



Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 12

SHIPS

Pooling and postponement of allowances

127 Single ship pool

- (1) Qualifying expenditure incurred on the provision of a ship for the purposes of a qualifying activity, if allocated to a pool, must be allocated to a single asset pool (a “single ship pool”).
- (2) Subsection (1) is subject to the exceptions given in section 128 and any election under section 129 to use the appropriate non-ship pool.
- (3) In this Chapter “the appropriate non-ship pool”, in relation to a ship, means the pool to which the expenditure incurred on the provision of the ship would be allocated, or would have been allocated, apart from this Chapter.

128 Expenditure which is not to be allocated to single ship pool

- (1) The expenditure is not to be allocated to a single ship pool if the ship is provided for leasing unless—
 - (a) the ship is not used for overseas leasing at any time in the designated period, or if it is, is used only for protected leasing, and
 - (b) it appears that the ship will be used for a qualifying purpose in the designated period and will not be used for any other purpose at any time in that period.

- (2) The expenditure is not to be allocated to a single ship pool if the qualifying activity for the purposes of which the ship is provided is special leasing of plant or machinery.
- (3) In subsection (1) “leasing”, “overseas leasing”, “protected leasing”, “qualifying purpose” and “designated period” have the same meaning as in Chapter 11 (overseas leasing).

129 Election to use the appropriate non-ship pool

- (1) A person who has incurred qualifying expenditure on the provision of a ship may, by an election made for a chargeable period, allocate to the appropriate non-ship pool—
 - (a) all or a part of any qualifying expenditure that would otherwise be allocated to a single ship pool, or
 - (b) all or a part of the available qualifying expenditure in a single ship pool.
- (2) An election under this section must be made by notice given to the Inland Revenue—
 - (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
 - (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.
- (3) “The relevant chargeable period” means the chargeable period for which the election is made.

130 Notice postponing first-year or writing-down allowance

- (1) A person who is entitled to a first-year allowance for a chargeable period in respect of qualifying expenditure on the provision of a ship may, by notice, postpone all or part of the allowance.
- (2) A person who is entitled to a writing-down allowance for a chargeable period in respect of qualifying expenditure allocated to a single ship pool may, by notice, postpone all or part of the allowance.
- (3) A notice under this section must specify the amount postponed.
- (4) A notice under this section must be given to the Inland Revenue—
 - (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
 - (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.
- (5) “The relevant chargeable period” means the chargeable period for which the person is entitled to the allowance.
- (6) If a person entitled to a first-year allowance in respect of qualifying expenditure on the provision of a ship claims the allowance in respect of part of the expenditure, subsection (1) applies to the allowance claimed.
- (7) If a person entitled to a writing-down allowance in respect of qualifying expenditure allocated to a single ship pool requires the allowance to be reduced to a specified amount, subsection (2) applies to the allowance as so reduced.

131 Effect of postponement

- (1) If a person gives notice in respect of a chargeable period under section 130—
 - (a) the allowance is withheld or withdrawn to the extent that it is postponed, but
 - (b) sections 57 to 59 (calculation of available qualifying expenditure) apply as if the allowance had been made to the person without any postponement.
- (2) On making a claim, the person is entitled to have all or part of a postponed first-year allowance made to him as a first-year allowance for one or more subsequent chargeable periods in which he is carrying on the qualifying activity.
- (3) On making a claim, the person is entitled to have all or part of a postponed writing-down allowance made to him as a writing-down allowance for one or more subsequent chargeable periods in which he is carrying on the qualifying activity.
- (4) The total amount of any first-year allowances made under subsection (2) or writing-down allowances made under subsection (3) must not exceed the amount of the postponed allowance in question.
- (5) A writing-down allowance made under subsection (3) is ignored for the purposes of section 59 (unrelieved qualifying expenditure).
- (6) The fact that a postponed writing-down allowance is claimed for a chargeable period does not affect entitlement to, or the amount of, any other writing-down allowance to which the person is otherwise entitled for that chargeable period.
- (7) A postponed allowance is not, merely because of the postponement, included in the reference in section 403ZB(2) of ICTA (group relief) to an allowance or amount carried forward from an earlier period.

