



# Capital Allowances Act 1990

## 1990 CHAPTER 1

### PART II

#### MACHINERY AND PLANT

### CHAPTER VII

#### MISCELLANEOUS EXPENDITURE

#### **60 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 Part as belonging to him (and not to any other person) 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 Part 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 Part 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—

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- (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 that capital expenditure as he has not in fact incurred.
- (3) In relation to capital expenditure incurred under contracts entered into before 27th July 1989, subsection (1)(a) shall have effect with the omission of the words “(and not to any other person)”.

## **61 Machinery and plant on lease**

- (1) Subject to subsection (2) below, 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 Part 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) at the time when the lessor permanently ceases to let the machinery or plant otherwise than in the course of a trade, the machinery or plant shall be treated for the purposes of this Part as being used wholly for purposes other than those of the trade referred to in paragraph (a) above.
- (2) Subsection (1) above shall not apply to machinery or plant let for use in a dwelling-house.
- (3) Where subsection (1) above applies, the question whether the provision of the machinery or plant is to be treated as being wholly and exclusively or only partly for the purposes of the trade referred to in paragraph (a) of that subsection shall be determined according to whether the machinery or plant was in fact provided wholly and exclusively for the purpose of letting otherwise than in the course of a trade or only partly for that purpose.
- (4) Where—
- (a) 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, and
  - (b) the machinery or plant is not so installed or otherwise fixed in or to a building or any other description of land as to become, in law, part of that building or other land,

then, if the machinery or plant would not otherwise belong to him, the machinery or plant shall be treated for the purposes of this Part 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 24(6) 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.

In relation to any lease entered into before 12th July 1984, and any lease entered into after 11th July 1984 pursuant to an agreement made before 12th July 1984, this subsection shall have effect with the omission of the words from “and” (where it first occurs) to “belong to him”.

- (5) Where an allowance falling to be made for any chargeable period by virtue of subsection (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, section 145(3) shall not apply to that allowance or, as the case may require, to a proportionate part thereof.
- (6) Subsection (5) above shall not apply to any allowance in respect of expenditure 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.
- (7) Section 403(3) of the principal Act (group relief) shall not apply to an allowance if or to the extent that, by virtue of subsection (5) above, section 145(3) does not apply to it.  

This subsection has effect in any case where the accounting period of the surrendering company (within the meaning of Chapter IV of Part X of the principal Act) ends after 26th July 1989.
- (8) In this section “lease” includes an agreement for a lease where the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage, and “lessee” and other cognate expressions shall be construed accordingly.

## **62 Treatment of demolition costs**

- (1) Where any machinery or plant which is in use for the purposes of a trade is demolished, then—
  - (a) if the person carrying on the trade replaces the machinery or plant by other machinery or plant, the net cost to him of the demolition shall be treated for the purposes of this Part as expenditure incurred by him on the provision of that other machinery or plant, and
  - (b) if the person carrying on the trade does not replace the machinery or plant, his qualifying expenditure for the chargeable period related to the demolition shall be treated for the purposes of sections 24 and 25 as increased by the net cost to him of the demolition.
- (2) In this section any reference to the net cost of the demolition of any machinery or plant is a reference to the excess, if any, of the cost of the demolition over any moneys received for the remains of the machinery or plant.

## **63 Mineral extraction**

- (1) In any case where—
  - (a) expenditure is incurred by any person on the provision of machinery or plant for the purposes of mineral exploration and access, and
  - (b) that expenditure is so incurred before the first day on which that person begins to carry on a trade of mineral extraction, and

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- (c) on that first day the machinery or plant belongs to him, and does not fall within section 106(1)(d),

that person shall be treated for the purposes of this Part as if he had sold the machinery or plant immediately before that first day and had on that first day incurred capital expenditure on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, being expenditure equal to the expenditure incurred (or, where there has been an actual previous sale and re-acquisition, last incurred) as mentioned in paragraph (a) above.

- (2) Subsection (1) above shall not apply where the expenditure was incurred by any person before 1st April 1986 on mineral exploration and access and the mineral exploration and access at the source in question had ceased before that person begins to carry on a trade of mineral extraction.

#### **64 Transfers of interests in oil fields**

- (1) This section applies where—
- (a) there is, for the purposes of Schedule 17 to the Finance Act 1980, a transfer by a participator in an oil field of the whole or part of his interest in the field; and
  - (b) in pursuance of that transfer, the old participator disposes of, and the new participator acquires, machinery or plant used, or expected to be used, in connection with the field, or a share in such machinery or plant.
- (2) In the application of this Part to expenditure incurred by the new participator in the acquisition referred to in subsection (1)(b) above, there shall be disregarded so much, if any, of that expenditure as exceeds the disposal value to be brought into account by the old participator under sections 24, 25 and 26 by reason of the disposal.
- (3) In this section “the old participator” and “the new participator” have the same meaning as in Schedule 17 to the Finance Act 1980; and, subject to that and to section 83(4), expressions used in subsection (1) above and in Part I of the Oil Taxation Act 1975 have the same meanings in this section as they have in that Part.
- (4) Nothing in this section affects the operation of section 75.

