



Capital Allowances Act 1990 (repealed)

1990 CHAPTER 1

PART II

MACHINERY AND PLANT

Modifications etc. (not altering text)

- C1** Pt. II (ss. 22–83) modified by [Finance Act 1990 \(c. 29\)](#), **s. 87(3)(4)**
- C2** Pt. II modified (19.9.1994) by [Coal Industry Act 1994 \(c. 21\)](#), s. 68(4), **Sch. 4 para. 22**; S.I. 1994/2189, art. 2, Sch.
- C3** Pt. 2 modified (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\)](#), **Sch. 3 para. 20**
- C4** Pt. 2 modified (8.11.1995) by [Atomic Energy Authority Act 1995 \(c. 37\)](#), **Sch. 3 para. 16**
- C5** Pt. 2 modified (24.7.1996) by [Broadcasting Act 1996 \(c. 55\)](#), s. 149(1)(f), **Sch. 7 para. 14(1)** (with [Sch. 7 para. 14\(2\)](#))
- C6** Pt. 2 restricted (24.7.1996) by [Broadcasting Act 1996 \(c. 55\)](#), s. 149(1)(f), **Sch. 7 para. 16**
- C7** Pt. 2 modified (24.7.1996) by [Broadcasting Act 1996 \(c. 55\)](#), s. 149(1)(f), **Sch. 7 para. 15(2)**
- C8** Pt. 2 modified (24.7.1996) by [Broadcasting Act 1996 \(c. 55\)](#), s. 149(1)(f), **Sch. 7 para. 15(3)**
- C9** Pt. 2 modified (with application in accordance with Sch. 12 para. 11(1) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 12 para. 11(3)(b)** (with [Sch. 12 paras. 13, 14](#))

CHAPTER I

ALLOWANCES AND CHARGES: GENERAL PROVISIONS

Modifications etc. (not altering text)

- C10** Pt. II Chapter I (ss. 22–29) modified (31.5.1991) by [Environmental Protection Act 1990 \(c.43\)](#), s. 32(6), **Sch. 2 para. 9(2)**

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

22 First-year allowances: transitional relief for regional projects.

(1) Subject to the provisions of this Part, where—

- (a) a person carrying on a trade incurs capital expenditure to which this section applies on the provision of machinery or plant wholly and exclusively for the purposes of the trade, and
- (b) in consequence of his incurring the expenditure, the machinery or plant belongs to him at some time during the chargeable period related to the incurring of the expenditure,

there shall be made to him for that period an allowance (“a first-year allowance”) which^[F1], in the case of expenditure to which this section applies by virtue only of subsection (3B) ^[F2]or (3D)] below, shall be of an amount equal to 40 per cent. of that expenditure^[F3], in the case of expenditure to which this section applies by virtue only of subsection (3C) below, shall be of an amount equal to the percentage of that expenditure that is given by subsection (1AA) below] and, in any other case,] shall be of an amount equal to the whole of that expenditure.

^[F4](1AA) In the case of expenditure to which this section applies by virtue only of subsection (3C) below, the percentage mentioned in subsection (1) above is—

- (a) in the case of expenditure to which Chapter IVA applies, 12 per cent; and
- (b) in the case of any other expenditure, 50 per cent.]

^[F5](1A) Subsection (1B) below applies in any case where a person—

- (a) has at any time incurred, as mentioned in paragraphs (a) and (b) of subsection (1) above, capital expenditure to which this section applies, and
- (b) subsequently incurs an additional VAT liability in respect of that capital expenditure at a time when the machinery or plant is provided wholly and exclusively for the purposes of the trade.

(1B) Where this subsection applies, then, for the purposes of this Act—

- (a) the additional VAT liability shall be regarded as capital expenditure incurred by the person on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, and
- (b) that capital expenditure shall be regarded as expenditure in consequence of the incurring of which the machinery or plant belongs, or has belonged, to him at some time during the chargeable period related to the incurring of the capital expenditure,

and, subject to the following provisions of this Act, a first-year allowance shall accordingly be made to him under subsection (1) above for the chargeable period related to the incurring of that liability.]

(2) This section applies to so much of any expenditure as is certified by the Secretary of State for the purposes of this section to be expenditure which, in his opinion, qualifies for a regional development grant or a grant under Part IV of the relevant Order and consists of the payment of sums on a project—

- (a) either in an area which on 13th March 1984 was a development area, within the meaning of the ^{M1}Industrial Development Act 1982, or in Northern Ireland; and
- (b) in respect of which a written offer of financial assistance under section 7 or 8 of that Act was made on behalf of the Secretary of State in the period beginning on 1st April 1980 and ending on 13th March 1984 or in respect of

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which a written offer of financial assistance was made in that period by the Highlands and Islands Development Board.

(3) This section applies to so much of any expenditure as is certified by the Department of Economic Development in Northern Ireland for the purposes of this section to be expenditure which, in the opinion of that Department, qualifies for a grant under Part IV of the relevant Order and consists of the payment of sums on a project—

- (a) in Northern Ireland; and
- (b) in respect of which a written offer of financial assistance under Article 7 or 8 of the relevant Order was made on behalf of a Department of the Government of Northern Ireland in the period beginning on 1st April 1980 and ending on 13th March 1984 or in respect of which a written offer of financial assistance was made in that period by the Local Enterprise Development Unit.

^{F6}[(3A) This section also applies to any additional VAT liability incurred in respect of expenditure certified under subsection (2) or (3) above.]

^{F7}[(3B) This section applies to—

- (a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by any person in the period beginning with 1st November 1992 and ending with 31st October 1993; and
- (b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above.]

^{F8}(3C) This section applies to—

- (a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by a small company or a small business in the period beginning with 2nd July 1997 and ending with 1st July 1998; and
- (b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above.]

^{F9}(3CA) Subject to the provisions of this Part, this section applies to—

- (a) any expenditure incurred in the special relief period by a small company or a small business on the provision of machinery or plant for use primarily in Northern Ireland; and
- (b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above.

(3CB) For the purposes of subsection (3CA) above expenditure is incurred in the special relief period if, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, it is incurred in the period beginning with 12th May 1998 and ending with 11th May 2002.

(3CC) Expenditure is not expenditure to which this section applies by virtue of subsection (3CA) above in so far as it is—

- (a) expenditure to which Chapter IVA applies; or
- (b) expenditure on the provision of an aircraft or hovercraft^{F10}; or
- (c) expenditure on the provision of a goods vehicle for the purposes of a trade which consists primarily of the conveyance of goods; or
- (d) unauthorised expenditure on the provision of machinery or plant for use primarily in—
 - (i) agriculture, fishing or fish farming, or

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- (ii) any relevant activity carried out in relation to agricultural produce, fish or any fish product for the purpose of bringing it to market].]

[^{F11}(3CD) For the purposes of subsection (3CC) above—

- (a) expenditure is unauthorised expenditure unless it is authorised, for the purposes of subsection (3CA) above, by the Department of Agriculture for Northern Ireland; and
- (b) “relevant activity” means transportation, storage, preparation, processing or packaging.

(3CE) An authorisation given, for the purposes of subsection (3CA) above, by the Department of Agriculture for Northern Ireland—

- (a) may be given either specially (that is to say, so as to apply only to a specified item of expenditure or a specified person) or generally (that is to say, so as not only so to apply);
- (b) may, if given generally, be modified by that Department; and
- (c) may in any case be absolute or conditional.]

[^{F12}(3D) This section applies to the following expenditure except in so far as it is expenditure to which Chapter IVA applies, that is to say—

- (a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by a small company or a small business in the period beginning with 2nd July 1998 and ending with [^{F13}1st July 2000]; and
- (b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above.]

(4) Subject to the following provisions of this section, no first-year allowance shall be made in respect of any expenditure [^{F14}to which this section applies otherwise than by virtue only of [^{F15}one or more of subsections (3C), (3CA) and (3D)] above]—

- (a) if the chargeable period related to the incurring of the expenditure is also the chargeable period related to the permanent discontinuance of the trade; or
- (b) incurred on the provision of a motor car; or
- (c) subject to subsections (5), (6) [^{F16}(6A)]and (11) below, on the provision of machinery or plant for leasing, whether in the course of a trade or otherwise, unless it appears that the machinery or plant will be used for a qualifying purpose in the requisite period and will not at any time in that period be used for any other purpose;

and section 50 shall apply for the interpretation of paragraph (c) above as it applies for the interpretation of Chapter V of this Part.

(5) Paragraph (c) of subsection (4) above does not apply to expenditure incurred at any time on the provision of machinery or plant which is to be an integral part of a building or structure if section 1 would apply to expenditure incurred at that time on the construction of that building or structure.

(6) Nothing in paragraph (c) of subsection (4) above affects expenditure on the provision of vehicles if they are provided wholly or mainly for the use of persons in receipt of—

- (a) [^{F17}a disability living allowance under the [^{F18}Social Security Contributions and Benefits Act 1992][^{F19}or the [^{F20}Social Security Contributions and Benefits (Northern Ireland) Act 1992]] by virtue of entitlement to the mobility component]. . .; or

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- (b) a mobility supplement under a scheme made under the ^{M2}Personal Injuries (Emergency Provisions) Act 1939; or
- (c) a mobility supplement under an Order in Council made under section 12 of the ^{M3}Social Security (Miscellaneous Provisions) Act 1977; or
- (d) any payment appearing to the Treasury to be of a similar kind and specified by them by order.

^{F21}[(6A) Paragraph (c) of subsection (4) above does not apply to expenditure to which this section applies by virtue only of subsection (3B) above; but (subject to section 43) no first-year allowance shall be made by virtue of subsection (3B) above in respect of any expenditure on the provision of machinery or plant for leasing if—

- (a) it appears that the expenditure is such that section 42 would have effect with respect to it; or
- (b) each of the following conditions is satisfied, that is to say—
 - (i) the expenditure is incurred on or after 14th April 1993;
 - (ii) the expenditure is expenditure in respect of which paragraph (c) of subsection (4) above would, if it applied, prevent the making of any first year allowance; and
 - (iii) the person to whom the machinery or plant is to be or is leased, or a person who (within the meaning of section 839 of the principal Act) is connected with that person, used the machinery or plant for any purpose at any time before its provision for leasing.]

^{F22}(6B) No first-year allowance shall be made in respect of any expenditure to which this section applies by virtue only of ^{F23}[one or more of subsections (3C), (3CA) and (3D)] above—

- (a) if the chargeable period related to the incurring of the expenditure is also the chargeable period related to the permanent discontinuance of the trade;
- (b) if the expenditure (whether or not it is expenditure to which Chapter IVA would apply but for the provisions of section 38B) is expenditure of the kind described in any of subsections (2) to (4) of section 38B;
- (c) if the expenditure is expenditure to which Chapter IVA would apply but for the provisions of section 38H; or
- (d) if the expenditure is expenditure on the provision of machinery or plant for leasing, whether in the course of a trade or otherwise;

and section 50(2) shall apply for the interpretation of paragraph (d) above as it applies for the interpretation of Chapter V of this Part.

(6C) No first-year allowance shall be made in respect of any expenditure incurred on the provision of machinery or plant to which this section applies by virtue only of ^{F24}[one or more of subsections (3C), (3CA) and (3D)] above if—

- (a) the provision of the machinery or plant 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.]

^{F25}(6D) Expenditure incurred on the provision of machinery or plant shall not be taken to be expenditure to which this section applies by virtue of subsection (3CA) above if—

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- (a) at the time when the expenditure is incurred, the person incurring it intends the machinery or plant 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 the intended outside use.

(6E) In subsection (6D) above—

- (a) “the relevant arrangements” means the transaction under which the expenditure is incurred and any scheme or arrangements of which that transaction forms part;
- (b) “the intended outside use” means so much of the use of the machinery or plant as (at the time mentioned in paragraph (a) of that subsection) the person intends will be use outside Northern Ireland; and
- (c) the reference to the part of the expenditure that is attributable to that use is a reference to so much of the expenditure in question as is so attributable on a just and reasonable basis.]

[^{F26}(7) A claim for one or more first-year allowances to be made for any chargeable period may require that the amount of the allowance, or aggregate amount of the allowances, be reduced to an amount specified in that behalf in the claim.]

(8) No ^{F27}... claim under subsection (7) above may be made in respect of any ship.

^{F28}(9)

(10) In this section—

[^{F29}“agriculture” and “agricultural produce” have the same meanings as in section 6 of the European Communities Act 1972;]

[^{F29}“fish” includes shellfish;]

[^{F29}“fish farming” means the intensive rearing, on a commercial basis, of fish intended for human consumption;]

[^{F29}“fishing” means a trade, or part of a trade, which consists of the catching or taking of fish;]

[^{F29}“goods vehicle” has the same meaning as in the Road Traffic (Northern Ireland) Order 1995;]

[^{F30}“hovercraft” has the same meaning as in the Hovercraft Act 1968.]

“regional development grant” means a grant under Part II of the ^{M4}Industrial Development Act 1982;

“the relevant Order” means the ^{M5}Industrial Development (Northern Ireland) Order 1982;

and any reference to a particular provision of that Act or Order includes a reference to the corresponding provision of any Act or Order which was in force before and repealed by the Industrial Development Act 1982 or the Industrial Development (Northern Ireland) Order 1982.

(11) Where expenditure is 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, then subsection (4)(c) above shall not preclude the making of a first-year allowance in respect of such expenditure.

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Textual Amendments

- F1** Words in s. 22(1) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 115(1)(5)
- F2** Words in s. 22(1) inserted (with effect in accordance with s. 84(3) of the amending Act) by Finance Act 1998 (c. 36), s. 84(1)
- F3** Words in s. 22(1) inserted (with effect in accordance with s. 42(9) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 42(1)
- F4** S. 22(1AA) inserted (with effect in accordance with s. 42(9) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 42(2)
- F5** S. 22(1A)(1B) inserted (for any chargeable period or its basis period ending on or after 06.04.1990) by Finance Act 1991 (c. 31), s. 59, Sch. 14 Pt. II para. 6(1).
- F6** S. 22(3A) inserted (for any chargeable period or its basis period ending on or after 06.04.1990) by Finance Act 1991 (c. 31), s. 59, Sch. 14 Pt. II para. 6(2).
- F7** S. 22(3B) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 115(2)(5)
- F8** S. 22(3C) inserted (with effect in accordance with s. 42(9) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 42(3)
- F9** S. 22(3CA)-(3CC) inserted (with effect in accordance with s. 83(6)(7) of the amending Act) by Finance Act 1998 (c. 36), s. 83(1); S.I. 1999/2119, art. 2
- F10** S. 22(3CC)(c)(d) and preceding word inserted (with effect in accordance with s. 78(6) of the amending Act) by Finance Act 1999 (c. 16), s. 78(1)
- F11** S. 22(3CD)(3CE) inserted (with effect in accordance with s. 78(6) of the amending Act) by Finance Act 1999 (c. 16), s. 78(2)
- F12** S. 22(3D) inserted (with effect in accordance with s. 84(3) of the amending Act) by Finance Act 1998 (c. 36), s. 84(2)
- F13** Words in s. 22(3D) substituted (27.7.1999) by Finance Act 1999 (c. 16), s. 77
- F14** Words in s. 22(4) inserted (with effect in accordance with s. 42(9) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 42(4)
- F15** Words in s. 22(4) substituted (with effect in accordance with s. 85(9) of the amending Act) by Finance Act 1998 (c. 36), s. 85(1)
- F16** Words in s. 22(4)(c) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 115(3)(5)
- F17** Words in s. 22(6)(a) substituted (6.4.1992) by Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21), s. 4, Sch. 2, para. 20; S.I. 1991/2617, art. 2(f)
- F18** Words in s. 22(6)(a) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), Sch. 2 para. 109(a)
- F19** Words in s. 22(6)(a) inserted (6.4.1992) by S.I.1991/2874, art. 6(2)(a); S.R. 1992/94, art. 2.
- F20** Words in s. 22(6)(a) substituted (1.7.1992) by Social Security (Consequential Provisions)(Northern Ireland) Act 1992 (c. 9), ss. 4, 7(2), Sch. 2 para. 38(a).
- F21** S. 22(6A) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 113(3)(5)
- F22** S. 22(6B)(6C) inserted (with effect in accordance with s. 42(9) of the amending Act) by Finance (No. 2) Act 1997 (c. 58), s. 42(5)
- F23** Words in s. 22(6B) substituted (with effect in accordance with s. 85(9) of the amending Act) by Finance Act 1998 (c. 36), s. 85(1)
- F24** Words in s. 22(6C) substituted (with effect in accordance with s. 85(9) of the amending Act) by Finance Act 1998 (c. 36), s. 85(1)
- F25** S. 22(6D)(6E) inserted (with effect in accordance with s. 83(6) of the amending Act) by Finance Act 1998 (c. 36), s. 83(2)
- F26** S. 22(7) substituted by Finance Act 1990 (c. 29), s. 103, Sch. 17 para. 3(2)

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- F27** Words in s. 22(8) repealed by [Finance Act 1990 \(c. 29\)](#), ss. 103(1)(2), 132, Sch. 17 para. 3(3), **Sch. 19 Pt. V**, Note 6
- F28** S. 22(9) repealed by [Finance Act 1990 \(c. 29\)](#), ss. 103(1)(2), 132, Sch. 17 para. 3(4), **Sch. 19 Pt. V**, Note 6
- F29** Words in s. 22(10) inserted (with effect in accordance with s. 78(6) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **s. 78(3)**
- F30** Words in s. 22(10) inserted (with effect in accordance with s. 83(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **s. 83(3)**

Modifications etc. (not altering text)

- C11** S. 22 restricted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), **s. 118(1)(a)**

Marginal Citations

- M1** 1982 c. 52.
M2 1939 c. 82.
M3 1977 c. 5.
M4 1982 c. 52.
M5 S.I. 1982/1083 (N.I.15).