132 Disposal events and single ship pool

- (1) A person is required to bring a disposal value into account in a single ship pool if the ship—
 - (a) is provided for leasing, and
 - (b) begins to be used otherwise than for a qualifying purpose within the first 4 years of the designated period.
- (2) If any disposal event (including one under subsection (1)) occurs in relation to a single ship pool—
 - (a) the available qualifying expenditure in the single ship pool is allocated, for the chargeable period in which the event occurs, to the appropriate non-ship pool,
 - (b) the disposal value must be brought into account as a disposal value for that chargeable period in the appropriate non-ship pool, and
 - (c) the single ship pool ends without a final chargeable period and without any liability to a balancing charge arising.
- (3) Subsections (1) and (2) apply even if, as a result of an election under section 129, some of the qualifying expenditure on the provision of the ship has been allocated to the appropriate non-ship pool.
- (4) In subsection (1) “leasing”, “qualifying purpose” and “designated period” have the same meaning as in Chapter 11 (overseas leasing).

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

133 Ship not used

- (1) This section applies if—
 - (a) a person has incurred qualifying expenditure on the provision of a ship for the purposes of a qualifying activity, and
 - (b) the ship ceases to be owned by the person without having been brought into use for the purposes of the qualifying activity.
- (2) Any writing-down allowances that have previously been made in respect of qualifying expenditure in the single ship pool (or which have been postponed) must be withdrawn.
- (3) The amount of any writing-down allowances withdrawn under subsection (2) is allocated, for the chargeable period in which the person ceases to own the ship, to the appropriate non-ship pool.
- (4) Any adjustments required by this section are in addition to any adjustments required under section 132 (disposal events and single ship pool).

Deferment of balancing charges

134 Deferment of balancing charges: introduction

- (1) Sections 135 to 156 enable a balancing charge that arises when there is a disposal event in respect of a ship to be deferred and attributed to qualifying expenditure on another ship.
- (2) In this Chapter “the deferment rules” means sections 135 to 156.

135 Claim for deferment

- (1) A person (“the shipowner”) who is liable to a balancing charge for a chargeable period may claim deferment of all or part of the charge if—
 - (a) in the chargeable period there is a disposal event (“the relevant disposal event”) in respect of a ship (“the old ship”),
 - (b) the old ship—
 - (i) was provided for the purposes of a qualifying activity carried on by the shipowner, and
 - (ii) was owned by the shipowner at some time in the chargeable period, and
 - (c) the conditions in section 136 are met.
- (2) The amount which may be deferred is subject to the limit in section 138.
- (3) For income tax purposes, a claim for deferment must be made on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends.
- (4) “The relevant chargeable period” means the chargeable period for which the shipowner is liable to the balancing charge.
- (5) For corporation tax purposes, Part IX of Schedule 18 to FA 1998 applies in relation to the making of a claim for deferment as it applies in relation to the making of a claim for an allowance.

136 Further conditions for deferment

The conditions referred to in section 135(1)(c) are that—

- (a) the relevant disposal event is of a kind mentioned in section 61(1)(a) to (d) (cessation of ownership, loss, abandonment, destruction etc. of ship),
- (b) the old ship was a qualifying ship immediately before the relevant disposal event,
- (c) the shipowner has not incurred a loss in respect of the qualifying activity for the chargeable period for which he is liable to the balancing charge, and
- (d) no amount in respect of the old ship has been allocated to—
 - (i) the overseas leasing pool,
 - (ii) a single asset pool under section 206 (plant or machinery provided or used partly for purposes other than those of the qualifying activity),
 - (iii) a single asset pool under section 211 (payment of partial depreciation subsidy), or
 - (iv) a pool for a qualifying activity consisting of special leasing.