#### **65 Partnership using property of a partner**

- (1) In taxing a trade carried on in partnership the same allowances, deductions and charges shall be allowed or made under this Part in respect of machinery or plant used for the purposes of that trade and belonging to one or more of the partners but not being partnership property as would fall to be allowed or made if the machinery or plant had at all material times belonged to all the partners and been partnership property and everything done by or to any of the partners in relation thereto had been done by or to all the partners.
- (2) Notwithstanding anything in section 24(6), a sale or gift of machinery or plant used for the purposes of a trade carried on in partnership, being a sale or gift by one or more of the partners to one or more of the partners, shall not be treated as an event requiring any disposal value to be brought into account if the machinery or plant continues to be used after the sale or gift for the purposes of that trade.
- (3) References in this section to use for the purposes of a trade do not include references to use in pursuance of a letting by the partner or partners in question to the partnership

or to use in consideration of the making to the partner or partners in question of any payment which may be deducted in computing the profits or gains of the trade.

## **66 Building alterations connected with installation of machinery or plant**

Where a person carrying on a trade incurs capital expenditure on alterations to an existing building incidental to the installation of machinery or plant for the purposes of the trade, the provisions of this Part shall have effect as if that expenditure were expenditure on the provision of that machinery or plant and as if the works representing that expenditure formed part of that machinery or plant.

## **67 Expenditure on thermal insulation**

- (1) If a person carrying on a trade has incurred expenditure in adding any insulation against loss of heat to any industrial building or structure occupied by him for the purposes of that trade, this Part shall apply as if the expenditure were capital expenditure incurred on the provision of machinery or plant for the purposes of the trade, and as if the machinery or plant had, in consequence of his incurring the expenditure, belonged to him, and as if the disposal value of the machinery or plant were nil.
- (2) If a person has incurred expenditure in adding any insulation against any loss of heat to any industrial building or structure let by him otherwise than in the course of a trade, this Part shall apply as if the expenditure were capital expenditure incurred in providing machinery or plant first let by that person, otherwise than in the course of a trade, at the time when the expenditure was incurred, and as if the property comprised in the lease of the building or structure had as from that time included the machinery or plant, and as if the disposal value of the machinery or plant were nil.
- (3) Any allowance made by virtue of section 61(1) in a case where it applies by virtue of subsection (2) above shall (notwithstanding section 73(2)), be available primarily against the following income, that is to say—
  - (a) income taxed under Schedule A in respect of any premises which at any time in the chargeable period for which the allowance falls to be made consist of or include an industrial building or structure; or
  - (b) income which is the subject of a balancing charge under Part I.
- (4) In this section “industrial building or structure” has the meaning given by section 18.
- (5) This section applies to expenditure to which section 1 applies in accordance with section 2 but does not apply to any other expenditure to which section 1 applies or to any expenditure to which section 6 applies.
- (6) Subsection (5) above shall not have effect in relation to any chargeable period or its basis period ending after 26th July 1989.

## **68 Exclusion of certain expenditure relating to films, tapes and discs**

- (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 machinery or plant for the purposes of this Part,

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shall be regarded for the purposes of the Tax Acts as expenditure of a revenue nature unless it is expenditure falling within subsection (9) below.

(2) In this section—

- (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.

(3) Subject to the following provisions of this section, in computing the profits or gains accruing to any person from a trade or business which consists of or includes the exploitation of a film, tape or disc, expenditure which—

- (a) is incurred on the production or acquisition of a film, tape or disc, and
- (b) is expenditure of a revenue nature (whether by virtue of subsection (1) above or otherwise),

shall be allocated to relevant periods in accordance with subsections (4) to (6) below; and in this section “relevant period” means a period for which the accounts of the trade or business concerned are made up or, if those accounts are not made up for any period, a period the profits or gains of which are taken into account in assessing the income of the trade or business for any chargeable period.

(4) Subject to the following provisions of this section, the amount of expenditure falling within subsection (3) above which falls to be allocated to any relevant period shall be such as is just and reasonable, having regard to—

- (a) the amount of that expenditure which remains unallocated at the beginning of that period;
- (b) the proportion which the estimated value of the film, tape or disc which is realised in that period (whether by way of income or otherwise) bears to the aggregate of the value so realised and the estimated remaining value of the film, tape or disc at the end of that period; and
- (c) the need to bring the whole of the expenditure falling within subsection (3) above into account over the time during which the value of the film, tape or disc is expected to be realised.