[^{F31}22A Expenditure of a small company or small business.

- (1) For the purposes of section 22 capital expenditure incurred by a company is capital expenditure incurred by a small company if the company—
 - (a) qualifies as small or medium-sized in relation to the financial year of the company in which the expenditure is incurred; and
 - (b) is not a member of a large group at the time when the expenditure is incurred.
- (2) For the purposes of section 22, capital expenditure is capital expenditure incurred by a small business if—
 - (a) it is incurred by a business for the purposes of a trade (the “first trade”) carried on by that business; and
 - (b) were the first trade carried on by a company (the “hypothetical company”) in the circumstances set out in subsection (3) below, that company would qualify as small or medium-sized in relation to the financial year of that company in which the expenditure would be treated as incurred.
- (3) Those circumstances are—
 - (a) that every trade, profession or vocation carried on by the business concerned is carried on by the business as a part of the first trade;
 - (b) that the financial years of the hypothetical company coincide with the chargeable periods of the business concerned; and
 - (c) that accounts of the hypothetical company for any relevant chargeable period were prepared in accordance with the requirements of the Companies Act 1985 as if that period were a financial year of the company.
- (4) Subject to subsection (5) below, a company is a member of a large group at the time when any expenditure is incurred if —
 - (a) it is at that time the [^{F32}parent undertaking] of a group which does not qualify as small or medium-sized in relation to the financial year of the [^{F32}parent undertaking] in which that time falls; or

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- (b) it is at that time a subsidiary undertaking in relation to the [^{F32}parent undertaking] of such a group.
- (5) If, at the time when any expenditure is incurred by any company any arrangements exist which are such that, had effect been given to them immediately before that time, the company or a successor of the company would, at that time, have been a member of a large group, this section shall have effect as if the company concerned was a member of a large group at that time.
- (6) In this section—
- “arrangements” means arrangements of any kind, whether in writing or not, including arrangements that are not legally enforceable;
- “business” means—
- (a) an individual;
- (b) a partnership of which all the members are individuals;
- (c) a registered friendly society within the meaning of Chapter II of Part XII of the principal Act; or
- (d) a body corporate which is not a company but is within the charge to corporation tax;
- “company” means—
- (a) a company, or an oversea company, within the meaning of the Companies Act 1985; or
- (b) a company, or a Part XXIII company, within the meaning of the Companies (Northern Ireland) Order 1986;
- “financial year”, “group”, [^{F33}“parent undertaking”] and “subsidiary undertaking”—
- (a) except in relation to a company formed and registered in Northern Ireland, have the same meanings as in Part VII of the Companies Act 1985; and
- (b) in relation to a company so formed and registered, have the same meanings as in Part VIII of the Companies (Northern Ireland) Order 1986.
- (7) References in this section, in relation to a company, to its qualifying as small or medium-sized—
- (a) except in the case of a company formed and registered in Northern Ireland, are references to its so qualifying, or being treated as so qualifying, for the purposes of section 247 of the Companies Act 1985; and
- (b) in the case of a company so formed and registered, are references to its so qualifying, or being treated as so qualifying, for the purposes of Article 255 of the Companies (Northern Ireland) Order 1986.
- (8) In relation to a company with respect to which the question arises whether it is or would be a member of a large group, references to a group’s qualifying as small or medium-sized—
- (a) except in the case of a company formed and registered in Northern Ireland, are references to its so qualifying, or being treated as so qualifying, for the purposes of section 249 of the Companies Act 1985; and
- (b) in the case of a company so formed and registered, are references to its so qualifying, or being treated as so qualifying, for the purposes of Article 257 of the Companies (Northern Ireland) Order 1986;

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[^{F34}but for the purposes of this section each of those provisions shall be construed as if references, in relation to a group, to the parent company were references to the parent undertaking].

- (9) For the purposes of this section a company is the successor of another if—
- (a) it carries on a trade which, in whole or in part, the other company has ceased to carry on; and
 - (b) the circumstances are such that section 343 of the principal Act applies in relation to the two companies as the predecessor and the successor within the meaning of that section.]

Textual Amendments

- F31** S. 22A inserted (with effect in accordance with s. 43(2) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 43\(1\)](#)
- F32** Words in s. 22A(4) substituted (with effect in accordance with s. 85(10)(11) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 85\(2\)\(a\)](#)
- F33** Words in s. 22A(6) substituted (with effect in accordance with s. 85(10)(11) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 85\(2\)\(b\)](#)
- F34** Words in s. 22A(8) inserted (with effect in accordance with s. 85(10)(11) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 85\(3\)](#)

[^{F35}22B **Withdrawal of first-year allowance on change of use.**

- (1) Where (but for this section) section 22 would apply to any expenditure by virtue of subsection (3CA) of that section, that section shall be deemed never to have so applied to that expenditure if, at any relevant time—
- (a) the primary use to which the machinery or plant is put is a use outside Northern Ireland; or
 - (b) the machinery or plant is held for use otherwise than primarily in Northern Ireland.
- (2) In subsection (1) above “a relevant time”, in relation to any expenditure, means a time which—
- (a) falls in [^{F36}the relevant period]; and
 - (b) is a time when the machinery or plant belongs to the person who incurred the expenditure or to a person who (within the terms of section 839 of the principal Act) is, or at any time in that period has been, connected with the person who incurred the expenditure.

[In subsection (2) above “the relevant period” means—

- ^{F37}(2A) (a) where the expenditure concerned exceeds £3.5 million, the period of five years beginning with the date of the incurring of that expenditure, and
- (b) in any other case, the period of two years beginning with that date.]
- (3) All such assessments and adjustments of assessments shall be made as may be necessary in consequence of this section.
- (4) Where a person who has made a return becomes aware that anything contained in that return has, after the making of the return, become incorrect by reason of the operation of this section, he shall, within three months of first becoming so aware, give notice

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to an officer of the Board of the amendments that are necessitated in his return in the light of the matter of which he has become aware.]

Textual Amendments

- F35** S. 22B inserted (with effect in accordance with s. 83(6) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 83\(4\)](#)
- F36** Words in s. 22B(2)(a) substituted (with effect in accordance with s. 78(6) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 78\(4\)\(a\)](#)
- F37** S. 22B(2A) inserted (with effect in accordance with s. 78(6) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 78\(4\)\(b\)](#)

[^{F38}22C Disclosure of information in connection with first-year allowances.

- (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise shall prevent—
- the Board or an authorised officer of the Board from disclosing to the Department of Agriculture for Northern Ireland (“the Department”) or an authorised officer of the Department, or
 - the Department or an authorised officer of the Department from disclosing to the Board or an authorised officer of the Board,
- information for the purpose of assisting the Board in the carrying out of their functions with respect to claims for capital allowances made under section 22 by virtue of subsection (3CA) of that section or, as the case may be, the Department in the carrying out of its functions under that section.
- (2) Information obtained by virtue of a disclosure authorised by this section shall not be disclosed except—
- to the Board or the Department or to an authorised officer of the Board or of the Department; or
 - for the purposes of any proceedings connected with a matter in relation to which the Board or the Department carry out the functions mentioned in subsection (1) above.]

Textual Amendments

- F38** S. 22C inserted (with effect in accordance with s. 78(6) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 78\(5\)](#)

23 Information relating to first-year allowances.

- (1) A claim ^{F39}... for a first-year allowance in respect of expenditure to which section 22(4) (c) applies ^{F39}... shall be accompanied by a certificate—
- stating that the machinery or plant in question will be used for a qualifying purpose in the requisite period, will not be used for any other purpose and has not been used for any other purpose in any part of that period which has already elapsed; and
 - containing a description of the machinery or plant in question or, if the claim ^{F40}... relates to more than one item of machinery or plant and those items are

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of different kinds, a description of the different kinds and the amount claimed or deducted in respect of each of them; and

- (c) where the claim ^{F40}... relates to a first-year allowance which by virtue of section 45(2) is in respect of part only of any expenditure, containing a statement of the extent to which the [^{F41}profits] referred to in section 45(2) will be chargeable to tax as there mentioned.
- (2) Where a person ^{F42}... has claimed a first-year allowance in respect of any expenditure ^{F42}... and the machinery or plant in question is at any time in the requisite period used otherwise than for a qualifying purpose, the person to whom it then belongs shall give notice of that fact to the inspector, specifying the use to which the machinery or plant has been put; and, subject to subsection (3) below, any such notice shall—
- (a) be given within three months after the end of the chargeable period ^{F43}... in which the machinery or plant is first used otherwise than for a qualifying purpose; and
 - (b) relate to all the items of machinery or plant (if more than one) in respect of which that person is required to give notice under this subsection in respect of that period.

In this subsection the reference to machinery or plant being used otherwise than for a qualifying purpose shall include a reference to machinery or plant being treated as so used by virtue of section 45(4).

- (3) If, at the end of the three months mentioned in subsection (2)(a) above, the person concerned does not know and cannot reasonably be expected to know that any item of machinery or plant in respect of which he is required to give a notice under that subsection has been used otherwise than for a qualifying purpose, he shall in respect of that item give the notice within 30 days of his coming to know that it has been so used.
- (4) Where a first-year allowance has been made in respect of any expenditure, the inspector may by notice require—
- (a) any person to whom the machinery or plant belongs or has belonged, or who is or has been in possession of it under a lease, during the requisite period; and
 - (b) the personal representatives of any such person,
- to furnish him, within such period (not being less than 30 days) as may be specified in the notice, with such information as he may require and the person to whom the notice is addressed has or can reasonably obtain about the leasing of the machinery or plant or the use to which it is being or has been put.
- (5) The obligation to give notice by virtue of subsection (2) or (3) above where the machinery or plant becomes used otherwise than for a qualifying purpose shall arise a second time when the machinery or plant becomes used—
- (a) otherwise than for a qualifying purpose, and
 - (b) for the purpose of being leased to such a person as is referred to in section 42(1)(a) and (b),
- (if it were not so used before).
- (6) Section 50 shall apply for the interpretation of this section as it applies for the interpretation of Chapter V of this Part [^{F44}and references in this section to a first-year allowance shall not include references to a first-year allowance in respect of expenditure to which section 22 applies by virtue only of [^{F45}one or more of subsections (3B), (3C), (3CA) and (3D)] of that section.]

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Textual Amendments

- F39** Words repealed by [Finance Act 1990 \(c. 29\)](#), ss. 103(1)(2), 132, Sch. 17 para. 4(2), [Sch. 19 Pt. V](#), Note 6
- F40** Words repealed by [Finance Act 1990 \(c. 29\)](#), ss. 103(1)(2), 132, Sch. 17 para. 4(2), [Sch. 19 Pt. V](#), Note 6
- F41** Word in s. 23(1)(c) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a), [Sch. 7 para. 4](#)
- F42** Words repealed by [Finance Act 1990 \(c. 29\)](#), ss. 103(1)(2), 132, Sch. 17 para. 4(3), [Sch. 19 Pt. V](#), Note 6
- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 213(1), [Sch. 26 Pt. 5\(24\)](#)
- F44** Words in s. 23(6) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by [1993 c. 34](#), s. 115, [Sch. 13 para.2](#)
- F45** Words in s. 23(6) substituted (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 85(4)

24 Writing-down allowances and balancing adjustments.

(1) Subject to the provisions of this Part, where—

- (a) a person carrying on a trade has incurred capital expenditure on the provision of machinery or plant wholly and exclusively for the purposes of the trade, and
- (b) in consequence of his incurring that expenditure, the machinery or plant belongs or has belonged to him,

allowances and charges shall be made to and on him in accordance with the following provisions of this section.

^{F46}[(1A) If, in a case where the circumstances are as mentioned in paragraphs (a) and (b) of subsection (1) above, the person there mentioned incurs an additional VAT liability in respect of the capital expenditure at a time when the machinery or plant is provided wholly and exclusively for the purposes of the trade, then, for the purposes of this Act—

- (a) that liability shall be regarded as capital expenditure incurred by him on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, and
- (b) that capital expenditure shall be regarded as expenditure in consequence of the incurring of which the machinery or plant belongs, or has belonged, to him,

and, subject to the following provisions of this Act, subsection (1) above shall have effect accordingly in relation to the capital expenditure constituted by that liability.]

(2) Subject to subsection (3) below, for any chargeable period for which a person within subsection (1) above has qualifying expenditure which exceeds any disposal value to be brought into account in accordance with subsection (6) below, there shall be made to him —

- (a) unless the period is the chargeable period related to the permanent discontinuance of the trade, an allowance (“a writing-down allowance”) equal to—

(i) 25 per cent. of the excess, or

^{F47}(ii) a proportionately reduced or, as the case may require, increased percentage of the excess if the period is a period of less or more than a year, or the trade has been carried on for part only of the period;]

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- (b) if the period is the chargeable period related to the permanent discontinuance of the trade, an allowance (“a balancing allowance”) equal to the whole of the excess.
- (3) A claim for a writing-down allowance to be made for any chargeable period ^{F48}... may require that the amount of the allowance be reduced to an amount specified in that behalf in the claim.
- ^{F49}(4)
- (5) For any chargeable period for which a person’s qualifying expenditure is less than the disposal value which he is to bring into account, there shall be made on him a charge (“a balancing charge”), and the amount on which the charge is made shall be an amount equal to the difference.
- (6) [^{F50}Subject to [^{F51}subsections (6A) and (7)] below,] the disposal value to be brought into account by a person for any chargeable period is the disposal value of all machinery or plant—
- (a) on the provision of which for the purposes of the trade he has incurred capital expenditure; and
 - (b) which belongs to him at some time in the chargeable period ^{F43}... ; and
 - (c) in respect of which, in the chargeable period ^{F43}... , one of the following events occurs, namely—
 - (i) the machinery or plant ceases to belong to him;
 - (ii) he loses possession of the machinery or plant in circumstances where it is reasonable to assume that the loss is permanent or, in the case of machinery or plant which was in use for mineral exploration and access, he abandons the machinery or plant at the site where it was in use for that purpose;
 - (iii) the machinery or plant ceases to exist as such (as a result of destruction, dismantling or otherwise);
 - (iv) the machinery or plant begins to be used wholly or partly for purposes which are other than those of the trade;
 - (v) the trade is permanently discontinued (or is treated by virtue of any provision of the Tax Acts as permanently discontinued);

and that is the first such event to occur;

but this subsection shall not require a person to bring into account the disposal value of any machinery or plant which he disposes of by way of gift in such circumstances that there is a charge to tax under Schedule E.
- ^{F52}(6A) In the case of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software, the disposal value to be brought into account by a person for any chargeable period by virtue of subsection (6) above shall also include the disposal value of all such machinery or plant—
- (a) on the provision of which for the purposes of the trade he has incurred capital expenditure;
 - (b) which belongs to him at some time in the chargeable period ^{F43}... ;
 - (c) in respect of which, in the chargeable period ^{F43}... , the following event occurs, namely, he grants to another person a right to use or otherwise deal with the whole or part of the computer software concerned in circumstances where the consideration in money for the grant constitutes (or if there were consideration in money for the grant would constitute) a capital sum; and

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- (d) in respect of which, whilst the machinery or plant belongs or belonged to him, no event falling within paragraph (iv) or (v) of subsection (6)(c) above has occurred before the event referred to in paragraph (c) above.]