137 Effect of deferment

A claim for deferment is given effect by allocating the amount deferred, for the chargeable period in respect of which the claim is made, to the appropriate non-ship pool.

138 Limit on amount deferred

- (1) The amount deferred must not exceed the smallest of the following amounts—
 - (a) the amount of any balancing charge which, if the claim for deferment had not been made, would have been made for the chargeable period for which deferment is claimed in the appropriate non-ship pool;
 - (b) the amount given by section 139 (amount taken into account in respect of the old ship);
 - (c) the amount which is, or is expected to be, the amount of expenditure on new shipping incurred—
 - (i) by the shipowner or, if the shipowner is a company, by another company which is a member of the same group at the time when the expenditure is incurred, and
 - (ii) within the period of 6 years beginning with the relevant disposal event;
 - (d) the amount of the shipowner's profits or income from the qualifying activity for the chargeable period for which deferment is claimed.
- (2) In determining profits or income for the purposes of subsection (1)(d)—
 - (a) any other amounts deferred under section 135 are to be taken into account, and
 - (b) any amounts brought forward under section 385 or 393 of ICTA (losses) are to be disregarded.

139 Amount taken into account in respect of old ship

- (1) The amount taken into account in respect of the old ship for the purposes of section 138(1)(b) is—

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- (a) amount A, if no election has been made under section 129 (election to use appropriate non-ship pool) in respect of any of the qualifying expenditure incurred on the provision of the ship, or
 - (b) amount B, in any other case.
- (2) Amount A is the amount which falls to be brought into account as a disposal value in the appropriate non-ship pool under section 132(2)(b) as a result of the relevant disposal event, less the available qualifying expenditure allocated to the appropriate non-ship pool under section 132(2)(a).

(3) Amount B is—

$$DV - (QE - WDA - FYA)$$

where—

DV is the amount of the disposal value required to be brought into account in respect of the old ship,

QE is all the qualifying expenditure incurred in respect of the old ship,

WDA is the maximum amount of any writing-down allowances which (on the assumptions in subsection (4)) could have been made in respect of that qualifying expenditure for chargeable periods up to (but not including) the one in respect of which the claim for deferment is made, and

FYA is the total of any first-year allowances actually made or postponed in respect of the old ship.

- (4) The assumptions are that—
- (a) all the qualifying expenditure in respect of the old ship is (and has always been) allocated to the appropriate non-ship pool, and
 - (b) no other qualifying expenditure has been allocated to that pool.
- (5) If an election is made under section 129 (election to use appropriate non-ship pool) after the determination under this section of the amount taken into account in respect of the old ship, the amount is, and is treated as always having been, amount B and not amount A.

Attribution of deferred amounts

140 Notice attributing deferred amounts to new expenditure

- (1) The shipowner may, by notice to the Inland Revenue, attribute all or part of an amount deferred under section 135 to expenditure on new shipping.
- (2) An amount attributed under this section is attributed to an equal amount of the expenditure on new shipping.
- (3) Subsection (1) is subject to subsections (4) and (5) and section 141 (deferred amounts attributed to earlier expenditure first).
- (4) Subsection (1) applies only if the expenditure on new shipping is incurred—
 - (a) by the shipowner or, if the shipowner is a company, by another company which is a member of the same group at the time when the expenditure is incurred, and
 - (b) within the period of 6 years beginning with the relevant disposal event.

- (5) An amount may be attributed to expenditure on new shipping only to the extent that amounts have not already been attributed to it under this section.
- (6) A notice given in respect of expenditure incurred by another company does not have effect unless the other company joins the shipowner in giving it.

