



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 11

MISCELLANEOUS

Reliefs for business

141 Relief for research and development: software and consumable items

- (1) In Schedule 20 to the Finance Act 2000 (c. 17) (tax relief for expenditure on research and development) for paragraph 6 (expenditure on consumable stores) substitute—

“Expenditure on software or consumable items

- 6 (1) For the purposes of this Schedule expenditure on software or consumable items means expenditure on—
- (a) computer software, or
 - (b) consumable or transformable materials,
- and references to software or consumable items shall be construed accordingly.
- (2) For the purposes of this Schedule consumable or transformable materials include water, fuel and power.
- (3) Expenditure on software or consumable items is attributable to relevant research and development if the software or consumable items are employed directly in such research and development.

Status: This is the original version (as it was originally enacted).

- (4) In the case of software or consumable items partly employed directly in relevant research and development, an appropriate portion of the expenditure on the software or consumable items is treated as attributable to relevant research and development.
- (5) For the purposes of sub-paragraphs (3) and (4), software or consumable items employed in the provision of services, such as secretarial or administrative services, in support of other activities are not, by virtue of their employment in the provision of those services, to be treated as themselves directly employed in those other activities.”.
- (2) In each of the following enactments (which relate to tax relief for expenditure on research and development)—
 - (a) Schedule 20 to the Finance Act 2000 (c. 17) (small or medium-sized enterprises), other than paragraph 6,
 - (b) Schedule 12 to the Finance Act 2002 (c. 23) (large companies, work sub-contracted to, and large company relief for, small or medium-sized enterprises),
 - (c) Schedule 13 to that Act (vaccine research etc),
 for the words “consumable stores”, wherever occurring, substitute “software or consumable items”.
- (3) The amendments made by this section to Schedule 12 to the Finance Act 2002 (large companies etc) have effect in relation to expenditure incurred on or after 1st April 2004.
- (4) Except as provided by subsection (5), the amendments made by this section to—
 - (a) Schedule 20 to the Finance Act 2000 (small or medium-sized enterprises),
 - (b) Schedule 13 to the Finance Act 2002 (vaccine research etc),
 have effect in relation to expenditure incurred on or after the appointed day.
- (5) The amendment made by subsection (1) (substitution of paragraph 6 of Schedule 20 to the Finance Act 2000), in its application for the purposes of Schedule 12 to the Finance Act 2002 by virtue of the amendments made to that Schedule by subsection (2), has effect in relation to expenditure incurred on or after 1st April 2004.
- (6) In this section “the appointed day” means such day as the Treasury may by order appoint; and different days may be so appointed for different provisions or different purposes.
- (7) The days that may be appointed by an order under subsection (6) include days earlier than the day on which this Act is passed, but not days earlier than 1st April 2004.

142 Temporary increase in amount of first-year allowances for small enterprises

- (1) The amount of a first-year allowance under section 44 of the Capital Allowances Act 2001 (c. 2) (expenditure incurred by small or medium-sized enterprises) shall be determined, in the case of expenditure to which this subsection applies, as if the percentage specified in the entry relating to that section in the Table in section 52(3) of that Act were 50%.
- (2) Subsection (1) applies to expenditure incurred by a small enterprise (within the meaning of section 44 of that Act) in the period of 12 months beginning with—

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- (a) 1st April 2004, if the small enterprise is within the charge to corporation tax, or
 - (b) 6th April 2004, if the small enterprise is within the charge to income tax.
- (3) Accordingly, in section 52(3) of the Capital Allowances Act 2001, after the Table insert—

“In the case of expenditure qualifying under section 44, see also section 142 of the Finance Act 2004 (substitution of 50% in the case of expenditure incurred by a small enterprise in 2004-05 or financial year 2004).”.

143 Deduction for expenditure by landlords on energy-saving items

- (1) After section 31 of the Taxes Act 1988 (Schedule A deductions and allowances: provisions supplementary to sections 25 to 30) insert—

“31A Deductions for expenditure by landlords on energy-saving items

- (1) This section applies to a Schedule A business if the land mentioned in paragraph 1(1) of Schedule A consists of or includes a dwelling-house.
- (2) In computing for the purposes of income tax the profits of a Schedule A business to which this section applies, a deduction shall be allowed in respect of any expenditure to which subsection (3) applies.