[^{F53}(7) This subsection applies to all machinery and plant—

- (a) on the provision of which for the purposes of the trade a person has incurred capital expenditure;
- (b) which belongs to him at some time in a chargeable period ^{F43}... ; and
- (c) in respect of which the following event occurs, namely, the making of an additional VAT rebate to him in that chargeable period ^{F43}... in respect of the capital expenditure incurred by him on the provision of the machinery or plant;

and where this subsection applies to any machinery or plant the amount that is to be brought into account by virtue of subsection (6) above by that person for the chargeable period related to the making of the rebate shall be increased by the addition of (or, if there would not otherwise be a disposal value for that chargeable period, shall be) the disposal value of the machinery or plant in respect of which that rebate is made.

- (8) Except in [^{F51}subsections (6A) and (7)] above, any reference in this Act to subsection (6) above (but not a reference to any specific provision of it) shall be taken to include a reference to [^{F51}subsections (6A) and (7)] above.]

Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F46** S. 24(1A) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), S. 59, Sch. 14 Pt. II para. 7\(1\)](#).
- F47** S. 24(2)(a)(ii) substituted (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(4\)](#)
- F48** Words in s. 24(3) repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 5\(2\), Sch. 19 Pt. V, Note 6](#)
- F49** S. 24(4) repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 5\(3\), Sch. 19 Pt. V, Note 6](#)
- F50** Words in s. 24(6) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), s. 59, Sch. 14 Pt. II para. 7\(2\)](#).
- F51** Words in s. 24(6)(8) substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 68\(2\)\(4\)\(9\)](#).
- F52** S. 24(6A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 68\(3\)\(9\)](#).
- F53** S. 24(7)(8) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), s. 59, Sch. 14 Pt. II para. 7\(2\)](#).

Modifications etc. (not altering text)

- C12** S. 24 restricted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 59, Sch. 10 paras. 9\(3\), 11\(6\), 13](#).
- C13** S. 24 modified (3.5.1994) by [Finance Act 1994 \(c. 9\), Sch. 24 para. 22\(4\)](#)
- C14** S. 24 modified (3.5.1994) by [Finance Act 1994 \(c. 9\), Sch. 24 para. 22\(3\)](#)
- C15** S. 24 modified (with effect in accordance with Sch. 33 para. 5 of the amending Act) by [Greater London Authority Act 1999 \(c. 29\), s. 425\(2\), Sch. 33 para. 4\(9\)\(f\); S.I. 1999/3434, art. 2](#)
- C16** S. 24(2)(b) modified (with effect in accordance with Sch. 33 para. 5 of the amending Act) by [Greater London Authority Act 1999 \(c. 29\), s. 425\(2\), Sch. 33 para. 4\(9\)\(c\); S.I. 1999/3434, art. 2](#)
- C17** S. 24(5) modified (with effect in accordance with Sch. 33 para. 5 of the amending Act) by [Greater London Authority Act 1999 \(c. 29\), s. 425\(2\), Sch. 33 para. 4\(9\)\(d\); S.I. 1999/3434, art. 2](#)

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25 Qualifying expenditure.

(1) Subject to subsections (2) to (9) below, for the purposes of section 24, a person's qualifying expenditure for a chargeable period is the aggregate of the following amounts—

- (a) the balance remaining after deducting any first-year allowances made in respect thereof of any capital expenditure incurred by him on the provision for the purposes of the trade of machinery or plant being expenditure incurred in the chargeable period in question ^{F43} ... or at any previous time, and not being—
 - (i) expenditure which, or any part of which, has formed part of his qualifying expenditure for any previous chargeable period, or
 - (ii) expenditure in respect of which a first-year allowance is or could (assuming a claim therefor ^{F54} ...) be made for the chargeable period in question; and
- (b) if for the chargeable period immediately preceding the chargeable period in question there was an excess of qualifying expenditure over disposal value, the balance of that excess after deducting any writing-down allowance made by reference thereto.

^{F55}(2)

(3) In any case where—

- (a) a person carrying on a trade ^{F56} ... incurs capital expenditure on the provision of machinery or plant for the purposes of the trade, and
- (b) if a claim were made in that behalf, a first-year allowance would fall to be made in respect of that expenditure for the chargeable period related to the incurring of it, and
- (c) no claim is made but by notice given to [^{F57}an officer of the Board within the period specified in subsection (3A) below], the person concerned elects that this subsection shall apply,

then, for the purposes of section 24, that expenditure shall not, by virtue of subsection (1)(a)(ii) above, be excluded from the capital expenditure referred to in subsection (1)(a) above.

[^{F58}(3A) The period mentioned in subsection (3) above is—

- (a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period related to the incurring of the expenditure;
- (b) for the purposes of corporation tax, the period of two years beginning at the end of the chargeable period related to the incurring of the expenditure.]

(4) In any case where—

- (a) a person ^{F59} ... carrying on a trade has incurred capital expenditure on the provision of machinery or plant for the purposes of the trade, and
- (b) a first-year allowance falls to be made to that person in respect of that expenditure (and ^{F60} ... a claim is made for that allowance), and
- (c) for the chargeable period related to the incurring of that expenditure, the amount of that first-year allowance or, as the case may be, the aggregate amount of that and other first-year allowances which fall to be made to that person is required to be reduced by virtue of section 22(7) or, in the case of ships, 30(1)(b),

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then, for the purposes of section 24, an amount equal to the relevant portion of the expenditure giving rise to the first-year allowance or allowances referred to in paragraph (c) above shall be treated as expenditure in respect of which no first-year allowance is or could be made for the chargeable period in question.

- (5) Subject to subsection (6) below, where—
- (a) a first-year allowance is made in respect of capital expenditure on the provision of machinery or plant, and
 - (b) in the chargeable period related to the incurring of that expenditure, the disposal value of that machinery or plant falls to be brought into account in accordance with section 24(6),

that expenditure shall not be virtue of subsection (1)(a)(ii) above be excluded from the capital expenditure referred to in subsection (1)(a) above.

[^{F61}(5A) Subject to subsection (5B) below, capital expenditure incurred by any person in any chargeable period on the provision of machinery or plant for leasing under a finance lease shall not be brought into account so as to form part of that person's qualifying expenditure for that period except to the extent of the part of the expenditure which is proportionate to the part of the chargeable period falling after the time when the expenditure was incurred.

(5B) Subsection (5A) above does not apply where, in the chargeable period related to the incurring of the expenditure, the disposal value of the machinery or plant falls to be brought into account in accordance with section 24(6).

(5C) Where under subsection (5A) above only part of any capital expenditure on the provision of any machinery or plant may be included in a person's qualifying expenditure for any chargeable period, subsection (1)(a)(i) above shall not prevent the whole or any part of the remainder of that expenditure from being included in his qualifying expenditure for the next following chargeable period.]

(6) Where the event by reason of which disposal value falls to be brought into account as mentioned in [^{F62}subsection (5) or (5B) above] is the assignment of the benefit of a contract, subsection (1) above [^{F63}(as modified, where subsection (5) above applies, by that subsection)] shall have effect as if any reference in paragraph (a) to capital expenditure incurred were a reference to the total capital expenditure which the person in question would have incurred in respect of the machinery or plant if he had wholly performed the contract.

(7) Where an allowance is or has been made under any provision of Part V except section 122 in respect of any capital expenditure, none of that expenditure shall be taken into account in determining qualifying expenditure for the purpose of any allowance or charge under section 24.

This subsection shall not have effect in relation to any chargeable period ^{F43}... ending after 26th July 1989.

(8) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to subsections (5)[^{F64}, (5B)] and (6) above.

(9) In subsection (4) above "the relevant portion" of expenditure giving rise to a first-year allowance or allowances is that which bears to the whole of that expenditure the same proportion as the amount of the reduction mentioned in subsection (4)(c) above bears to what the amount of the allowance or allowances would have been apart from that reduction.

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Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F54** Words in s. 25(1)(a) repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 6\(2\), Sch. 19 Pt. V](#), Note 6
- F55** S. 25(2) repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 6\(3\), Sch. 19 Pt. V](#), Note 6
- F56** Words in s. 25(3)(a) repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 6\(4\), Sch. 19 Pt. V](#), Note 6
- F57** Words in s. 25(3)(c) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 26\(2\)](#)
- F58** S. 25(3A) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 26\(3\)](#)
- F59** Words in s. 25(4)(a) repealed by [Finance Act 1990 \(c. 29\), s. 103\(1\)\(2\), 132, Sch. 17 para. 6\(5\)\(a\), Sch. 19 Pt. V](#), Note 6
- F60** Words in s. 25(4)(b) repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 6\(5\)\(b\), Sch. 19 Pt. V](#), Note 6
- F61** S. 25(5A)-(5C) inserted (with effect in accordance with s. 44(5) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 44\(2\)](#) (with s. 44(5)(a)(b))
- F62** Words in s. 25(6) substituted (with effect in accordance with s. 44(5) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 44\(3\)\(a\)](#) (with s. 44(5)(a)(b))
- F63** Words in s. 25(6) substituted (with effect in accordance with s. 44(5) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 44\(3\)\(b\)](#) (with s. 44(5)(a)(b))
- F64** Word in s. 25(8) inserted (with effect in accordance with s. 44(5) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 44\(4\)](#) (with s. 44(5)(a)(b))

Modifications etc. (not altering text)

- C18** S. 25 modified (with effect in accordance with Sch. 33 para. 5 of the amending Act) by [Greater London Authority Act 1999 \(c. 29\), s. 425\(2\), Sch. 33 para. 4\(9\)\(e\)](#); S.I. 1999/3434, art. 2
- C19** S. 25(1) modified (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 118\(2\)\(a\)\(6\)](#)
- C20** S. 25(3) modified (for the year of assessment 1988-1989) by S.I. 1991/851, regs. 1, 9, [Sch. 2](#)
- C21** S. 25(3) modified (for the year of assessment 1989-1990) by S.I. 1992/511, regs. 1, 9, [Sch. 2](#).
- C22** S. 25(3) applied (with modifications) (for the year of assessment 1990-91) by S.I. 1993/415, reg. 9, [Sch. 2](#)
- C23** S. 25(3) modified (for the year of assessment 1991-92) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\), regs. 1\(1\), 9, Sch. 2](#)
- C24** S. 25(3) modified (for the years of assessment 1992-93 and 1993-94) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\), regs. 1\(1\), 14\(1\), Sch.](#)
- C25** S. 25(3) modified (for the year of assessment 1994-95) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\), regs. 1\(1\), 15\(1\), Sch.](#)

26 The disposal value.

- (1) Subject to subsection (2) below, for the purposes of section 24 the disposal value of any machinery or plant depends upon the event by reason of which it falls to be taken into account and—
- (a) unless paragraph (b) below applies, if that event is the sale of the machinery or plant, equals the net proceeds to the person in question of the sale, together with any insurance moneys received by him in respect of the machinery or plant by reason of any event affecting the price obtainable on the sale, and, so

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- far as it consists of capital sums, any other compensation of any description so received,
- (b) if that event is the sale of the machinery or plant at a price lower than that which it would have fetched if sold in the open market, and otherwise than in circumstances such that—
 - (i) the buyer's expenditure on the acquisition of the machinery or plant can be taken into account in making allowances to him under this Part or under Part VII and the buyer is not a dual resident investing company which is connected with the seller within the terms of section 839 of the principal Act, or
 - (ii) there is a charge to tax under Schedule E,equals the price which the machinery or plant would have fetched if sold in the open market,
 - (c) if that event is the demolition or destruction of the machinery or plant, equals the net amount received by the person in question for the remains of the machinery or plant, together with any insurance moneys received by him in respect of the demolition or destruction and, so far as it consists of capital sums, any other compensation of any description so received,
 - (d) if that event is the permanent loss of the machinery or plant otherwise than in consequence of its demolition or destruction, equals any insurance moneys received by him in respect of the loss, and, so far as it consists of capital sums, any other compensation of any description so received,
 - (e) if that event is the permanent discontinuance of the trade before the occurrence of an event within paragraph (a), (b), (c) or (d) above, is the same as the disposal value specified for the last-mentioned event,^{F65} . . .
 - [^{F66}(ea) if that event is the grant of a right to use or otherwise deal with computer software for a consideration not consisting or not wholly consisting in money, equals the consideration in money which would have been given if the right had been granted in the open market;
 - (eb) unless paragraph (ea) above applies, if that event is the grant of a right to use or otherwise deal with computer software for no consideration or for a consideration in money lower than that which would have been given if the right had been granted in the open market, and otherwise than in circumstances such that—
 - (i) the grantee's expenditure on the acquisition of the right can be taken into account in making allowances to him under this Part or under Part VII and the grantee is not a dual resident investing company which is connected with the grantor within the terms of section 839 of the principal Act, or
 - (ii) there is a charge to tax under Schedule E,equals the consideration in money which would have been given if the right had been granted in the open market;
 - (ec) if that event is the grant of a right to use or otherwise deal with computer software and neither paragraph (ea) nor paragraph (eb) above applies, equals the net consideration in money received by the grantor in respect of the grant, together with any insurance moneys received by him in respect of the computer software by reason of any event affecting the consideration obtainable on the grant and, so far as it consists of capital sums, any other compensation of any description so received;]

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- ^{F67}[(ee) if that event is the making of an additional VAT rebate in respect of capital expenditure incurred on the provision of the machinery or plant, equals the amount of that rebate; and]
- (f) in the case of any other event, equals the price which the machinery or plant would have fetched if sold in the open market at the time of the event.
- (2) The disposal value of any machinery or plant shall in no case exceed the capital expenditure incurred by the person in question on the provision of the machinery or plant for the purposes of the trade
- ^{F68}[reduced by the aggregate amount of any additional VAT rebates made to him in respect of any of that capital expenditure.
- ^{F69}(2A) If the event by reason of which a disposal value is to be brought into account is the making of an additional VAT rebate to a person, subsection (2) above shall have effect as if the capital expenditure referred to in that subsection were reduced (or further reduced) by the amount of any disposal value brought into account by that person in respect of the machinery or plant by reason of any earlier event (other than the making of an additional VAT rebate).]
- ^{F70}(2AA) In deciding for the purposes of subsection (2) above whether the disposal value of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software exceeds the capital expenditure incurred by a person on its provision, the disposal value shall (for the purposes of that subsection only) be taken to be increased by the amount of any disposal value which, in respect of that person and that machinery or plant, falls or has fallen to be taken into account for the purposes of section 24 by virtue of any previous event falling within subsection (6A) (c) of that section.]
- (3) Where the person mentioned in subsection (2) above has acquired the machinery or plant as a result of a transaction which was, or a series of transactions each of which was, between connected persons within the terms of section 839 of the principal Act, that subsection shall have effect as if it referred to the capital expenditure on the provision of the machinery or plant incurred by whichever party to that transaction, or to any of those transactions, incurred the greatest such expenditure.
- ^{F71}[(4) Where an additional VAT rebate has been made to any of the persons mentioned in subsection (3) above in respect of the capital expenditure incurred by him as there mentioned, that capital expenditure shall, in his case, be treated as reduced by the amount of the rebate, but no further reduction shall be made under subsection (2) above.]