141 Deferred amounts attributed to earlier expenditure first

- (1) No part of an amount deferred under section 135 is to be attributed to the whole or a part of any expenditure on new shipping (“the current expenditure”) if there is other expenditure (“the earlier expenditure”) which—
 - (a) was incurred before the current expenditure but at the same time as or after the relevant disposal event,
 - (b) was incurred by the shipowner or, if the shipowner is a company, by another company which was a member of the same group at the time the earlier expenditure was incurred, and
 - (c) is expenditure on new shipping, or would be treated as such but for an election under section 129 (election to use appropriate non-ship pool),unless the condition in subsection (2) is met in relation to the earlier expenditure.
- (2) The condition is that—
 - (a) amounts have been attributed to all the earlier expenditure under section 140, and
 - (b) the attributions have been made in the case of the amount deferred and any other amounts deferred under section 135 as a result of disposal events occurring at the same time as or before the relevant disposal event.

142 Variation of attribution

- (1) The shipowner may, by notice, vary an attribution under section 140 (notice attributing deferred amounts to new expenditure).
- (2) The notice must be given to the Inland Revenue on or before the time limit for the shipowner to make a claim for deferment in respect of the relevant chargeable period.
- (3) For the time limit for making a claim for deferment, see section 135(3) to (5).
- (4) For the purposes of subsection (2), it is to be assumed that—
 - (a) the shipowner is liable to a balancing charge for the relevant chargeable period, and
 - (b) a claim for deferment of that balancing charge can be made for the relevant chargeable period.
- (5) “The relevant chargeable period” means the earliest chargeable period in which expenditure to which the variation relates is incurred.
- (6) If the person to whose expenditure the notice relates is not the shipowner, a notice under subsection (1) does not have effect unless the person joins the shipowner in giving it.

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143 Effect of attribution

- (1) This section applies if a notice is given under section 140 attributing an amount to expenditure on new shipping.
- (2) The amount must be brought into account as a disposal value—
 - (a) for the chargeable period in which the expenditure is incurred, and
 - (b) in the single ship pool to which the expenditure is allocated.

144 Amounts which cease to be attributable

- (1) This section applies if—
 - (a) an amount has been deferred under section 135, and
 - (b) circumstances arise in which any part of the amount ceases (otherwise than by being attributed) to be attributable.
- (2) The shipowner is assumed not to have been entitled to defer so much of the amount as ceases to be attributable.
- (3) For the purposes of this section an amount is attributable if it may be attributed to expenditure on new shipping in accordance with section 140.

145 Requirement to notify where no entitlement to defer amounts

- (1) This section applies if—
 - (a) an amount has been deferred under section 135, and
 - (b) circumstances arise that require the shipowner to be treated as if he was not entitled to defer all or part of the amount.
- (2) The shipowner must give notice of the fact to the Inland Revenue, specifying the circumstances.
- (3) The notice must be given no later than 3 months after the end of the chargeable period in which the circumstances first arise.
- (4) An assessment to tax chargeable as a result of the circumstances may be made at any time in the period which—
 - (a) begins when those circumstances arise, and
 - (b) ends 12 months after the shipowner gives notice of them to the Inland Revenue.
- (5) Subsection (4) applies in spite of any limitation on the time for making assessments.

Expenditure on new shipping

146 Basic meaning of expenditure on new shipping

- (1) For the purposes of the deferment rules, expenditure on the provision of a ship is expenditure on new shipping if the conditions in subsection (3) are met.
- (2) Subsection (1) is subject to sections 147 to 150.
- (3) The conditions are that—

- (a) the expenditure is qualifying expenditure incurred by a person wholly and exclusively for the purposes of a qualifying activity carried on by him,
- (b) when the expenditure is incurred, it appears that the ship will—
 - (i) be brought into use for the purposes of the qualifying activity as a qualifying ship, and
 - (ii) continue to be a qualifying ship for at least 3 years after that, and
- (c) the expenditure is allocated to a single ship pool.