That is subject to any provision of regulations under subsection (13).
- (3) This subsection applies to expenditure as respects which the numbered conditions set out in the following provisions of this section (“the qualifying conditions”) are satisfied.
- (4) Condition 1 is that the expenditure is incurred in the provision of a qualifying energy-saving item in the dwelling-house.
- (5) Condition 2 is that the expenditure is incurred on or after 6th April 2004 but before 6th April 2009.
- (6) Condition 3 is that the expenditure is incurred wholly and exclusively for the purposes of the Schedule A business.
- (7) Condition 4 is that the expenditure is capital expenditure.
- (8) Condition 5 is that, apart from this section, the expenditure is not deductible in computing the profits of the Schedule A business.
- (9) Condition 6 is that no allowance under the Capital Allowances Act may be claimed in respect of the expenditure.
- (10) Condition 7 is that the expenditure is not incurred in respect of the provision of an item in a dwelling-house which, at the time when the item is installed,—
 - (a) is in the course of construction, or
 - (b) is comprised in land in which the person claiming the deduction under this section does not have an interest or is in the course of acquiring an interest or further interest.
- (11) Condition 8 is that for the purposes of section 503 (letting of furnished holiday accommodation to be treated as a trade for certain purposes) either—

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- (a) the Schedule A business does not consist to any extent in the commercial letting of furnished holiday accommodation, or
 - (b) if it does so consist to any extent, the dwelling-house does not constitute any or all of the furnished holiday accommodation in question.
- (12) Condition 9 is that the income of the person claiming the deduction is not computed in accordance with paragraph 9 or 11 of Schedule 10 to the Finance (No. 2) Act 1992 (furnished accommodation) in respect of any qualifying residence which consists of or includes the dwelling-house.
- (13) The Treasury may by regulations make provision for any of the following purposes—
- (a) restricting or reducing the amount of expenditure in respect of which deductions may be claimed under this section;
 - (b) excluding entitlement to a deduction under this section in such cases as may be specified in, or determined in accordance with, the regulations;
 - (c) determining which of two or more persons is (and which is not) entitled to a deduction under this section in cases where different persons have different interests in land consisting of or including the whole or part of a building containing one or more dwelling-houses;
 - (d) making apportionments (including apportioning amounts to companies which are not entitled to a deduction under this section) in cases where—
 - (i) a Schedule A business is carried on by two or more persons in partnership, or
 - (ii) an interest in land is beneficially owned by two or more persons jointly or in common.
- (14) Section 31B supplements this section.

31B Provisions supplementary to section 31A

- (1) This section has effect for the purpose of supplementing section 31A and shall be construed as one with that section.
- (2) Section 31A does not have effect for the purposes of corporation tax.
- (3) No deduction may be made under section 31A unless a claim is made.
- (4) Where, on a just and reasonable apportionment of any expenditure, the qualifying conditions—
 - (a) would be satisfied as respects some part or parts of the expenditure, but
 - (b) would not be satisfied as respects the remainder of the expenditure,
 a deduction under section 31A shall be allowed in respect of the part or parts mentioned in paragraph (a) but not in respect of the remainder.

Any such deduction is subject to, and must be in accordance with, the other provisions of this section and regulations under section 31A(13).
- (5) Expenditure incurred by a person—

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(a) for the purposes of a Schedule A business, but
(b) before the time when he begins to carry on that business,
is not deductible under section 31A by virtue of section 401 (relief for pre-trading expenditure) unless the expenditure is incurred not more than 6 months before that time (and on or after 6th April 2004).

The reference to section 401 is a reference to that section as it applies for the purposes of Schedule A in relation to a Schedule A business by virtue of section 21B.

- (6) “Qualifying energy-saving items” are items of any of the following descriptions—
- (a) cavity wall insulation;
 - (b) loft insulation.
- (7) The Treasury may by regulations amend subsection (6)—
- (a) by adding further descriptions of items; or
 - (b) by removing or varying descriptions of items.
- (8) The Treasury may by regulations provide that an item is to be regarded as an item of any particular description in subsection (6) only if it satisfies such conditions as may be specified in, or determined in accordance with, the regulations.
- (9) The conditions that may be imposed by regulations under subsection (8) include conditions imposed by reference to information or documents issued by any body, person or organisation.
- (10) The provision that may be made by regulations under this section or section 31A which are made on or before 31st December 2004 includes provision—
- (a) having effect before the date on which the regulations are made, or
 - (b) having effect in relation to expenditure incurred before that date.
- (11) Any reference to the provision of a qualifying energy-saving item is a reference to the acquisition of such an item and its installation in the dwelling-house.”.

- (2) The amendment made by this section has effect in relation to expenditure incurred on or after 6th April 2004 but before 6th April 2009.

144 Lloyd’s names: conversion to limited liability underwriting

Schedule 25 to this Act (which makes provision for certain reliefs to be available where a member of Lloyd’s converts to limited liability underwriting) has effect.