Textual Amendments

- F65** Word at end of s. 26(1)(e) repealed (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\)](#), s. 123, [Sch. 19 Pt. V](#) Note 11.
- F66** S. 26(1)(ea)-(ec) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. [68\(5\)\(9\)](#).
- F67** S. 26(1)(ee) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\)](#), s. 59, [Sch. 14 Pt. II para. 8\(1\)](#).
- F68** Words at end of s. 26(2) added (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\)](#), s. 59, [Sch. 14 Pt. II para. 8\(2\)](#).
- F69** S. 26(2A) added (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\)](#), s. 59, [Sch. 14 Pt. II para. 8\(2\)](#).
- F70** S. 26(2AA) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. [68\(6\)\(9\)](#).

Status: Point in time view as at 12/01/2000.

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F71 S. 26(4) added (for any chargeable period or its basis period ending on or after 06.04.1990) by Finance Act 1991 (c. 31), s. 59, **Sch. 14 Pt. II para. 8(3)**.

Modifications etc. (not altering text)

C26 S. 26(1) excluded (19.9.1994) by Coal Industry Act 1994 (c. 21), s. 68(4), **Sch. 4 para. 20(3)(a)**; S.I. 1994/2189, art. 2, Sch.

27 Professions, employments, vocations etc.

(1) Except as otherwise provided and subject in particular to subsections (2) [^{F72}to (3)] below, the provisions of this Part shall, with any necessary adaptations, apply in relation to—

- (a) professions, employments, vocations and offices, and
- (b) the occupation of woodlands where the profits or gains thereof are assessable under Schedule D,

as they apply in relation to trades.

(2) The provisions of this Part in their application in accordance with this section to an office or employment—

- (a) shall apply only to machinery or plant which is necessarily provided for use in the performance of the duties thereof, and
- (b) shall have effect subject to section 198(2) of the principal Act (offices and employments with duties abroad).

[^{F73}(2A) In the case of machinery to which this subsection applies, subsection (2)(a) above shall have effect with the omission of the word “necessarily”.

(2B) Subsection (2A) above applies to machinery if—

- (a) it consists of a mechanically propelled road vehicle [^{F74}or a cycle], and
- (b) capital expenditure incurred on its provision is incurred partly for the purposes of the office or employment and partly for other purposes.

[^{F75}In paragraph (a) “cycle” has the meaning given by section 192(1) of the Road Traffic Act 1988.]

(2C) Section 24 in its application in accordance with this section to an office or employment shall have effect, where a person’s qualifying expenditure consists of expenditure incurred on the provision of machinery to which subsection (2A) above applies, with the modifications set out in subsections (2D) and (2E) below.

(2D) In subsection (2)(b) for the word “whole” there shall be substituted the words “appropriate fraction”.

(2E) The following subsection shall be inserted after subsection (2)—

“(2A) For the purposes of subsection (2)(b) above the appropriate fraction is—

AB

where—

A is the number of chargeable periods in the case of which—

- (a) the person has carried on the trade,
- (b) the machinery or plant has belonged to him, and

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(c) he has claimed an allowance falling to be made to him under this section by reference to expenditure incurred on the provision of the machinery or plant; and

B is the number of chargeable periods in the case of which—

- (a) the person has carried on the trade,
- (b) the machinery or plant has belonged to him, and
- (c) an allowance falls to be made to him under this section by reference to expenditure incurred on the provision of the machinery or plant.""]

- (3) This section shall have effect from 6th April 1993 with the omission of subsection (1) (b).

Textual Amendments

- F72** Words substituted by [Finance Act 1990 \(c. 29\), s. 87\(1\)\(4\)](#)
- F73** S. 27(2A)–(2E) inserted by [Finance Act 1990 \(c. 29\), s. 87\(2\)\(4\)](#)
- F74** Words in s. 27(2B)(a) inserted (with effect in accordance with s. 50(3) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 50\(2\)\(a\)](#)
- F75** Words in s. 27(2B) inserted (with effect in accordance with s. 50(3) of the amending Act) by [Finance Act 1999 \(c. 16\), s. 50\(2\)\(b\)](#)

[^{F76}28 Investment companies.

- (1) This Part and the other provisions of the Corporation Tax Acts relating to allowances or charges under this Part apply with the necessary adaptations in relation to machinery and plant provided for use or used for the purposes of the management of the business of an investment company (as defined in section 130 of the principal Act) as they apply in relation to machinery and plant provided for use or used for the purposes of a trade.
- (2) Effect shall be given to allowances and charges falling to be made by virtue of this section as follows—
- (a) any allowance falling to be made for any accounting period shall, as far as may be, be given effect by deducting the amount of the allowance from any income for the period of the business, and in so far as effect cannot be so given section 75(4) of the principal Act shall apply; and
 - (b) effect shall be given to any charge falling to be made under this section by treating the amount on which the charge is to be made as income of the business;
- and sections 73, 144 and 145 do not apply.
- (3) Except as provided by subsection (2) above, the Corporation Tax Acts apply in relation to allowances or charges falling to be made by virtue of this section as if they were to be made in taxing a trade.
- (4) For the purposes of this section the purposes of the management of a business shall be taken to be those purposes expenditure on which would be treated as expenses of management within section 75 of the principal Act.
- (5) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under this Part both under this section and in some other way.
- (6) Expenditure to which this section applies shall not be taken into account otherwise than under this Part or as provided by section 75(4) of the principal Act.]

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Textual Amendments

F76 S. 28 substituted (with effect in accordance with Sch. 8 paras. 55(2), 57(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 8 para. 24**

Modifications etc. (not altering text)

C27 S. 28 modified by S.I. 1992/1655, reg. 18A (as inserted (10.8.1995) by [The Friendly Societies \(Modification of the Corporation Tax Acts\) \(Amendment\) Regulations 1995 \(S.I. 1995/1916\)](#), regs. 1, 8)

[^{F77} **28A Schedule A cases.**

- (1) Subject to subsection (3) below and section 29, where any person carries on a Schedule A business—
 - (a) that person’s Schedule A business shall be treated as a trade for the purposes of this Part and of the other provisions of the Tax Acts so far as relating to allowances or charges under this Part; and
 - (b) that trade shall be treated for those purposes as one trade carried on separately from any other trade carried on by that person.

^{F78}(2)

- (3) Expenditure incurred in providing machinery or plant for use in a dwelling-house shall not, by virtue of this section, be treated as incurred in providing that machinery or plant for the purposes of a trade.
- (4) Where machinery or plant is provided partly for use in a dwelling-house and partly for other purposes, such apportionment of the expenditure incurred in providing that machinery or plant shall be made for the purposes of subsection (3) above as is just and reasonable.]

Textual Amendments

F77 S. 28A inserted (with effect in accordance with Sch. 15 para. 9 of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 15 para. 3**

F78 S. 28A(2) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), **Sch. 27 Pt. 3(4)**

29 Furnished holiday lettings.

- [^{F79}(1) ^{F80} ... This Part and the other provisions of the Tax Acts so far as relating to allowances or charges under this Part shall have effect as if so much of the Schedule A business of any person as consists in the commercial letting of furnished holiday accommodation in the United Kingdom were a single trade carried on separately from both—
- (a) the trade in which, in accordance with section 28A, the rest (if any) of that business is comprised; and
 - (b) any other trade carried on by that person.]

^{F81}(1A)

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- (2) Subsection (1) above shall be construed as one with section 503 of the principal Act and, accordingly, section 504 of that Act shall also apply for the purposes of this section.
- (3) Where there is a letting of accommodation only part of which is holiday accommodation, such apportionments shall be made for the purposes of this section as [^{F82}are] just and reasonable.

Textual Amendments

- F79** S. 29(1)(1A) substituted for s. 29(1) (with effect in accordance with Sch. 15 para. 9 of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 15 para. 4](#)
- F80** Words in s. 29(1) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), [Sch. 5 para. 51\(a\)](#), [Sch. 27 Pt. 3\(4\)](#) (with [Sch. 5 Pt. 4](#))
- F81** S. 29(1A) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), [Sch. 5 para. 51\(b\)](#), [Sch. 27 Pt. 3\(4\)](#) (with [Sch. 5 Pt. 4](#))
- F82** Word in s. 29(3) substituted (with effect in accordance with reg. 134(2) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 20 para. 44](#)

Modifications etc. (not altering text)

- C28** S. 29 excluded by 1988 c. 1, s. 70A (as inserted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), [Sch. 5 para. 25](#) (with [Sch. 5 Pt. 4](#)))
- C29** S. 29(1) modified (with effect in accordance with s. 39(4)(5) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 6 para. 31](#)

CHAPTER II

SHIPS

30 First-year allowances.

- (1) Where for any chargeable period a first-year allowance falls to be made to a person carrying on a trade in respect of expenditure incurred by him on the provision of a ship, that person may, by notice given to [^{F83}an officer of the Board within the period specified in subsection (1A) below]—
- require the postponement of the whole allowance ^{F84}... , or
 - require that the amount of the allowance be reduced to an amount specified in the notice, or
 - require the postponement of so much of the allowance as is so specified,
- and a notice which contains a requirement under paragraph (b) above may also contain a requirement under paragraph (c) above with respect to the reduced amount of the allowance.

[^{F85}(1A) The period mentioned in subsection (1) above is—

- for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the period of account for which the allowance mentioned in that subsection falls to be made;

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- (b) for the purposes of corporation tax, the period of two years beginning at the end of the accounting period for which the allowance mentioned in that subsection falls to be made.]
- (2) Where a notice has been given under subsection (1) above requiring the postponement of the whole or part of any first-year allowance—
 - (a) the allowance shall, as the case may require, be withheld or withdrawn, or partially withheld or withdrawn, and
 - (b) so much of the expenditure as is equal to the whole allowance shall be disregarded for all the purposes of sections 24, 25 and 26 except for the purposes of sections 24(6) and 26(1) and (2), and
 - (c) subject to [^{F86}sections 46(8)(e) and] 47(7)(a), the person giving the notice may claim the amount withheld or withdrawn as a first-year allowance for any subsequent chargeable period in which he carries on the trade, or may claim first-year allowances not exceeding that amount in the aggregate for any two or more such periods.
- (3) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of this section.
- (4) An allowance which is postponed by virtue of this section shall not by reason only of the postponement fall within the references to allowances or amounts carried forward from an earlier year or period in sections 383(5)(d), 388(7) and [^{F87}403ZB(2)] of the principal Act (loss relief and group relief).
- (5) In any case where a notice under subsection (1) above contains requirements under both paragraphs (b) and (c) of that subsection, any reference in subsections (2) to (4) above to the first-year allowance is a reference to the reduced amount of that allowance as specified in the notice.

Textual Amendments

- F83** Words in s. 30(1) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 27\(2\)](#)
- F84** Words repealed by [Finance Act 1990 \(c. 29\)](#), s. 103(1)(2), 132, [Sch. 17 para. 7](#), [Sch. 19 Pt. V](#), Note 6
- F85** S. 30(1A) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 27\(3\)](#)
- F86** Words in s. 30(2)(c) substituted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by [1993 c. 34](#), s. 115, [Sch. 13 para. 3](#)
- F87** Word in s. 30(4) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), [Sch. 5 para. 52](#) (with [Sch. 5 Pt. 4](#))

31 Writing-down allowances.

- (1) This section and sections 32 and 33 apply in any case where—
 - (a) a person (“the shipowner”) carrying on a trade incurs expenditure on the provision of a ship for the purposes of that trade (the “actual trade”);
 - (b) the ship is not provided for leasing or letting on charter otherwise than by way of lease, or is so provided but it appears that the ship will be used for a qualifying purpose in the requisite period and will not at any time in that period be used for any other purpose, and the expenditure does not fall within section 42(1); and

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- (c) the actual trade is not a separate trade which the shipowner is treated as carrying on by virtue of section 61(1).
- (2) Subject to sections 32 and 33, it shall be assumed for the purposes of sections 24, 25 and 26 and subsections (3) to (10) below—
- (a) that the shipowner incurred the expenditure on the provision of the ship wholly and exclusively for the purposes of a trade (“a single ship trade”) carried on by him separately from his actual trade and from any other trade which he may in fact carry on or is assumed for any purpose to carry on; and
 - (b) that, without prejudice to section 24(6)(c)(i) to (iii), the single ship trade is permanently discontinued when the ship begins to be used wholly or partly for purposes other than those of the actual trade or, if it is earlier, at a time within the requisite period when the ship begins to be used otherwise than for a qualifying purpose;
- and subject to subsections (3) to (10) below, any allowance or charge which, on those assumptions, would fall to be made for any chargeable period in the case of the single ship trade shall be made for that period in the case of the actual trade.
- [^{F88}(3) Where the shipowner has qualifying expenditure for a chargeable period in respect of his single ship trade, he may by notice given to an officer of the Board require the postponement of—
- (a) the whole of the writing-down allowance to be made to him for that chargeable period, or
 - (b) so much of it as is specified in the notice.
- (3A) A notice under subsection (3) above—
- (a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period mentioned in that subsection;
 - (b) for the purposes of corporation tax, shall be given no later than two years after the end of the chargeable period mentioned in that subsection.]

(4) Where notice has been given under subsection (3) above in respect of a chargeable period—

 - (a) the writing-down allowance which would otherwise have been made to the shipowner for that period in respect of his single ship trade shall not be made or, as the case may be, shall be made only to the extent that the notice does not require it to be postponed; and
 - (b) the amount of any writing-down allowance falling to be made to the shipowner for any subsequent chargeable period of his single ship trade shall be determined as if the writing-down allowance referred to in paragraph (a) above had been made (or, as the case may be, had been made in full) for the chargeable period concerned; and
 - (c) on a claim made by the shipowner, the whole or part of the amount of that allowance or, as the case may be, of so much of it as was not made to him shall be treated as a writing-down allowance to be made to him for any subsequent chargeable period in which his actual trade is carried on (whether or not his single ship trade is treated as carried on in that period),

and, where a claim under paragraph (c) above relates to only part of the amount postponed, a further claim or claims may be made under that paragraph in relation to the balance or any part thereof until the aggregate of the amounts claimed equals the amount postponed.

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- (5) A claim under subsection (4)(c) above shall not affect any right of the shipowner to (or the determination of the amount of) any writing-down allowance to which, apart from the claim, he is entitled for the chargeable period to which the claim relates.
- [^{F89}(6) For any chargeable period of the single ship trade for which the amount of a writing-down allowance is reduced by virtue of a requirement in a claim made by virtue of section 24(3), any reference in subsections (3) to (5) above to the writing-down allowance is a reference to the reduced amount of the allowance, as specified in the claim.]
- (7) For any chargeable period of the single ship trade for which the disposal value of the ship falls to be brought into account in accordance with sections 24, 25 and 26, no balancing allowance or balancing charge shall be made to or on the shipowner in respect of that trade but, in such a case—
- if, apart from this subsection, a balancing allowance would have fallen to be made to the shipowner, an amount equal to that allowance shall for the purposes of sections 24, 25 and 26 be added to the shipowner's qualifying expenditure for that period in respect of his actual trade; and
 - if, apart from this subsection, a balancing charge would have fallen to be made on the shipowner, an amount equal to that on which the charge would have been made shall be brought into account for that chargeable period as an item of disposal value referable to machinery or plant which, in respect of that chargeable period, falls within section 24(6).
- (8) In relation to old expenditure, in any case where subsection (7) above applies by reason of the ship beginning to be used otherwise than for a qualifying purpose—
- any reference in that subsection to sections 24, 25 and 26 shall be construed as a reference to those sections as they have effect in accordance with section 41; and
 - any reference in that subsection to the shipowner's actual trade shall be construed as a reference to the separate trade referred to in section 41(2).
- (9) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of this section and sections 32 and 33.
- (10) An allowance which is postponed by virtue of this section shall not by reason of the postponement fall within the references to allowances or amounts carried forward from an earlier year or period in sections 383(5)(d), 388(7) and [^{F90}403ZB(2)] of the principal Act (loss relief and group relief).
- (11) In this section “requisite period”, “qualifying purpose” and “old expenditure” have the same meanings as they have for the purposes of Chapter V of this Part.
- (12) In relation to expenditure incurred before 27th July 1989, subsection (1) shall have effect with the substitution for paragraph (b) of the following paragraph—
- “the expenditure is not such that section 22(4)(c) precludes the making of a first-year allowance in respect of it and is not expenditure falling within section 42(1);”.