147 Exclusions: ship previously owned

- (1) Expenditure on the provision of a ship is not expenditure on new shipping if the person who incurred the expenditure—
 - (a) has already owned the ship in the period of 6 years ending with the time when he first owns it as a result of incurring the expenditure, or
 - (b) was connected at a material time with a person who owned the ship at any time during that period.
- (2) For this purpose a material time is—
 - (a) the time when the expenditure was incurred, or
 - (b) any earlier time in the 6 year period beginning with the relevant disposal event.

148 Exclusions: object to secure deferment

Expenditure on the provision of a ship is not expenditure on new shipping if the object, or one of the main objects, of—

- (a) the transaction by which the ship was provided for the purposes of a qualifying activity carried on by the person who incurred the expenditure,
- (b) any series of transactions of which that transaction was one, or
- (c) any transaction in such a series,

was to secure the deferment of a balancing charge under section 135.

149 Exclusions: later events

- (1) Expenditure on the provision of a ship is not, and is treated as never having been, expenditure on new shipping if—
 - (a) at a time during the period mentioned in subsection (2), the ship is not a qualifying ship,
 - (b) the expenditure is allocated to a pool as a result of an election under section 129 (election to use appropriate non-ship pool), or
 - (c) section 107 applies in relation to the expenditure (overseas leasing).
- (2) The period referred to in subsection (1)(a) is—
 - (a) the period of 3 years beginning with the time when the ship is first brought into use for the purposes of a qualifying activity carried on—
 - (i) by the person (“A”) who incurred the expenditure, or
 - (ii) if earlier, by a person connected with A, or
 - (b) if shorter, the period beginning with that time and ending when neither A nor a person connected with A owns the ship.

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150 Exclusions where expenditure not incurred by shipowner

- (1) Expenditure on the provision of a ship is not, and is treated as never having been, expenditure on new shipping if—
 - (a) it is incurred by a company which is a member of the same group as the shipowner at the time when the expenditure is incurred, and
 - (b) subsection (2) or (4) applies.
- (2) This subsection applies (subject to subsection (3)) if—
 - (a) the ship ceases to be owned by the company before it has been brought into use for the purposes of a qualifying activity carried on by the company, or
 - (b) a disposal event occurs in respect of the ship within 3 years of its first being brought into use for the purposes of a qualifying activity carried on by the company.
- (3) But subsection (2) does not apply if the event which would otherwise result in that subsection applying is, or is the result of, the total loss of the ship or irreparable damage to it.
- (4) This subsection applies if—
 - (a) after the expenditure is incurred, there is a time when the company and the shipowner are not members of the same group, and
 - (b) if the ship is brought into use for the purposes of a qualifying activity carried on by the company, that time is within 3 years of the ship first being so brought into use.
- (5) A time falling after the total loss of the ship or irreparable damage to it is to be disregarded for the purposes of subsection (4).
- (6) In this section “irreparable damage”, in relation to a ship, means damage that puts it in a condition in which it is impossible, or not commercially worthwhile, to undertake the repairs required for restoring it to its previous use.

Qualifying ships

151 Basic meaning of qualifying ship

- (1) For the purposes of the deferment rules, a ship is a qualifying ship if it is—
 - (a) of a sea-going kind, and
 - (b) registered as a ship with a gross tonnage of 100 tons or more in a register of shipping established and maintained under the law of any country or territory.
- (2) This is subject to sections 152 to 154.

152 Ships under 100 tons

- (1) This section applies if the relevant disposal event is, or results from—
 - (a) the total loss of the old ship, or
 - (b) damage to the old ship that puts it in a condition in which it is impossible, or not commercially worthwhile, to undertake the repairs required for restoring it to its previous use.
- (2) A registered ship may be a qualifying ship for the purposes of—

- (a) section 136(b) (further conditions for deferment), or
 - (b) sections 146(3)(b) and 149(1)(a) (expenditure on new shipping),
- even if it is not registered as a ship with a gross tonnage of 100 tons or more.

- (3) In subsection (2) “registered ship” means a ship registered in a register of shipping established and maintained under the law of any country or territory.

