

Status: Point in time view as at 15/11/1999.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1998, Cross Heading: Capital Allowances Act 1990 (c.1). (See end of Document for details)

SCHEDULES

SCHEDULE 5

RENT AND OTHER RECEIPTS FROM LAND

PART III

MINOR AND CONSEQUENTIAL AMENDMENTS

Commencement Information

II Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

Capital Allowances Act 1990 (c.1)

47 For section 9 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part I: industrial buildings) substitute—

“9 Manner of making allowances and charges.

(1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.

What is meant by that is explained—

for income tax, in section 140(2), and
for corporation tax, in section 144(2).

(2) If the interest of that person in the building or structure is subject to a lease at the relevant time, subsection (1) and the provisions referred to in it have effect—

(a) as if any Schedule A business carried on by that person at any time in the chargeable period for which the allowance or charge is made were the trade in the taxing of which the allowance or charge is to be made;

(b) where that person is not carrying on such a business at any time in that period, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made.

(3) The “relevant time” for the purposes of subsection (2) is—

(a) in relation to an initial allowance, the time when the expenditure is incurred or any subsequent time before the building or structure is used for any purpose;

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- (b) in relation to a writing-down allowance, the end of the chargeable period for which the allowance is made;
 - (c) in relation to a balancing allowance or charge, the time immediately before the event giving rise to the allowance or charge.
- (4) This section applies where the building or structure in question is used by a licensee of the person entitled to the relevant interest as if that interest were subject to a lease.”.
- 48 In section 15 of the Capital Allowances Act 1990 (temporary disuse of industrial buildings or structures), omit subsections (2), (2A) and (3).
- 49 After that section insert—

“15ZA Temporary disuse: manner of making allowances and charges in certain cases.

- (1) This section applies in certain cases where an allowance or charge falls to be made to or on a person in a period during which the building or structure—
 - (a) is temporarily out of use, but
 - (b) is deemed under section 15(1) still to be an industrial building or structure.
- (2) If on the last occasion upon which the building or structure was in use as an industrial building or structure—
 - (a) it was in use for the purposes of a trade which has since been permanently discontinued, or
 - (b) the relevant interest in the building or structure was subject to a lease which has since come to an end,
 the allowance or charge shall be made under section 9 (manner of making allowances and charges) as if the relevant interest were subject to a lease at the relevant time.
- (3) If in a case where this section applies—
 - (a) a balancing charge falls to be made on a person, and
 - (b) when the building or structure was last in use, it was in use as an industrial building or structure for the purposes of a trade which was carried on by that person but has been permanently discontinued,
 the same deductions may be made from the amount of the balancing charge as may be made under section 105 of the principal Act (deductions allowed in case of post-cessation receipts) from an amount chargeable to tax under section 103 or 104(1) of that Act.

This does not affect the making of any deduction allowed under any other provision of the Tax Acts.

- (4) References in this section to the permanent discontinuance of a trade do not include an event treated as a permanent discontinuance under section 113 or 337(1) of the principal Act (change in persons carrying on trade; circumstances in which company treated as beginning or ceasing to carry on trade).

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- (5) This section applies where the building or structure in question is used by a licensee of the person entitled to the relevant interest as if that interest were subject to a lease.”.
- 50 Section 15A of the Capital Allowances Act 1990 (balancing charge after cessation of trade) shall cease to have effect.
- 51 In section 29 of the Capital Allowances Act 1990 (commercial letting of furnished holiday accommodation to be treated as trade for the purposes of Part II)—
- (a) in subsection (1) omit “Subject to subsection (1A) below,”; and
 - (b) omit subsection (1A).
- 52 In sections 30(4) and 31(10) of the Capital Allowances Act 1990 (postponed allowances not regarded as carried forward) for “403(3)” substitute “ 403ZB(2) ”.
- 53 In section 52 of the Capital Allowances Act 1990 (expenditure incurred by holder of interest in land), in subsection (1)(a) for the words from “either for the purposes” to “in the course of a trade” substitute “ for the purposes of a trade carried on by him ”.
- 54 (1) Section 53 of the Capital Allowances Act 1990 (expenditure incurred by equipment lessor) is amended as follows.
- (2) In subsection (1)(b) omit “or for leasing otherwise than in the course of a trade”.
 - (3) For subsection (1)(bb) substitute—
 - “(bb) the equipment lessee is within the charge to tax in the United Kingdom on the profits of the trade for the purposes of which he has entered into that agreement, and”.
 - (4) In subsection (1B)(a) for ““course of a trade”” substitute “ “by the equipment lessee” ”.
- 55 (1) Section 61 of the Capital Allowances Act 1990 (machinery and plant on lease) is amended as follows.
- (2) Omit subsection (6).
 - (3) In subsection (7) for “403(3)” substitute “ 403 ”.
- 56 In section 67 of the Capital Allowances Act 1990 (expenditure on thermal insulation), omit subsections (2), (3) and (3A).
- 57 In section 73 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part II: machinery and plant)—

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- (a) in subsection (1), for “subsections (1A) and (2)” substitute “ subsection (2) ”;
- (b) omit subsection (1A); and
- (c) in subsection (2), omit “and section 67(3)”.

58 For section 92 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part III: dwelling-houses let on assured tenancies), substitute—

“92 Manner of making allowances and charges.

- (1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.

What is meant by that is explained—

for income tax, in section 140(2), and
for corporation tax, in section 144(2).

- (2) Subsection (1) (and the provisions referred to in it) apply—
 - (a) as if any Schedule A business carried on by that person were the trade in the taxing of which the allowance or charge is to be made; or
 - (b) where that person is not carrying on such a business, as if he were carrying on such a business and that business were the trade in the taxing of which the allowance or charge is to be made.”.

59 For section 132 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part V: agricultural buildings, etc.), substitute—

“132 Manner of making allowances and charges.

- (1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.

What is meant by that is explained—

for income tax, in section 140(2), and
for corporation tax, in section 144(2).

- (2) In the case of an allowance or charge which falls to be made to a person for a chargeable period in which he is not carrying on a trade, subsection (1) applies—
 - (a) as if any Schedule A business carried on by that person at that time were the trade in the taxing of which the allowance or charge is to be made; or
 - (b) where that person is not carrying on such a business at that time, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made.”.

60 In section 159(1A) of the Capital Allowances Act 1990 (capital expenditure and capital sums: references to trade to include Schedule A business), omit the words from “or to any such activities” to the end.

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- 61 In section 161 of the Capital Allowances Act 1990 (provisions relating to interpretation and application of that Act), for subsection (2A) substitute—
- “(2A) This Act applies in relation to an overseas property business as it applies to a Schedule A business.”.

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