Textual Amendments

- F88** S. 31(3)(3A) substituted for s. 31(3) (with effect in accordance with s. 135(3) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 21 para. 28**

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- F89** S. 31(6) substituted by Finance Act 1990 (c. 29), s. 103(1)(2), **Sch. 17 para. 8**
- F90** Word in s. 31(10) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), s. 38(2)(3), **Sch. 5 para. 52** (with Sch. 5 Pt. 4)

Modifications etc. (not altering text)

- C30** S. 31(3) modified (for the year of assessment 1988-1989) by S.I. 1991/851, regs. 1, 9, **Sch.2**
- C31** S. 31(3) modified (for the year of assessment 1989-1990) by S.I. 1992/511, regs. 1, 9, **Sch.2**.
- C32** S. 31(3) applied (with modifications) (for the year of assessment 1990–91) by S.I. 1993/415, reg. 9, **Sch.2**
- C33** S. 31(3) modified (for the year of assessment 1991-92) by The Lloyds Underwriters (Tax) (1991-92) Regulations 1994 (S.I. 1994/728), regs. 1(1), 9, **Sch. 2**
- C34** S. 31(3) modified (for the years of assessment 1992-93 and 1993-94) by The Lloyds Underwriters (Tax) (1992–93 to 1996–97) Regulations 1995 (S.I. 1995/352), regs. 1(1), 14(1), **Sch.**
- C35** S. 31(3) modified (for the year of assessment 1994-95) by The Lloyds Underwriters (Tax) (1992–93 to 1996–97) Regulations 1995 (S.I. 1995/352), regs. 1(1), 15(1), **Sch.**

32 Ships not used in the actual trade.

- (1) If the ship ceases to belong to the shipowner without having in fact been brought into use for the purposes of his actual trade, then—
- on that event, the single ship trade shall be treated as permanently discontinued but section 25(5) and (6) shall not apply,
 - any writing-down allowances which, by virtue of section 31, have previously been made to the shipowner or have been postponed by him shall be withdrawn; and
 - without prejudice to the operation of section 31(7), an amount equal to any writing-down allowances withdrawn by virtue of paragraph (b) above shall be added to the shipowner's qualifying expenditure in respect of his actual trade for the chargeable period related to that event.
- (2) In this section “the shipowner”, “actual trade” and “single ship trade” have the same meanings as in section 31.

33 Exclusion of section 31.

- [^{F91}(1) The shipowner may by notice given to an officer of the Board require that, with effect from the beginning of a chargeable period of a single ship trade, not being the chargeable period relating to the permanent discontinuance of that trade, section 31 shall not, or as the case may be, shall no longer apply.]
- (2) Where a notice under subsection (1) above is given before any writing-down allowance has been made to the shipowner in respect of the expenditure referred to in section 31(1), the provisions of that section shall be deemed never to have applied with respect to that expenditure.
- (3) If a notice under subsection (1) above is given after any writing-down allowance has been so made, then, for the purposes of sections 24, 25, 26 and 31—
- the single ship trade shall be treated as permanently discontinued in the chargeable period to which the notice relates^{F43} ..., but no balancing allowance or charge shall be made to or on the shipowner by reason thereof; and
 - the amount which, apart from this section, would be the shipowner's qualifying expenditure for that chargeable period in respect of the single ship

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trade shall be added to his qualifying expenditure for that period in respect of his actual trade.

[^{F92}(4) The shipowner may by notice given to an officer of the Board require that an amount of expenditure specified in the notice, being less than the amount which, apart from this subsection, would be his qualifying expenditure in respect of a single ship trade for a chargeable period of that trade, shall be attributed to his actual trade.]

(5) If a notice is given under subsection (4) above, then, for the purposes of sections 24, 25, 26 and 31—

- (a) the shipowner’s qualifying expenditure for that period in respect of the single ship trade shall be reduced by deducting therefrom the amount specified in the notice; and
- (b) the amount specified in the notice shall be added to his qualifying expenditure for that period in respect of his actual trade.

[^{F93}(5A) A notice under subsection (1) or (4) above—

- (a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period mentioned in that subsection;
- (b) for the purposes of corporation tax, shall be given no later than two years after the end of the chargeable period mentioned in that subsection.]

(6) In this section “the shipowner”, “actual trade” and “single ship trade” have the same meanings as in section 31.

Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F91** S. 33(1) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 29\(2\)](#)
- F92** S. 33(4) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 29\(3\)](#)
- F93** S. 33(5A) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 29\(4\)](#)

Modifications etc. (not altering text)

- C36** S. 33(1) modified (for the year of assessment 1988-1989) by [S.I. 1991/851, regs. 1, 9, Sch.2.](#)
- C37** S. 33(1) modified (for the year of assessment 1989-1990) by [S.I. 1992/511, regs. 1, 9, Sch.2.](#)
- C38** S. 33(1) applied (with modifications) (for the year of assessment 1990–91) by [S.I. 1993/415, reg. 9, Sch.2](#)
- C39** S. 33(1) modified (for the year of assessment 1991-92) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\), regs. 1\(1\), 9, Sch. 2](#)
- C40** S. 33(1) modified (for the years of assessment 1992-93 and 1993-94) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\), regs. 1\(1\), 14\(1\), Sch.](#)
- C41** S. 33(1) modified (for the year of assessment 1994-95) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\), regs. 1\(1\), 15\(1\), Sch.](#)

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[^{F94}Balancing charges in respect of ship disposals etc.

Textual Amendments

F94 S. 33A and cross-heading inserted (with effect in accordance with s. 98(1) of the amending Act) by Finance Act 1995 (c. 4), s. 94 (with s. 98(2)-(6)); S.I. 1996/1323, art. 2

33A Deferment of balancing charge.

(1) This section applies in any case where—

- (a) a balancing charge of any amount would, apart from this section, be made for any chargeable period (“the relevant period”) on any person (“the shipowner”) in respect of a trade carried on by him (his “actual trade”);
- (b) there is, in the relevant period, an event falling within section 24(6)(c)(i) to (iii);
- (c) that event is one occurring on or after 21st April 1994 with respect to a ship (“the old ship”) provided by the shipowner for the purposes of his actual trade and belonging to him at some time in the relevant period;
- (d) the old ship was a qualifying ship immediately before that event;
- (e) the shipowner’s expenditure on the provision of the old ship is not expenditure treated for any purposes by virtue of section 41(2), 61(1), 79(2) or 80(5) as expenditure incurred for the purposes of a trade carried on separately from his actual trade; and
- (f) the old ship has not begun, and is not treated as having begun, before the event mentioned in paragraph (b) above, to be used partly, but not wholly, for purposes other than those of the shipowner’s actual trade.

(2) If—

- (a) the shipowner makes a claim in respect of the event mentioned in subsection (1)(b) above for the deferment under this section of the whole or part of the charge which would be made on him, and
- (b) none of the amounts specified in subsection (3) below is nil,

the amount for which deferment is claimed, so far as it does not exceed the smallest of those amounts, shall for the purposes of sections 24, 25 and 26 be added to the shipowner’s qualifying expenditure for the relevant period in respect of his actual trade.

(3) Subject to the following provisions of this section, those amounts are—

- (a) the amount which, in accordance with section 33B, is treated as brought into account in respect of the old ship;
- [^{F95}(b) the amount of any expenditure incurred or to be incurred by qualifying persons in the period of six years beginning with the day on which the event mentioned in subsection (1)(b) above occurs, so far as that expenditure is, or (when incurred) will be, expenditure to which an addition made under this section in respect of that event may be attributed in accordance with subsection (5) below;]
- (c) the amount of the balancing charge which, apart only from the claim in question, would be made on the shipowner for the relevant period in respect of his actual trade; and
- (d) the amount which, on the assumption—

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- (i) that any other additions under this section to the shipowner's qualifying expenditure for the relevant period are taken into account, but
- (ii) that amounts carried forward under section 385 or 393 of the principal Act (losses carried forward) are disregarded,

would have the effect of reducing to nil the amount (if any) falling to be taken into account, in computing the shipowner's total profits or total income for that period, as the trading income of that trade or, as the case may be, as [^{F96}profits] arising from that trade.

(4) If—

- (a) an addition is made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade, but
- [^{F97}(b) circumstances arise in which the whole or any part of the addition ceases (otherwise than by being attributed) to be an amount that may be attributed, in accordance with subsection (5) below, to expenditure on new shipping incurred by qualifying persons in the period of six years mentioned in subsection (3)(b) above,

the shipowner shall be assumed not to have been entitled to so much of the addition as will not be so attributed.]

[^{F98}(5) Subject to subsection (5A) below and to section 33D(6), where—

- (a) an addition is made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade, and
- (b) expenditure on new shipping is incurred by a qualifying person in the period of six years mentioned in subsection (3)(b) above,

the shipowner may, by notice to an officer of the Board, attribute to that expenditure so much of the addition as is equal to so much of the expenditure as is not already the subject of an attribution under this subsection.

(5A) A notice under subsection (5) above shall not have effect in a case where the shipowner and the qualifying person to whose expenditure the notice relates are not the same person unless that person joins with the shipowner in the giving of that notice.]

(6) A balancing charge falling by virtue of section 41(2), 79(5) or 80(5) to be made for the relevant period in the case of the shipowner's actual trade shall be disregarded in determining the amount referred to in subsection (3)(c) above.

(7) In consequence of paragraph (d) of subsection (3) above, no addition shall be made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade if—

- (a) the amount falling (after disregarding any amounts carried forward under section 385 or 393 of the principal Act) to be taken into account as mentioned in that paragraph would have been nil even apart from this section, or
- (b) he has, apart from this section, incurred a loss in that trade for the relevant period.

[In this section and the following provisions of this Chapter references to a qualifying [^{F99}(8) person, in relation to any expenditure, are references to—

- (a) the shipowner; and

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- (b) where the shipowner is a company, any company which, at the time when the expenditure is or is to be incurred, is or (as the case may be) would be a member of the same group of companies as the shipowner;

and for the purposes of this subsection two companies are members of the same group of companies at any time if, at that time, they are treated as members of the same group of companies for the purposes of Chapter IV of Part X of the principal Act (group relief).]]

Textual Amendments

- F95** S. 33A(3)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 2(1)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F96** Word in s. 33A(3) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), **Sch. 7 para. 4**
- F97** Words in s. 33A(4) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 2(2)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F98** S. 33A(5)(5A) substituted for s. 33A(5) (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 2(3)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F99** S. 33A(8) inserted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 2(4)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2

[^{F100}33B Amount brought into account in respect of the old ship.

- (1) For the purposes of section 33A where—
- the old ship is, by virtue of section 31(2), assumed for the purposes of sections 24, 25 and 26 to have been provided wholly and exclusively for the purposes of a single ship trade,
 - in consequence of the event mentioned in section 33A(1)(b), a disposal value of the old ship falls for the purposes of section 31(7) to be brought into account for the chargeable period of the single ship trade which corresponds to the relevant period, and
 - no notice has been given in relation to the single ship trade under section 33(1) or (4),

the amount treated as brought into account in respect of the old ship shall be the amount which under section 31(7)(b) falls to be brought into account for the relevant period of the shipowner's actual trade as an item of disposal value referable to machinery or plant.

- (2) In any other case, the amount treated as brought into account in respect of the old ship shall be the amount equal to the amount which, on the assumptions specified in subsection (3) below, would have been the balancing charge for the relevant period in respect of the shipowner's actual trade.
- (3) Those assumptions are—
- that section 31(2) did not apply with respect to expenditure on the provision of the old ship;
 - that the old ship was the only item of machinery or plant in respect of which sections 24, 25 and 26 have effect for chargeable periods of the shipowner's actual trade; and
 - that the allowances made to the shipowner in respect of the provision of the old ship are—

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- (i) the first-year allowance (if any) which was actually made to the shipowner;
 - (ii) any first-year allowance falling to be made to him that was postponed under section 30(1)(a) or (c); and
 - (iii) the maximum amount of any writing-down allowances which, on the preceding assumptions, could have been made for the chargeable periods of that trade ending with the relevant period.
- (4) Where a notice under section 33(1) or (4) is given in the case of a single ship trade after the determination for the purposes of section 33A of the amount treated as brought into account in respect of the old ship, subsection (2) above, instead of subsection (1), shall apply, and be deemed always to have applied, in relation to that ship.
- (5) In this section and the following provisions of this Chapter “single ship trade” has the same meaning as in section 31.]

Textual Amendments

F100 S. 33B inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 94](#) (with s. 98(2)-(6))

[^{F101}33C Reimposition of deferred charge.

- (1) Notwithstanding anything in section 31(2), the assumption specified in subsection (2) below shall apply, for the purposes of sections 24, 25 and 26 wherever—
- (a) an addition is made under section 33A to the shipowner’s qualifying expenditure for the relevant period;
 - (b) [^{F102}a qualifying person] incurs expenditure on new shipping within the period mentioned in section 33A(3)(b); and
 - [^{F103}(c) the expenditure is expenditure the whole or any part of which is expenditure to which the whole or any part of the addition is attributed in accordance with section 33A(5).]
- (2) That assumption is that an amount equal to so much of the expenditure incurred on new shipping as is expenditure to which the whole or any part of the addition is ^{F104}... attributed is to be brought into account—
- (a) for the chargeable period in which that expenditure is incurred, and
 - (b) in respect of the single ship trade in respect of which that expenditure falls to be taken into account in determining qualifying expenditure of [^{F105}the qualifying person in question],
- as an item of disposal value referable to machinery or plant which in respect of that chargeable period and that trade falls within section 24(6).]

Textual Amendments

F101 S. 33C inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 95](#) (with s. 98(2)-(6))

F102 Words in s. 33C(1)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 3\(1\)\(a\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art.

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- F103** S. 33C(1)(c) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 3(1)(b)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F104** Words in s. 33C(2) repealed (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), Sch. 35 para. 3(2)(a), **Sch. 41 Pt. V(33)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F105** Words in s. 33C(2)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 3(2)(b)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2

[^{F106}33D Expenditure to which deferments attributed.