153 Ships which are not qualifying ships

- (1) A ship is not a qualifying ship if the primary use to which ships of the same kind as that ship are put—
- (a) by the persons who own them, or
 - (b) by others to whom they are made available,
- is use for sport or recreation.
- (2) A ship is not a qualifying ship at any time when—
- (a) it is an offshore installation, or
 - (b) it would be such an installation if the activity for which it is to be established or maintained were carried on in or under controlled waters.
- (3) “Offshore installation” and “controlled waters” have the same meaning as in the Mineral Workings (Offshore Installations) Act 1971 (c. 61).

154 Further registration requirement

- (1) If—
- (a) a person (“A”) has incurred expenditure on the provision of a ship, and
 - (b) there is a time in the qualifying period, but more than 3 months after the beginning of that period, when the ship is not registered in a relevant register,
- the ship is not a qualifying ship after that time.
- (2) The qualifying period is—
- (a) the period of 3 years beginning with the time when the ship is first brought into use for the purposes of a qualifying activity carried on—
 - (i) by A, or
 - (ii) if earlier, by a person connected with A, or
 - (b) if shorter, the period beginning with that time and ending when neither A nor a person connected with A owns the ship.
- (3) In determining the qualifying period for the old ship, a qualifying activity carried on at any time by a person (“B”) is taken to be carried on at that time by a person connected with A if—
- (a) it is subsequently carried on by A or a person connected with A, and
 - (b) the only changes in the persons carrying it on between the time that B does so and the time that A or a person connected with A does so are changes in respect of which, under section 113(2) or 343(2) of ICTA, the qualifying activity is not treated as having been discontinued.
- (4) In this section “relevant register” means a register of shipping established and maintained—
- (a) under the laws of any part of the British Islands, or

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- (b) under the laws of any country or territory which, at a time in the qualifying period for the ship, is an EEA State or a colony.
- (5) “EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 (except that for the period before the Agreement came into force in relation to Liechtenstein it does not include the State of Liechtenstein).

Deferment of balancing charges: supplementary provisions

155 Change in the persons carrying on the qualifying activity

- (1) This section applies if—
 - (a) a person is carrying on the qualifying activity previously carried on by the shipowner, and
 - (b) the only changes in the persons carrying on the qualifying activity since the shipowner carried it on are changes in respect of which, under section 113(2) or 343(2) of ICTA, it is not treated as having been discontinued.
- (2) For the purposes of the deferment rules—
 - (a) expenditure incurred by a person mentioned in subsection (1)(a) for the purposes of the qualifying activity is to be treated as incurred by the shipowner, and
 - (b) in relation to the giving of any notice, a reference to the shipowner is to be read as a reference to the person carrying on the qualifying activity when the notice is given or is required to be given.

156 Connected persons

- (1) For the purposes of the deferment rules a person (“B”) is connected with another person (“A”) at any time if, at that time—
 - (a) B is connected (in the sense given in section 839 of ICTA) with A,
 - (b) B is carrying on a qualifying activity previously carried on by A and the condition in subsection (2) is met, or
 - (c) B is connected (in the sense given in section 839 of ICTA) with a person who is carrying on a qualifying activity previously carried on by A and the condition in subsection (2) is met.
- (2) The condition is that the only changes in the persons carrying on the qualifying activity since A carried it on are changes in respect of which, under section 113(2) or 343(2) of ICTA, the qualifying activity is not treated as having been discontinued.
- (3) If expenditure is incurred by a person who is not the shipowner, the persons connected with him at any time include any person connected with the shipowner at that time as a result of subsection (1).

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Further provisions

157 Adjustment of assessments etc.

- (1) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this Chapter.
- (2) Subsection (1) does not apply for the purposes of section 145 (see instead section 145(4) and (5)).

158 Members of same group

For the purposes of this Chapter two companies are members of the same group at any time if they would be treated as members of the same group of companies at that time for the purposes of Chapter IV of Part X of ICTA (group relief).