Capital Allowances Act 2001

2001 CHAPTER 2

PART 2

PLANT AND MACHINERY ALLOWANCES

CHAPTER 4

FIRST-YEAR QUALIFYING EXPENDITURE

Types of expenditure which may qualify for first-year allowances

40 Expenditure incurred for Northern Ireland purposes by small or medium-sized enterprises

(1) Expenditure is first-year qualifying expenditure if—

(a) it is incurred on or before 11th May 2002,

(b) it is incurred by a small or medium-sized enterprise,

(c) it is incurred on the provision of plant or machinery for use primarily in Northern Ireland, and

(d) it is not excluded by—

(i) section 41 (miscellaneous exclusions from this section),

(ii) section 42 (plant or machinery partly for use outside Northern Ireland), or

(iii) section 46 (general exclusions).

(2) This section is subject to section 43 (effect of plant or machinery subsequently being primarily for use outside Northern Ireland).

41 Miscellaneous exclusions from section 40 (expenditure for Northern Ireland purposes etc.)

(1) Expenditure is not first-year qualifying expenditure under section 40 if—

(a) it is long-life asset expenditure,
(b) it is expenditure on the provision of an aircraft or hovercraft, or
(c) it is expenditure on the provision of a goods vehicle for the purposes of a trade which consists primarily of the conveyance of goods.

(2) Expenditure is not first-year qualifying expenditure under section 40 if it is incurred on the provision of plant or machinery for use primarily in—
(a) agriculture, fishing or fish farming, or
(b) any relevant activity carried out in relation to agricultural produce, fish or any fish product for the purpose of bringing it to market,

unless it is authorised for the purposes of this section by the Department of Agriculture and Rural Development in Northern Ireland.

(3) An authorisation given by the Department—
(a) may be given either generally or specially, and
(b) may in any case be absolute or conditional;

and, if the authorisation is given generally, it may be modified by the Department.

(4) An authorisation is given specially if it is given so as to apply only to a specified item of expenditure or a specified person; otherwise, it is given generally.

(5) In this section—

"agriculture" and "agricultural produce" have the same meaning as in section 6 of the European Communities Act 1972 (c. 68),

"fish" includes shellfish,

"fish farming" means the intensive rearing, on a commercial basis, of fish intended for human consumption,

"fishing" means a trade, or part of a trade, which consists of the catching or taking of fish,

"goods vehicle" has the same meaning as in the Road Traffic (Northern Ireland) Order 1995 (S.I.1995/2994 (N.I.18)),

"hovercraft" has the same meaning as in the Hovercraft Act 1968 (c. 59), and

"relevant activity" means transportation, storage, preparation, processing or packaging.

42 Exclusion of plant or machinery partly for use outside Northern Ireland

(1) Expenditure on plant or machinery is not first-year qualifying expenditure under section 40 if—
(a) at the time when it is incurred, the person incurring it intends the plant or machinery to be used partly outside Northern Ireland, and
(b) the main benefit, or one of the main benefits, which could reasonably be expected to arise from the relevant arrangements is the obtaining of a first-year allowance, or a greater first-year allowance, in respect of the part of the expenditure that is attributable to that intended use outside Northern Ireland.

(2) For the purposes of subsection (1)—
(a) "the relevant arrangements" means—
(i) the transaction under which the expenditure is incurred, and
(ii) any scheme or arrangements of which that transaction forms part, and

(b) the part of the expenditure that is attributable under subsection (1)(b) is to be determined on a just and reasonable basis.

43 Effect of plant or machinery subsequently being primarily for use outside Northern Ireland

(1) Expenditure on the provision of plant or machinery is to be treated as never having been first-year qualifying expenditure under section 40 if, at any relevant time—

(a) the primary use to which the plant or machinery is put is a use outside Northern Ireland, or

(b) the plant or machinery is held for use otherwise than primarily in Northern Ireland.

(2) In subsection (1) "relevant time" means a time which—

(a) falls within the relevant period, and

(b) is a time when the plant or machinery is owned by—

(i) the person who incurred the expenditure, or

(ii) a person who is, or at any time in that period has been, connected with that person.