- (1) Subject to the following provisions of this section, expenditure is expenditure on new shipping for the purposes of sections 33A to 33C in so far as it is both—
- (a) capital expenditure incurred on the provision, wholly and exclusively for the purposes of [^{F107}a trade carried on by the person who incurs that expenditure], of a ship which it appears—
 - (i) will be brought into use for the purposes of that trade as a qualifying ship, and
 - (ii) will continue to be a qualifying ship throughout a period of at least three years after that; and
 - (b) expenditure falling, by virtue of section 31(2), to be taken into account for the purposes of sections 24, 25 and 26, in determining qualifying expenditure, as an amount of expenditure incurred by [^{F108}that person] wholly and exclusively for the purposes of a single ship trade.
- (2) Expenditure on the provision of a ship shall not be, and shall be deemed never to have been, expenditure on new shipping if the ship—
- (a) is brought into use for the purposes of any trade of [^{F109}the person who incurred the expenditure] or (without having been so brought into use) for the purposes of any trade of a person connected with him;
 - (b) there is a time after it is first so brought into use when that ship is not a qualifying ship; and
 - (c) that time is before whichever is the earlier of—
 - (i) the end of the period of three years beginning with the time when it is first so brought into use, and
 - (ii) the first occasion after the beginning of that period when neither [^{F110}the person who incurred the expenditure] nor any person connected with him is a person to whom the ship belongs.
- [Subject to subsection (2B) below, expenditure incurred by a qualifying person other ^{F111}(2A) than the shipowner on the provision of a ship shall not be, and shall be deemed never to have been, expenditure on new shipping if—
- (a) at any time after the time when the ship first belongs to that person in consequence of that expenditure, it ceases to belong to that person without having been brought into use for the purposes of a trade of that person;
 - (b) the ship is brought into use for the purposes of a trade of that person and an event falling within section 24(6)(c) occurs with respect to the ship before the end of the period of three years beginning with the time when it is first so brought into use; or
 - (c) there is a time falling—
 - (i) after the expenditure is incurred, and

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- (ii) where the ship is brought into use for the purposes of a trade of that person, before the end of the period of three years beginning with the time when it is first so brought into use,
when the shipowner and that person do not fall to be treated as members of the same group of companies for the purposes of Chapter IV of Part X of the principal Act (group relief).
- (2B) Subsection (2A) above shall not apply by virtue of paragraph (a) or (b) of that subsection in any case if the event by virtue of which the case falls within that paragraph is, or is the result of—
- (a) the total loss of the ship; or
 - (b) damage to the ship that puts it in a condition in which it is impossible, or not commercially worthwhile, for the repair required for restoring it to its previous use to be undertaken;
- and that subsection shall have effect, where anything falling within paragraph (a) or (b) above occurs, as if times falling after the occurrence of the total loss or, as the case may be, after the occurrence of the damage were to be disregarded for the purposes of paragraph (c) of that subsection.]
- (3) Where—
- (a) a notice under section 33(1) or (4) has the effect, in relation to any expenditure which satisfies the conditions in subsection (1)(a) and (b) above, of requiring any of that expenditure to be attributed for the purposes of sections 24, 25 and 26 to a trade which is not a single ship trade, or
 - (b) section 42 has effect with respect to expenditure on the provision of a ship in a case where the expenditure would have fallen to be taken into account as mentioned in subsection (1)(b) above if the ship had not been leased as mentioned in section 42(1),
- the expenditure which falls to be so attributed or, as the case may be, with respect to which section 42 has effect shall not be, and shall be deemed never to have been, expenditure on new shipping.
- (4) Expenditure on the provision of a ship is not expenditure on new shipping if—
- (a) the ship had already belonged to ^{F112}the person who incurred the expenditure] at some time in the period of six years ending with the time when it first belongs to him in consequence of his incurring that expenditure;
 - (b) the ship has at any time in that period belonged to a person who has, at a material time, been a person connected with ^{F113}the person who incurred the expenditure]; or
 - (c) the main object, or one of the main objects, of—
 - (i) the transaction by which the ship was provided for the purposes of ^{F114}a trade carried on by the person who incurred that expenditure],
 - (ii) any series of transactions of which that transaction was one, or
 - (iii) any transaction in such a series,was to secure the deferment of a charge under section 33A.
- (5) In subsection (4)(b) above “a material time”, in relation to any expenditure, means the time when the expenditure is incurred or any earlier time in the period of six years which is applicable in the case in question for the purposes of section 33A(3)(b).
- (6) An addition made under section 33A to the shipowner’s qualifying expenditure for any period shall not for the purposes of that section or section 33C be attributed to

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the whole or any part of any expenditure on new shipping if there is other expenditure incurred [^{F115}by a qualifying person] which—

- (a) was incurred before that expenditure in the period of six years which is applicable, in the case of that addition, for the purposes of section 33A(3)(b), and
- (b) is expenditure on new shipping or would fall to be treated as such expenditure but for any notice under section 33(1) or (4),

unless the whole amount of the other expenditure has been used for the purposes of attributions made in the case of that addition and of any other additions made under section 33A in respect of events occurring before the beginning of that period of six years.

(7) Notwithstanding any changes in the persons engaged in carrying on [^{F116}the shipowner's actual trade], expenditure shall be treated for the purposes of this Chapter as incurred by the shipowner if—

- (a) it is incurred [^{F117}for the purposes of that trade by the persons for the time being carrying it on], and
- (b) the only changes in the persons so engaged, between the time when the trade was carried on by the shipowner and the time when the expenditure is incurred, are changes in respect of which that trade is to be treated by virtue of section 113(2) or 343(2) of the principal Act (continuity of trade) as not having been discontinued.

[^{F118}(8) For the purposes of this section a person is connected with another person at any time if, at that time—

- (a) he is, within the terms of section 839 of the principal Act, connected either with that other person or with a person who is connected with that other person by virtue of paragraph (b) below; or
- (b) he is carrying on a trade previously carried on by that other person in a case in which the only changes in the persons engaged in carrying on that trade between—
 - (i) the time when it was previously carried on by that other person, and
 - (ii) the time in question,

are changes in respect of which the trade is to be treated by virtue of section 113(2) or 343(2) of the principal Act as not having been discontinued;

and the persons who shall be taken for the purposes of this section, in relation to expenditure incurred by a person who is not the shipowner, to be connected at any time with the person by whom the expenditure is or has been incurred shall include every person who at that time is connected (in accordance with the preceding provisions of this subsection) with the shipowner.]

Textual Amendments

F106 Ss. 33D, 33E inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 96](#) (with s. 98(2)-(6))

F107 Words in s. 33D(1)(a) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 4\(1\)\(a\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2

F108 Words in s. 33D(1)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 4\(1\)\(b\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2

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- F109** Words in s. 33D(2)(a) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(2)(a)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F110** Words in s. 33D(2)(c)(ii) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(2)(b)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F111** S. 33D(2A)(2B) inserted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(3)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F112** Words in s. 33D(4)(a) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(4)(a)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F113** Words in s. 33D(4)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(4)(a)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F114** Words in s. 33D(4)(c)(i) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(4)(b)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F115** Words in s. 33D(6) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(5)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F116** Words in s. 33D(7) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(6)(a)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F117** Words in s. 33D(7)(a) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(6)(b)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F118** S. 33D(8) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(7)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2

33E Qualifying ships.

- (1) Subject to the following provisions of this section, a ship is a qualifying ship for the purposes of sections 33A to 33D if it is a ship of a sea-going kind and is registered, in any register of shipping established and maintained under the law of the United Kingdom or of any other country or territory, as a ship with a gross tonnage of or in excess of 100 tons.
- (2) In any case where the event mentioned in section 33A(1)(b) consists in or results from either—
- (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, for the repair required for restoring it to its previous use to be undertaken,
- the references to a qualifying ship in section 33A(1)(d) and section 33D(1) and (2) shall have effect as if in subsection (1) above the words “as a ship with a gross tonnage of or in excess of 100 tons” were omitted.
- (3) A ship is not a qualifying ship if the primary use to which ships of the same kind as that ship are put by the persons to whom they belong or, where their use is made available to others, by those others is use for sport or recreation.
- (4) A ship is not a qualifying ship at any time when—
- (a) it is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971; or

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- (b) it would be such an installation if the activity for the carrying on of which it is or is to be established or maintained were carried on in or under controlled waters (within the meaning of that Act).
- (5) Where, in the case of any ship which has been brought into use for the purposes of a trade of the shipowner or a person connected with him but was not so brought into use before 20th July 1994—
- (a) there is a time in the qualifying period when the ship is not registered in a relevant register, and
- (b) that time is more than three months after that period began,
- the ship shall not, in relation to times after the time mentioned in paragraph (a) above, be a qualifying ship.
- (6) In subsection (5) above “the qualifying period” means the period between—
- (a) the time when the ship is first brought into use for the purposes of any trade of the shipowner or (without having been so brought into use) for the purposes of any trade of a person connected with him; and
- (b) whichever is the earlier of—
- (i) the end of the period of three years beginning with that time, and
- (ii) the first occasion after that time when neither the shipowner nor any person connected with him is a person to whom the ship belongs.
- (7) In subsection (5) above “relevant register”, in relation to any ship, means any register of shipping established and maintained under the law of any part of the British Islands or of any country or territory which, at a time in the period which in the case of that ship is the qualifying period for the purposes of that subsection, is a member State, another State within the European Economic Area or a colony.
- (8) References in subsections (5) and (6) above to a person connected with the shipowner shall be construed in accordance with section 33D(8) but shall have effect in relation to the old ship as if a trade carried on at any time by any person were carried on at that time by a person so connected wherever—
- (a) it was subsequently carried on by the shipowner or a person connected with him; and
- (b) it underwent, between that time and the time when it was carried on by the shipowner or a person connected with him, only such changes in the persons engaged in carrying it on as are changes in respect of which it is to be treated by virtue of section 113(2) or 343(2) of the principal Act as not having been discontinued.
- [Subsections (5), (6) and (8) above shall have effect for the purposes of section 33D^{F119}(9) in relation to any ship on the provision of which expenditure is incurred on or after the passing of the Finance Act 1996 as if the references in those subsections to the shipowner included references to the person incurring that expenditure.]]

Textual Amendments

F106 Ss. 33D, 33E inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 96](#) (with s. 98(2)-(6))

F119 S. 33E(9) inserted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 5\(1\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); [S.I. 1997/133](#), art. 2

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

[^{F120}33F Procedural provisions relating to deferred charges.

- (1) [^{F121}Part IX of Schedule 18 to the Finance Act 1998] shall apply for the purposes of corporation tax in relation to the making of a claim under section 33A as it applies in relation to the making of a claim for an allowance.
- (2) No claim under section 33A shall be allowed for the purposes of income tax unless it is made within twelve months from the 31st January next following the year of assessment in which the relevant period ends.
- (3) No claim under section 33A may be made at any time before such date as the Treasury may by order appoint; and where by virtue of anything in subsection (1) or (2) above the period for making any such claim would have expired (but for this subsection) before the end of the period of twelve months beginning with that date, it shall expire, instead, at the end of that period of twelve months.
- (4) [^{F122}Subject to subsection (4A) below, an attribution in accordance with section 33A(5)] may be varied by notice given by the shipowner to the inspector at any time before the end of the period for the making, by [^{F123}the shipowner], of claims under section 33A above in respect of events occurring in the earliest chargeable period affected; and for the purposes of this subsection a chargeable period is an affected chargeable period, in relation to a variation, if it is one in which expenditure to which the variation relates was incurred.

[A notice by the shipowner under subsection (4) above shall not have effect in a case ^{F124}(4A) where the shipowner and the qualifying person to whose expenditure the notice relates are not the same person unless that person joins with the shipowner in the giving of that notice.]

- (5) Where—
 - (a) a claim for the deferment of any charge has been made under section 33A, and
 - (b) circumstances subsequently arise that require the deferment claimed to be treated as one to which the shipowner was not entitled, either in whole or in part,the shipowner shall, no later than three months after the end of the chargeable period in which those circumstances first arise, give notice of that fact, specifying the circumstances, to the inspector.
- (6) All such assessments and adjustments shall be made as may be necessary to give effect to the provisions of sections 33A to 33C and subsection (4) above; and, notwithstanding any limitation on the time for making assessments, an assessment to tax chargeable in consequence of any such circumstances as are mentioned in subsection (5) above may be made at any time between—
 - (a) the time when those circumstances arise, and
 - (b) the time 12 months after notice of the circumstances is given to the inspector by the shipowner.
- (7) In this section references to the shipowner, in relation to the giving of any notice, shall have effect where there have been any such changes as are mentioned in section 33D(7)(b) in the persons engaged in carrying on the shipowner's actual trade, as references to the persons who, in consequence of those changes, are carrying on that trade at the time of the giving of the notice or, as the case may be, when the notice is required to be given.]

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

Subordinate Legislation Made

- P1** S. 33F(3): [The Capital Allowances Act 1990, section 33A, \(Appointed Day\) Order 1996 \(S.I. 1996/1323\)](#), [art. 2](#) (appointing 31.5.1996 for the purposes of s. 33A)

Textual Amendments

- F120** S. 33F inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 97\(1\)](#) (with s. 98(2)-(6))
- F121** Words in s. 33F(1) substituted (with effect in accordance with s. 93(2) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 11 para. 5](#)
- F122** Words in s. 33F(4) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 6\(1\)\(a\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2
- F123** Words in s. 33F(4) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 6\(1\)\(b\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2
- F124** S. 33F(4A) inserted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 6\(2\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2

CHAPTER III

EXPENSIVE MOTOR CARS

34 Writing-down allowances etc.

- (1) The following provisions of this section shall have effect where capital expenditure exceeding [^{F125}£12,000] is incurred, or is treated under subsection (4)(b) below or section 81 as incurred, on the provision of a motor car for the purposes of a trade.
- (2) It shall be assumed for the purposes of sections 24, 25 and 26—
- that the person carrying on the trade (“the actual trade”) incurred the expenditure on the provision of the motor car wholly and exclusively for the purposes of a trade carried on by him separately from the actual trade and any other trade he may carry on, and
 - that without prejudice to section 24(6)(c)(i) to (iii), the separate trade is permanently discontinued when the motor car begins to be used wholly or partly for purposes other than those of the actual trade;
- and, subject to subsections (3) to (5) below, the allowance or charge under section 24 which, on these assumptions, would fall to be made for any chargeable period in the case of the separate trade shall be made for that period in the case of the actual trade.
- (3) If, on the assumptions in subsection (2) above, a writing-down allowance would fall to be made for any chargeable period in the case of the separate trade, the amount thereof shall be treated as not exceeding—
- ^{F126}(a) except in a case falling within paragraph (b) below, £3,000 or, if the period is a period of less or more than a year, that amount proportionately reduced or, as the case may require, increased,
 - (b) if, by virtue of section 153, the person carrying on the trade is regarded as having incurred a part only of the expenditure actually incurred on the provision of the motor car, a proportionate part of £3,000 or, if the period is a period of less or more than a year, that part proportionately reduced or, as the case may require, increased.]

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (4) Where the disposal value of the motor car falls to be taken into account by reason of an event falling within section 24(6)(c)(i) and that event is such a sale or the performance of such a contract as is referred to in section 75—
- (a) the disposal value to be brought into account under sections 24, 25 and 26 in the case of the separate trade shall be an amount equal to the price which the motor car would have fetched on a sale at the same time in the open market or, if less, the capital expenditure incurred, or treated as incurred, on the provision of the motor car by the person disposing of it, and
 - (b) the person acquiring the motor car shall be treated for the purposes of this Part as having incurred on its provision capital expenditure equal to that disposal value.
- (5) If either of the following events occurs in relation to the motor car—
- (a) it is used partly for the purposes of the actual trade and partly for other purposes, or
 - (b) while it is in use for the purposes of the actual trade, there is paid to the person carrying on the trade any sum which is in respect of, or takes account of, part of the wear and tear to it occasioned by that use,

neither section 79 nor section 80 shall apply, but for the chargeable period related to the event and any subsequent period, instead of there being made in the case of the actual trade the allowance or charge which under subsections (1) to (4) above would fall to be made for that period in the case of the separate trade, there shall be made so much of that allowance or charge as, in accordance with section 79 or 80, would be just and reasonable if it were one falling to be made for that period in the case of the notional trade referred to in that section.

Textual Amendments

F125 Words in s. 34(1)(3) substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 71\(2\)\(3\)\(6\)](#).

