure to which section 80 applies;
- (f) machinery or plant falling within section 81(1)(a) or (b);
- (g) machinery or plant which is used in such a way that section 22(4)(c) precludes the making of a first-year allowance in respect of expenditure incurred on the provision of it for leasing;
- (h) machinery or plant provided for leasing, except—
  - (i) machinery or plant which it appears will be used in the requisite period (within the meaning of section 40) for a qualifying purpose

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(within the meaning of section 39) and will not at any time in that period be used for any other purpose;

(ii) vehicles of the kind mentioned in section 36(4);

- (j) machinery or plant which is leased to two or more persons jointly in such circumstances that section 43 applies;
- (k) machinery or plant which is leased to two or more persons jointly in such circumstances that section 45 precludes the making of a first-year allowance in respect of the whole or part of the capital expenditure incurred on its provision;
- (l) machinery or plant in respect of expenditure on which section 42 provides only a 10 per cent. writing-down allowance;
- (m) machinery or plant in respect of which a first-year allowance continues to be available by virtue of section 22.

Paragraphs (g) and (k) above shall not have effect in relation to expenditure incurred after 26th July 1989 and paragraphs (h) and (j) shall not have effect in relation to expenditure incurred before 27th July 1989.