(5) In addition to any expenditure which is allocated to a relevant period in accordance with subsection (4) above, if a claim is made in that behalf not later than two years after the end of that period, there shall also be allocated to that period so much of the unallocated expenditure as is specified in the claim and does not exceed the difference between—

- (a) the amount allocated to that period in accordance with subsection (4) above; and
- (b) the value of the film, tape or disc which is realised in that period (whether by way of income or otherwise).

(6) As respects any relevant period, “the unallocated expenditure” referred to in subsection (5) above is that expenditure falling within subsection (3) above—

- (a) which does not fall to be allocated to that period in accordance with subsection (4) above; and

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- (b) which has not been allocated to any earlier relevant period in accordance with subsection (4) or (5) above.
- (7) Subsections (3) to (6) above do not apply to the profits or gains of a trade in which the film, tape or disc concerned constitutes trading stock, as defined in section 100(2) of the principal Act.
- (8) In a case where any expenditure on the production or acquisition of a film, tape or disc is expenditure to which subsection (1) above applies, the sums received from the disposal of that film, tape or disc shall be regarded for the purposes of the Tax Acts as receipts of a revenue nature (if they would not be so regarded apart from this subsection); and the reference in this subsection to sums received from the disposal of any film, tape or disc shall be construed as including—
  - (a) sums received from the disposal of any interest or right in or over the film, tape or disc, including an interest or right created by the disposal; and
  - (b) insurance or compensation moneys and other moneys of a like nature which are derived from the film, tape or disc.
- (9) Subsections (1) to (8) above do not apply to expenditure which is incurred—
  - (a) by a person who carries on a trade or business which consists of or includes the exploitation of films, tapes or discs; and
  - (b) on the production or acquisition of a film, tape or disc which is certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a qualifying film, tape or disc for the purposes of this section and the value of which is expected to be realisable over a period of not less than two years.
- (10) In this section “expenditure of a revenue nature” means expenditure which, if it were incurred in the course of a trade the profits or gains of which are chargeable to tax under Case I of Schedule D, would be taken into account for the purpose of computing the profits, gains or losses of the trade; and “receipts of a revenue nature” means receipts which, if they were receipts of such a trade, would be taken into account for that purpose.

## **69 Expenditure on fire safety**

- (1) If a person carrying on a trade incurs expenditure in taking steps specified in a notice served on him by the fire authority under section 5(4) of the Fire Precautions Act 1971, and—
  - (a) the notice was issued on an application for a fire certificate in respect of premises used by him for the purposes of the trade; and
  - (b) an allowance or deduction in respect of the expenditure could not, apart from this subsection, be made in taxing the trade or computing the profits or gains arising from it,this Part shall apply as if the expenditure were capital expenditure incurred on the provision of machinery or plant for the purposes of the trade, and as if the machinery or plant had, in consequence of his incurring the expenditure, belonged to him, and as if the disposal value of the machinery or plant were nil.
- (2) If a person carrying on a trade incurs expenditure in taking, in respect of any premises used by him for the purposes of the trade—
  - (a) steps specified, in a letter or other document sent or given to him by or on behalf of the fire authority on an application for a fire certificate under the Fire Precautions Act 1971 in respect of those premises, as steps that would

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have to be taken in order to satisfy the authority as mentioned in section 5(4) of that Act, being steps which might have been, but were not, specified in a notice under that subsection; or

- (b) steps which, in consequence of the making of an order under section 10 of that Act prohibiting or restricting the use of the premises, had to be taken to enable the premises to be used without contravention of the order,

then, if an allowance or deduction in respect of the expenditure could not, apart from this subsection, be made in taxing the trade or computing the profits or gains arising from it, this Part shall apply as regards the expenditure as it would apply by virtue of subsection (1) above if the expenditure fell within that subsection.

## **70 Expenditure on safety at sports grounds**

- (1) If a person carrying on a trade incurs expenditure in taking, in respect of any sports ground used by him for the purposes of the trade or in respect of any regulated stand at a sports ground so used—

- (a) steps necessary for compliance with the terms and conditions of a safety certificate issued for the sports ground or stand; or
- (b) steps specified in a letter or other document sent or given to him by or on behalf of the local authority for the area in which the sports ground is situated as steps the taking of which would be taken into account by them in deciding what terms and conditions to include in a safety certificate to be issued for the sports ground or stand or lead to the amendment or replacement of a safety certificate issued or to be issued for it,

then, if an allowance or deduction in respect of the expenditure could not, apart from this section, be made in taxing the trade or computing the profits or gains arising from it, this Part shall apply as if the expenditure were capital expenditure incurred on the provision of machinery or plant for the purposes of the trade, and as if the machinery or plant had, in consequence of his incurring the expenditure, belonged to him and as if the disposal value of the machinery or plant were nil.