F126 S. 34(3)(a)(b) substituted (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(5\)](#)

Modifications etc. (not altering text)

C42 S. 34 modified by 1988 c. 1, Sch. 24 para. 11A(4) (as inserted (1.5.1995) by [Finance Act 1995 \(c. 4\), Sch. 25 para. 6\(4\)](#))

35 Contributions to expenditure, and hiring of cars.

- (1) Where capital expenditure exceeding [^{F127}£12,000] is incurred on the provision of a motor car and, by virtue of section 154, writing-down allowances may be made to a person as if a contribution made by him to the expenditure had been expenditure on the provision of a motor car for the purposes of a trade, the amount of the allowance to be made for any chargeable period—
- (a) shall be determined as if the contribution had been expenditure on the provision of the motor car for the purposes of a trade carried on by that person separately from any other trade carried on by him, and
 - (b) shall not exceed an amount bearing to [^{F127}£3,000] the same proportion as that borne by the contribution to the capital expenditure actually incurred on the provision of the motor car [^{F128}or, if the chargeable period is a period of less

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or more than a year, that amount proportionately reduced or, as the case may require, increased].

(2) Where, apart from this subsection, the amount of any expenditure on the hiring of a motor car the retail price of which when new exceeds [^{F127}£12,000] would be allowed to be deducted in computing for the purposes of tax the [^{F129}profits] of any trade, that amount shall be reduced in the proportion which [^{F127}£12,000], together with one half of the excess, bears to that retail price [^{F130}], but this subsection shall have effect subject to subsection (3) below.]

[^{F131}(2A) Where subsection (2) has operated to reduce any expenditure on the hiring of a motor car, and subsequently either any rebate (by whatever name called) of the rentals is made or any transaction occurs with regard to any rentals that falls within section 94 of the principal Act (debts deducted and subsequently released), then the amount otherwise taxable in respect of the rebate or transaction shall be reduced in the same proportion as the expenditure on hiring was reduced.]

[^{F132}(3) Subsection (2) above shall not apply where the hiring is under a hire-purchase agreement under which there is an option to purchase exercisable on the payment of a sum equal to not more than 1 per cent. of the retail price of the motor car when new.

(4) In subsection (3) above “hire-purchase agreement” has the meaning given by section 784(6) of the principal Act.]

Textual Amendments

F127 Words in s. 35(1)(2) substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 71\(4\)\(5\)\(7\)\(8\)](#).

F128 Words in s. 35(1)(b) substituted (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(6\)](#)

F129 Word in s. 35(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\), Sch. 7 para. 4](#)

F130 Words in s. 35(2) inserted (*for any chargeable period or its basis period ending on or after 25.07.1991*) by [Finance Act 1991 \(c. 31\), s. 61\(2\)\(4\)](#).

F131 S. 35(2A) inserted (with effect in accordance with Sch. 39 para. 1(4) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 39 para. 1\(3\)](#)

F132 S. 35(3)(4) inserted (*for any chargeable period or its basis period ending on or after 25.07.1991*) by [Finance Act 1991 \(c. 31\), s. 61\(3\)\(4\)](#).

Modifications etc. (not altering text)

C43 S. 35 modified by 1988 c. 1, Sch. 24 para. 11A(4) (as inserted (1.5.1995) by [Finance Act 1995 \(c. 4\), Sch. 25 para. 6\(4\)](#))

36 Definition of “motor car”, etc.

(1) In this Part “motor car” means any mechanically propelled road vehicle other than—

- (a) a vehicle of a construction primarily suited for the conveyance of goods or burden of any description, or
- (b) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used, or
- (c) subject to subsections (2) and (4) below, a vehicle provided wholly or mainly for hire to, or for the carriage of, members of the public in the ordinary course of a trade.

(2) Subsection (1)(c) applies to a vehicle only if—

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- (a) the following conditions are satisfied—
- (i) the number of consecutive days for which it is on hire to, or used for the carriage of, the same person will normally be less than 30; and
 - (ii) the total number of days for which it is on hire to, or used for the carriage of, the same person in any period of 12 months will normally be less than 90; or
- (b) it is provided for hire to a person who will himself use it wholly or mainly for hire to, or the carriage of, members of the public in the ordinary course of a trade and in a manner complying with the conditions specified in paragraph (a) above.
- (3) For the purposes of subsection (2) above persons who are connected with each other within the meaning of section 839 of the principal Act shall be treated as the same person.
- (4) Subsection (2) above does not affect vehicles provided wholly or mainly for the use of persons in receipt of—
- (a) [^{F133}a disability living allowance under the [^{F134}Social Security Contributions and Benefits Act 1992][^{F135}or the [^{F136}Social Security Contributions and Benefits (Northern Ireland) Act 1992]]by virtue of entitlement to the mobility component]. . . ;
 - (b) a mobility supplement under a scheme made under the ^{M6}Personal Injuries (Emergency Provisions) Act 1939;
 - (c) a mobility supplement under an Order in Council made under section 12 of the ^{M7}Social Security (Miscellaneous Provisions) Act 1977; or
 - (d) any payment appearing to the Treasury to be of a similar kind and specified by them by order.
- (5) The Treasury may by order increase or further increase the sums of money specified in sections 34 and 35.

Textual Amendments

F133 Words in s. 36(4)(a) substituted (6.4.1992) by Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21), s. 4, **Sch. 2**, para. 21; S.I. 1991/2617, **art. 2(f)**

F134 Words in s. 36(4)(a) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 109(b)**.

F135 Words in s. 36(4)(a) inserted (6.4.1992) by S.I. 1991/2874, **art. 6(3)(a)**; S.R. 1992/94, **art. 2**.

F136 Words in s. 36(4)(a) substituted (1.7.1992) by Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 4, 7(2), **Sch. 2 para. 38(b)**.

Marginal Citations

M6 1939 c. 82.

M7 1977 c. 5.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

CHAPTER IV

SHORT-LIFE ASSETS

37 Election for certain machinery or plant to be treated as short-life assets.

(1) This section applies where—

- (a) a person carrying on a trade (“the trader”) incurs capital expenditure on the provision of machinery or plant wholly and exclusively for the purposes of the trade; and
- (b) the machinery or plant is not of a description specified in section 38; and
- ^{F137}(ba) the expenditure is not expenditure to which Chapter IVA of this Part applies; and]
- (c) the trader makes an election under this section requiring the machinery or plant to be treated as a short-life asset;

and any machinery or plant to which an election under this section applies is in the following provisions of this section referred to as a short-life asset.

(2) An election under this section—

- (a) shall be made in writing to the inspector;
- (b) shall specify the short-life asset, the capital expenditure concerned and the date on which it was incurred;
- (c) may not be made ^{F138}after the end of the period specified in subsection (2A) below]; and
- (d) shall be irrevocable;

^{F139}
.....

^{F140}(2A) The period mentioned in subsection (2) above is—

- (a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period related to the incurring of the capital expenditure concerned;
- (b) for the purposes of corporation tax, the period of two years beginning at the end of the chargeable period related to the incurring of the capital expenditure concerned;

and if different parts of the capital expenditure are incurred at different times, only that part of the expenditure which is first incurred shall be taken into account for the purposes of this subsection.]

(3) Where an election is made under this section, it shall be assumed for the purposes of sections 24, 25 and 26—

- (a) that the trader incurred the expenditure on the provision of the short-life asset wholly and exclusively for the purposes of a trade (“the notional trade”) carried on by him separately from the trade referred to in subsection (1) above (“the actual trade”) and from any other trade which he in fact carries on or is assumed for any other purpose to carry on; and
- (b) that, without prejudice to section 24(6)(c)(i) to (iii), the notional trade is permanently discontinued when the short-life asset begins to be used wholly or partly for purposes other than those of the actual trade.

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- (4) Any allowance or charge which, on the assumptions in subsection (3) above, would fall to be made for any chargeable period in the case of the notional trade shall be made for that period in the case of the actual trade; and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to an election under this section.

^{F141}[(4A) In any case where—

- (a) a balancing allowance that would, on the assumptions in subsection (3) above, fall to be made to the trader for a chargeable period in the case of the notional trade has, by virtue of subsection (4) above, been made to him for a chargeable period in the case of the actual trade,
- (b) after the chargeable period of the notional trade related to its permanent discontinuance for the purposes of sections 24, 25 and 26, he incurs an additional VAT liability in respect of the capital expenditure incurred on the provision of the machinery or plant, and
- (c) that liability was not brought into account in determining the amount of the balancing allowance,

a further balancing allowance, of an amount equal to the liability, shall be made to him for the chargeable period of the actual trade related to the incurring of the liability (and the liability shall not be brought into account for any chargeable period in the case of the notional trade).]

- (5) If ^{F142}disregarding [^{F143}section 24(6A) and (7)] the disposal value of a short-life asset does not fall to be brought into account in accordance with sections 24, 25 and 26 for any of the chargeable periods ending on or before the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned or, as the case may be, the first part of that expenditure, then—

- (a) in the first chargeable period ending after that fourth anniversary ^{F43}... , the notional trade shall be treated as permanently discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof; and
- (b) the amount which, apart from this subsection, would be the trader's qualifying expenditure for the chargeable period referred to in paragraph (a) above in respect of the notional trade shall be added to his qualifying expenditure for that period in respect of his actual trade.

- (6) If, at a time before the notional trade would otherwise be permanently discontinued for the purposes of sections 24, 25 and 26, a short-life asset provided for leasing begins to be used otherwise than for a qualifying purpose, within the meaning of section 39 and the occasion of its being so used falls within the requisite period, within the meaning of section 40, then at that time—

- (a) the notional trade shall be treated as permanently discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof; and
- (b) the amount which, apart from this subsection, would be the trader's qualifying expenditure in respect of the notional trade for the chargeable period in which, ^{F43}... , the asset began to be so used shall for the purposes of sections 24, 25 and 26 be added to the trader's qualifying expenditure for that chargeable period in respect of his actual trade.

- (7) Subsection (6)(b) above shall have effect—

- (a) in relation to any short-life asset which is a motor car, with the substitution for the words from “be added” to the end of the words “as they have effect

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- in accordance with section 41 be, or be added to, the trader's qualifying expenditure for that chargeable period."; and
- (a) in relation to any short-life asset the expenditure on the provision of which is old expenditure (within the meaning of section 50)—
- (i) with the omission of the words "in respect of the notional trade", and
- (ii) with the addition after the words "sections 24, 25 and 26" of the words "as they have effect in accordance with section 41".
- (8) Subject to subsection (9) below, if, at a time before the notional trade is permanently discontinued for the purposes of sections 24, 25 and 26, the trader disposes of a short-life asset to a person with whom he is connected within the terms of section 839 of the principal Act—
- (a) the disposal shall be treated for the purposes of sections 24, 25 and 26 (in its application both to the trader and to the connected person) as a sale of the short-life asset at a price equal to the amount of the trader's qualifying expenditure in respect of the notional trade for the chargeable period related to the disposal;
- (b) nothing in section 75 shall apply in relation to the disposal;
- (c) immediately after his acquisition of the short-life asset, the connected person shall be taken to have made an election under this section (so that, in his hands, the machinery or plant concerned is also a short-life asset for the purposes of this section); and
- (d) in relation to the connected person, subsection (5) above shall have effect as if any reference to the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned were a reference to the date which was (or which, by virtue of the previous operation of this paragraph, had effect as) that fourth anniversary in relation to the trader.
- (9) Paragraphs (a) and (b) of subsection (8) above do not apply in relation to a disposal unless, by notice given to the inspector not more than two years after the end of the chargeable period^{F43}... in which the disposal occurred, the trader and the connected person so elect.
- (10) In the application of subsection (1) of section 26 where a short-life asset is disposed of at a price lower than that which it would have fetched if sold in the open market, paragraph (b)(i) of that subsection shall not apply unless an election is made under subsection (9) above.

Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F137** S. 37(1)(ba) inserted (with application in accordance with Sch. 14 para. 10 of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 14 para. 3](#)
- F138** Words in s. 37(2)(c) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 30\(2\)\(a\)](#)
- F139** Words in s. 37(2) repealed (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 30\(2\)\(b\), Sch. 41 Pt. 5\(11\)](#)
- F140** S. 37(2A) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 21 para. 30\(3\)](#)
- F141** S. 37(4A) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), s. 59, Sch. 14 Pt. II para. 9\(1\)](#).

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Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

F142 Words in s. 37(5) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by Finance Act 1991 (c. 31), s. 59, **Sch. 14 Pt. II para. 9(2)**.

F143 Words in s. 37(5) substituted (*retrosp. to 10.3.1992*) by Finance (No. 2) Act 1992 (c. 48), s. 68(7)(10)

Modifications etc. (not altering text)

C44 S. 37(2) modified (for the year of assessment 1988-1989) by S.I. 1991/851, regs. 1, 9, **Sch. 2**

C45 S. 37(2) modified (for the year of assessment 1989-1990) by S.I. 1992/511, regs. 1, 9, **Sch.2**.

C46 S. 37(2) applied (with modifications) (for the year of assessment 1990–91) by S.I. 1993/415, reg. 9, **Sch. 2**

C47 S. 37(2) modified (for the year of assessment 1991-92) by The Lloyds Underwriters (Tax) (1991-92) Regulations 1994 (S.I. 1994/728), regs. 1(1), 9, **Sch. 2**

C48 S. 37(2) modified (for the years of assessment 1992-93 and 1993-94) by The Lloyds Underwriters (Tax) (1992–93 to 1996–97) Regulations 1995 (S.I. 1995/352), regs. 1(1), 14(1), **Sch.**

C49 S. 37(2) modified (for the year of assessment 1994-95) by The Lloyds Underwriters (Tax) (1992–93 to 1996–97) Regulations 1995 (S.I. 1995/352), regs. 1(1), 15(1), **Sch.**

38 Assets which cannot be treated as short-life assets.

The machinery and plant which by virtue of section 37(1)(b) cannot be treated as short-life assets are the following, that is to say—

- (a) ships;
- (b) motor cars;
- (c) machinery or plant to which section 61 applies;
- (d) machinery or plant falling within section 79(2);
- (e) machinery or plant where the capital expenditure on its provision is expenditure to which section 80 applies;
- (f) machinery or plant falling within section 81(1)(a) or (b);
- (g) machinery or plant which is used in such a way that section 22(4)(c) precludes the making of a first-year allowance in respect of expenditure incurred on the provision of it for leasing;
- (h) machinery or plant provided for leasing, except—
 - (i) machinery or plant which it appears will be used in the requisite period (within the meaning of section 40) for a qualifying purpose (within the meaning of section 39) and will not at any time in that period be used for any other purpose;
 - (ii) vehicles of the kind mentioned in section 36(4);
- (j) machinery or plant which is leased to two or more persons jointly in such circumstances that section 43 applies;
- (k) machinery or plant which is leased to two or more persons jointly in such circumstances that section 45 precludes the making of a first-year allowance in respect of the whole or part of the capital expenditure incurred on its provision;
- (l) machinery or plant in respect of expenditure on which section 42 provides only a 10 per cent. writing-down allowance;
- (m) machinery or plant in respect of which a first-year allowance continues to be available by virtue of section 22 [F144(2), (3) or (3A)].

Paragraphs (g) and (k) above shall not have effect in relation to expenditure incurred after 26th July 1989 and paragraphs (h) and (j) shall not have effect in relation to expenditure incurred before 27th July 1989.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

Textual Amendments

F144 Words in s. 38(m) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 115, **Sch. 13 para.4**

[^{F145}CHAPTER IVA

LONG-LIFE ASSETS

Textual Amendments

F145 Pt. 2 Ch. 4A inserted (with application in accordance with Sch. 14 para. 10 of the amending Act) by Finance Act 1997 (c. 16), **Sch. 14 para. 2**

Expenditure to which Chapter applies

38A Application of Chapter.