(3) "The relevant period" means—

(a) if the expenditure concerned exceeds £3.5 million, the period of 5 years beginning with the date of the incurring of that expenditure;

(b) in any other case, the period of 2 years beginning with that date.

(4) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).

(5) If a person who has made a return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, he must give notice to the Inland Revenue specifying how the return needs to be amended.

(6) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.

44 Expenditure incurred by small or medium-sized enterprises

(1) Expenditure is first-year qualifying expenditure if—

(a) it is incurred by a small or medium-sized enterprise, and

(b) it is not excluded by subsection (2) or section 46 (general exclusions).

(2) Long-life asset expenditure is not first-year qualifying expenditure under subsection (1).

45 ICT expenditure incurred by small enterprises

(1) Expenditure is first-year qualifying expenditure if—

(a) it is incurred on or before 31st March 2003,

(b) it is incurred by a small enterprise,

(c) it is expenditure on information and communications technology, and

(d) it is not excluded by section 46 (general exclusions).

(2) "Expenditure on information and communications technology" means expenditure on items within any of the following classes.

Class A. Computers and associated equipment

This class covers—

(a) computers,

(b) peripheral devices designed to be used by being connected to or inserted in a computer,

(c) equipment (including cabling) for use primarily to provide a data connection between—

(i) one computer and another, or

(ii) a computer and a data communications network, and

(d) dedicated electrical systems for computers.

For this purpose "computer" does not include computerised control or management systems or other systems that are part of a larger system whose principal function is not processing or storing information.

Class B. Other qualifying equipment

This class covers—

(a) wireless application protocol telephones,

(b) third generation mobile telephones,

(c) devices designed to be used by being connected to a television set and capable of receiving and transmitting information from and to data networks, and

(d) other devices—

(i) substantially similar to those within paragraphs (a), (b) and (c), and

(ii) capable of receiving and transmitting information from and to data networks.

This is subject to any order under subsection (3).

Class C. Software

This class covers the right to use or otherwise deal with software for the purposes of any equipment within Class A or B.

(3) The Treasury may make provision by order—

(a) further defining the kinds of equipment within Class B, or

(b) adding further kinds of equipment to that class.

46 General exclusions applying to sections 40, 44 and 45

(1) Expenditure within any of the general exclusions in subsection (2) is not first-year qualifying expenditure under—

section 40 (expenditure incurred for Northern Ireland purposes by small or medium-sized enterprises),

section 44 (expenditure incurred by small or medium-sized enterprises), or

section 45 (ICT expenditure incurred by small enterprises).

(2) The general exclusions are—

General exclusion 1

The expenditure is incurred in the chargeable period in which the qualifying activity is permanently discontinued.

General exclusion 2

The expenditure is incurred on the provision of a car (as defined by section 81).

General exclusion 3

The expenditure is of the kind described in section 94 (ships).

General exclusion 4

The expenditure is of the kind described in section 95 (railway assets).

General exclusion 5

The expenditure would be long-life asset expenditure but for paragraph 20 of Schedule 3 (transitional provisions).

General exclusion 6

The expenditure is on the provision of plant or machinery for leasing (whether in the course of a trade or otherwise).

For this purpose, the letting of a ship on charter, or of any other asset on hire, is to be regarded as leasing (whether or not it would otherwise be so regarded).

General exclusion 7

The circumstances of the incurring of the expenditure are that—

(a) the provision of the plant or machinery on which the expenditure is incurred is connected with a change in the nature or conduct of a trade or business carried on by a person other than the person incurring the expenditure, and

(b) the obtaining of a first-year allowance is the main benefit, or one of the main benefits, which could reasonably be expected to arise from the making of the change.

General exclusion 8

Either of the following sections applies—

section 13 (use for qualifying activity of plant or machinery provided for other purposes);

section 14 (use for qualifying activity of plant or machinery which is a gift).

This is subject to section 161 (pre-trading expenditure on mineral exploration and access).