- (2) If a person carrying on a trade incurs expenditure in respect of a sports ground used for the purposes of the trade (not being expenditure in respect of a regulated stand), then, if—

- (a) at the time when the expenditure was incurred the sports ground was of the description specified in section 1(1) of the Safety of Sports Grounds Act 1975 but no designation order under that section had come into operation in respect of the sports ground; and
- (b) the expenditure was incurred in taking steps which the local authority for the area in which the sports ground is situated certify would have fallen within subsection (1)(a) or (b) above if such an order had then been in operation and a safety certificate had then been issued or applied for,

subsection (1) above shall have effect in relation to the expenditure as it has effect in relation to the expenditure mentioned in that subsection.

- (3) Except in relation to expenditure incurred in respect of a regulated stand or as provided by subsection (2) above, subsection (1) above shall not apply in relation to expenditure incurred in respect of a sports ground at any time when it is not a designated sports ground within the meaning of the Safety of Sports Grounds Act 1975.
- (4) Any provision of regulations made under section 6(1)(b) of the Safety of Sports Grounds Act 1975 (power of local authorities to charge fees) shall, with the necessary



modifications, apply to the issue of a certificate for the purposes of subsection (2) above as it applies to the issue of a safety certificate.

- (5) In this section—
- (a) as it has effect in relation to expenditure incurred in respect of a regulated stand, “regulated stand”, “sports ground”, “safety certificate” and “local authority” have the same meanings as in Part III of the Fire Safety and Safety of Places of Sports Act 1987;
  - (b) as it has effect in relation to other expenditure, “sports ground”, “safety certificate” and “local authority” have the same meanings as in the Safety of Sports Grounds Act 1975.

## 71 Security

- (1) This section applies where—
- (a) an individual, or a partnership of individuals, carries on a trade, profession or vocation,
  - (b) expenditure is incurred by the individual or partnership in connection with the provision for or use by the individual, or any of the individuals, of a security asset,
  - (c) no sum in respect of the expenditure could be deducted in computing the profits or gains of the trade, profession or vocation for the purposes of Case I or Case II of Schedule D, and
  - (d) apart from this section, paragraph (a) or paragraph (b) (or both) of section 24(1) would not apply.
- (2) In a case where this section applies, this Part shall apply as if—
- (a) the expenditure were capital expenditure incurred on the provision of machinery or plant wholly and exclusively for the purposes of the trade, profession or vocation concerned,
  - (b) in consequence of the expenditure being incurred, the machinery or plant belonged to the individual or partnership carrying on the trade, profession or vocation, and
  - (c) the disposal value of the machinery or plant were nil.
- (3) Subsection (2) above shall not apply unless the asset is provided or used to meet a threat which—
- (a) is a special threat to the individual’s personal physical security, and
  - (b) arises wholly or mainly by virtue of the particular trade, profession or vocation concerned.
- (4) Subsection (2) above shall not apply unless the person incurring the expenditure—
- (a) has as his sole object in doing so the meeting of that threat, and
  - (b) subject to subsection (5) below, intends the asset to be used solely to improve personal physical security,
- (5) In a case where—
- (a) apart from subsection (4)(b) above, subsection (2) would apply, and
  - (b) the person incurring the expenditure intends the asset to be used partly to improve personal physical security,

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subsection (2) above shall nevertheless apply, but only so as to treat the appropriate proportion of the expenditure there mentioned as capital expenditure incurred as there mentioned.

- (6) For the purposes of subsection (5) above, the appropriate proportion of the expenditure mentioned in subsection (2) above is such proportion of that expenditure as is attributable to the intention of the person incurring it that the asset be used to improve personal physical security.

## **72 Security: supplementary**

- (1) For the purposes of section 71—
- (a) a security asset is an asset which improves personal security,
  - (b) references to an asset do not include references to a car, a ship or an aircraft,
  - (c) references to an asset do not include references to a dwelling or grounds appurtenant to a dwelling, and
  - (d) references to an asset include references to equipment and to a structure (such as a wall).
- (2) If the person incurring the expenditure intends the asset to be used solely to improve personal physical security, but there is another use which is incidental to improving personal physical security, that other use shall be ignored in construing section 71(4)(b).
- (3) The fact that an asset improves the personal physical security of any member of the family or household of the individual concerned, as well as that of the individual, shall not prevent section 71(2) from applying.
- (4) For the purposes of section 71, it is immaterial whether or not the asset becomes affixed to land (whether constituting a dwelling or otherwise).
- (5) Section 71 applies where expenditure is incurred on or after 6th April 1989.