- (1) Subject to sections 38B to 38D and 38H, this Chapter applies to any capital expenditure incurred by a person on the provision of machinery or plant if that machinery or plant is a long-life asset.
- (2) For the purposes of this Chapter machinery or plant is a long-life asset if—
 - (a) in the case of machinery or plant that is new, it is reasonable to expect that the machinery or plant will have a useful economic life of at least twenty-five years; or
 - (b) in any other case, it was reasonable, when the machinery or plant was new, to expect that it would have a useful economic life of at least twenty-five years.
- (3) For the purposes of this section the useful economic life of machinery or plant is the period which—
 - (a) begins with the first occasion on which the machinery or plant is brought into use by any person for any purpose; and
 - (b) continues until the machinery or plant ceases to be machinery or plant that is or is likely to be used (whether or not by the person who first brought it into use and whether or not in a manner in which he used it) as a fixed asset of a business.
- (4) Where, by virtue of any of the following provisions of this Chapter, this Chapter applies to part only of the expenditure incurred by any person on the provision of any long-life asset, this Act shall have effect in relation to that expenditure as if the part to which this Chapter applies and the part to which it does not were, in each case, expenditure on a separate item of machinery or plant.
- (5) For the purposes of subsection (4) above all such apportionments shall be made as may be just and reasonable.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

38B Expenditure excluded from the application of the Chapter.

- (1) This Chapter does not apply to expenditure on the provision of machinery or plant which is a fixture in, or is provided for use in, any building used wholly or mainly—
 - (a) as a dwelling-house, retail shop, showroom, hotel or office; or
 - (b) for purposes ancillary to the purposes of a dwelling-house, retail shop, showroom, hotel or office.
- (2) This Chapter does not apply to any expenditure on the provision of—
 - (a) a motor car; or
 - (b) a mechanically propelled road vehicle which would be a motor car but for section 36(1)(c).
- (3) This Chapter does not apply to any expenditure incurred before 1st January 2011 on the provision of a ship of a sea-going kind if each of the following conditions is satisfied—
 - (a) that ship is not an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971;
 - (b) that ship would not be such an installation if the activity for the carrying on of which it is or is to be established or maintained were carried on in or under controlled waters (within the meaning of that Act); and
 - (c) the primary use to which ships of the same kind as that ship are put by the persons to whom they belong (or, where their use is made available to others, by those others) is a use otherwise than for sport or recreation.
- (4) This Chapter does not apply to any expenditure incurred before 1st January 2011 on the provision of a railway asset provided for use (whether by the person incurring the expenditure or by any other person) wholly and exclusively for the purposes of a railway business.
- (5) In this section—
 - “fixture” has the same meaning as in Chapter VI of this Part;
 - “goods” has the same meaning as in Part I of the Railways Act 1993;
 - “light maintenance depot” means—
 - (a) any light maintenance depot within the meaning of Part I of the Railways Act 1993, or
 - (b) any land or other property which, in relation to anything which is a railway only where “railway” has the wider meaning given by section 81(2) of that Act, is the equivalent of such a depot;“railway” has the wider meaning given by section 81(2) of the Railways Act 1993 (which defines railway so as to include tramways and other systems of guided transport);
 - “railway asset” means any of the following—
 - (a) any locomotive, tram or other vehicle designed or adapted for use on a railway;
 - (b) any carriage, wagon or other rolling stock designed or adapted for such use;
 - (c) anything which is or is to be comprised in any railway track, railway station or light maintenance depot; and
 - (d) any apparatus falling to be installed in association with anything within paragraph (c) above;

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

“railway business” means so much of any business as is carried on for the provision of a service to the public for the carriage of goods or passengers by means of a railway in the United Kingdom or the Channel Tunnel;

“railway station” includes anything included in the definition of “station” in section 83 of the Railways Act 1993 and anything that would be so included if, in that section, “railway” had the wider meaning given by section 81(2) of that Act;

“railway track” includes anything included in the definition of “track” in section 83 of the Railways Act 1993 and anything that would be so included if, in that section, “railway” had the wider meaning given by section 81(2) of that Act;

“retail shop” includes any premises of a similar character where retail trade or business (including repair work) is carried on.

- (6) For the purposes of subsection (4) above a railway asset falling within paragraph (a) or (b) of the definition in subsection (5) above shall not be treated as used otherwise than wholly and exclusively for the purposes of a railway business by reason only that it is used to carry goods or passengers from places in the United Kingdom to places outside the United Kingdom or vice versa.

38C Exclusion of Chapter where limit for individuals and partnerships not exceeded.

- (1) Subject to section 38F(3), this Chapter does not apply to any expenditure incurred by an individual, or by a partnership of which all the members are individuals, unless that expenditure is—
- (a) expenditure incurred in a chargeable period the relevant limit for which is exceeded in the case of that individual or partnership; or
 - (b) expenditure which is not subject to that limit.
- (2) For the purposes of this section the relevant limit for a chargeable period is exceeded in the case of an individual or partnership if the total amount of capital expenditure which—
- (a) is incurred in that period by that individual or partnership,
 - (b) is subject to the limit, and
 - (c) is or, disregarding this section, would be expenditure to which this Chapter applies,
- exceeds the limit applying to that period.
- (3) For the purposes of this section expenditure incurred by an individual is subject to the relevant limit for a chargeable period if—
- (a) it was incurred by him for the purposes of a trade or profession carried on by him;
 - (b) that individual devotes substantially the whole of his time in that chargeable period to the carrying on of that trade or profession; and
 - (c) the expenditure is not excluded from the operation of the limit.
- (4) For the purposes of this section expenditure incurred by a partnership is subject to the relevant limit for a chargeable period if—
- (a) it was incurred by the partnership for the purposes of a trade or profession carried on by that partnership;

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (b) at all times throughout that period at least half of the individuals who are for the time being members of the partnership are devoting substantially the whole of their time to the carrying on of that trade or profession; and
 - (c) the expenditure is not excluded from the operation of the limit.
- (5) For the purposes of this section the expenditure which is excluded from the operation of the relevant limit for a chargeable period is any expenditure falling within any of the following paragraphs, that is to say—
- (a) expenditure on the provision of a share in machinery or plant;
 - (b) expenditure which is treated as expenditure on the provision of machinery or plant by virtue of section 154 (contributions);
 - (c) expenditure incurred on the provision of machinery or plant for leasing (whether or not the leasing is in the course of a trade).
- (6) The limit applying for the purposes of this section to a chargeable period of twelve months is £100,000.
- (7) The limit applying for the purposes of this section to a chargeable period which is not twelve months is the amount given by a proportional reduction or, as the case may require, increase of £100,000.
- (8) Where, in the case of any contract for the provision of machinery or plant, the capital expenditure which is or is to be incurred under that contract is or may fall to be treated for the purposes of this Act as incurred in different chargeable periods, all of the expenditure falling to be incurred under that contract on the provision of that machinery or plant shall be treated for the purposes of this section as incurred in the first chargeable period in which any of that expenditure is incurred.
- (9) This section does not apply for the purposes of corporation tax.

38D Exclusion of Chapter where company's limit not exceeded.

- (1) Subject to section 38F(3), this Chapter does not apply for the purposes of corporation tax to any expenditure by a company unless that expenditure is—
- (a) expenditure incurred in a chargeable period the relevant limit for which is exceeded in relation to that company; or
 - (b) expenditure excluded from the operation of that limit.
- (2) For the purposes of this section the relevant limit for a chargeable period is exceeded in relation to a company only if the total amount of capital expenditure which—
- (a) is incurred by that company in that period,
 - (b) is not excluded from the operation of that limit, and
 - (c) is or, disregarding this section, would be expenditure to which this Chapter applies,
- exceeds the limit applying to that period.
- (3) Subject to subsection (5) below, the limit applying for the purposes of this section to a chargeable period of twelve months is £100,000.
- (4) Subject to subsection (5) below, the limit applying for the purposes of this section to a chargeable period of less than twelve months is the amount given by a proportional reduction of £100,000.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (5) Where, in a chargeable period, a company has one or more associated companies, the limit applying to that period for the purposes of this section shall be the amount produced by—
- (a) taking the amount given for that period by subsection (3) or, as the case may be, subsection (4) above; and
 - (b) dividing that amount by one plus the number of those companies.
- (6) Subsections (4) and (5) of section 13 of the principal Act (which identify the companies that are to count as associated companies for the purposes of section 13(3) of that Act) shall apply for the purposes of subsection (5) above as they apply for the purposes of subsection (3) of that section.
- (7) Subsections (5) and (8) of section 38C apply for the purposes of this section as they apply for the purposes of that section.

Rules applying to expenditure on long-life assets

38E Separate pools for expenditure on long-life assets.

- (1) Where expenditure to which this Chapter applies has been incurred on the provision of machinery or plant wholly and exclusively for the purposes of a trade (“the actual trade”), the following provisions of this section shall have effect with respect to the allowances and charges to be made under section 24 in the case of the actual trade.
- (2) It shall be assumed for the purposes of sections 24, 25 and 26—
- (a) that the person carrying on the actual trade incurred the expenditure on the provision of the machinery or plant wholly and exclusively for the purposes of a trade carried on by him separately from the actual trade and from any other trade which he in fact carries on or is assumed for any purpose to carry on;
 - (b) that the purposes for which the machinery or plant is used (whether wholly or partly) are purposes of the separate trade if they are purposes of the actual trade, but not otherwise; and
 - (c) that the separate trade is permanently discontinued if the actual trade is or is treated as permanently discontinued, but not otherwise.
- (3) Any allowance or charge under section 24 which, on those assumptions and having regard to subsection (4) below, would fall to be made for any chargeable period in the case of the separate trade shall be made for that period in the case of the actual trade.
- (4) If an allowance under section 24 falling by virtue of this section to be made for any chargeable period (“the earlier period”) in the case of the actual trade—
- (a) is not claimed, or
 - (b) is reduced in amount in accordance with a requirement under subsection (3) of that section,
- then, in determining the allowance or charge under that section which would fall to be made for any subsequent chargeable period in the case of the separate trade, any allowance falling to be made in the case of the separate trade for the earlier period shall be treated as not claimed or, as the case may require, as proportionately reduced.
- (5) Where there is more than one item of machinery or plant to which subsection (2) above applies in the case of any person, this section shall have effect as if the separate trade

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

for which, in that person's case, each of those items is treated as used were the same separate trade.

- (6) The reference in subsection (1) above to expenditure incurred on the provision of machinery or plant wholly and exclusively for the purposes of a trade does not include a reference to any amount falling by virtue of section 31, 61, 79 or 80 to be treated as incurred on the provision of machinery or plant wholly and exclusively for the purposes of the separate trade mentioned in that section.

38F Modifications applying to pools for long-life assets.

- (1) Where sections 24, 25 and 26 apply, in any of the cases mentioned in subsection (2) below, to any expenditure to which this Chapter applies, they shall so apply as if the reference in section 24(2) to 25 per cent. were a reference to 6 per cent.
- (2) Those cases are—
- (a) any case where sections 24, 25 and 26 apply in accordance with section 31, 38E, 79 or 80; and
 - (b) any case where the machinery or plant in question is machinery or plant to which section 61 applies.
- (3) Where—
- (a) any person entitled to do so has made a Part II claim in respect of expenditure incurred on the provision of any plant or machinery,
 - (b) that expenditure was expenditure falling to be treated for the purposes of that claim as expenditure to which this Chapter applies,
 - (c) at any time after the making of that claim, that person or another person makes a Part II claim in respect of any capital expenditure incurred at any time (including a time before the incurring of the expenditure to which the earlier claim relates) on the provision of the same machinery or plant,
 - (d) the expenditure to which the later claim relates would not (but for this subsection) be treated for the purposes of the later claim as expenditure to which this Chapter applies, and
 - (e) the expenditure to which the later claim relates does not fall within paragraph (d) above by virtue of being expenditure which is prevented by section 38B from being expenditure to which this Chapter applies,
- this Part shall have effect in relation to the later claim as if the expenditure to which it relates were expenditure to which this Chapter applies.
- (4) References in this section to the making of a Part II claim in respect of any expenditure are references to any of the following—
- (a) the making of a return in which that expenditure is taken into account in determining a person's qualifying expenditure for the purposes of section 24;
 - (b) the giving of notice of any such amendment of a return as provides for the expenditure to be so taken into account;
 - (c) the making, in any other manner, of a claim for the expenditure to be so taken into account.
- (5) In subsection (4) above "return" means any return required to be made under the Taxes Management Act 1970 for income tax or corporation tax purposes.
- (6) In the case of expenditure falling within subsection (1) of section 42, this section has effect subject to subsections (3) to (7) of that section.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

38G Disposal value of long-life assets.

(1) If, in a case where sections 24, 25 and 26 have had effect in accordance with section 38F(1) in relation to any expenditure incurred by a person (“the charged person”)—

- (a) an event occurs by reason of which a disposal value of that machinery or plant is to be brought into account by the charged person in accordance with section 24,
- (b) the amount of the disposal value to be so brought into account would (but for this section) be less than the notional written-down value of the machinery or plant, and
- (c) the event is comprised in, or occurs in pursuance of, any scheme or arrangement which has avoidance as its main object, or as one of its main objects,

this Part shall have effect in relation to the charged person as if the amount of the disposal value to be brought into account were equal to the notional written-down value of the machinery or plant.

(2) In this section “the notional written-down value”, in relation to any machinery or plant, means the amount which, if—

- (a) it were the disposal value falling to be brought into account as mentioned in subsection (1) above, and
- (b) the assumptions set out in subsection (3) below were made,

would give rise to neither a balancing allowance nor a balancing charge for the chargeable period for which that disposal value is to be brought into account.

(3) The assumptions mentioned in subsection (2) above are—

- (a) subject to paragraph (b) below, that expenditure on the provision of the machinery or plant were the only expenditure ever taken into account in determining the charged person’s qualifying expenditure for the purposes of section 24;
- (b) that that expenditure were not, in the charged person’s case, prevented by section 38C or 38D from being expenditure to which this Chapter applies; and
- (c) that the full amount of every allowance to which the charged person was entitled in respect of that expenditure had been made to him.

(4) The reference in subsection (1) above to avoidance is a reference to—

- (a) the obtaining under this Part for the charged person of an allowance or deduction or of a greater allowance or deduction, or
- (b) the avoidance or reduction of a charge under this Part on the charged person.

Transitional provisions

38H Transitional provisions.

(1) This Chapter does not apply—

- (a) to any expenditure incurred before 26th November 1996; or
- (b) to any expenditure incurred before 1st January 2001 in pursuance of a contract entered into before 26th November 1996.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (2) This Chapter does not apply to expenditure incurred by any person (“the purchaser”) on the acquisition of any long-life asset from another person (“the seller”) in a case where—
- (a) the seller has made a Part II claim in respect of expenditure incurred on the provision of that asset (“the seller’s expenditure”),
 - (b) that claim is one which the seller was entitled to make,
 - (c) the seller’s expenditure was not expenditure falling for the purposes of that claim to be treated as expenditure to which this Chapter applies, and
 - (d) the seller’s expenditure would have fallen to be so treated if one or more of the assumptions specified in subsection (3) below were made.
- (3) Those assumptions are—
- (a) that expenditure falling within paragraph (a) or (b) of subsection (1) above is not prevented by that paragraph from being expenditure to which this Chapter applies;
 - (b) that the seller’s expenditure was not prevented by subsection (2) above from being expenditure to which this Chapter applies; and
 - (c) that this Chapter or, as the case may require, provision corresponding to it applied for chargeable periods ending before 26th November 1996.
- (4) The reference in subsection (1) above to expenditure incurred in pursuance of a contract entered into before 26th November 1996 does not, in the case of a contract varied at any time on or after that date, include a reference to so much of the expenditure incurred under that contract as exceeds the amount of the expenditure that would have been incurred if that contract had not been so varied.
- (5) Subsections (4) and (5) of section 38F have effect for the purposes of this section as they have effect for the purposes of that section.]

CHAPTER V

LEASED ASSETS AND INEXPENSIVE CARS

39 Meaning of “qualifying purpose”.

- (1) Machinery or plant on the provision of which a person (“the buyer”) has incurred expenditure is used for a qualifying purpose at any time if at that time any of the conditions specified in subsections (2) to (5) below are satisfied.
- (2) The machinery or plant is leased to a lessee who uses it for the purposes of a trade, otherwise than for leasing, and either—
- (a) the buyer’s expenditure was old expenditure and, disregarding the words “to which this section applies” in subsection (1) of section 22 and [F146 subsections (2) to (3D)] of that section, a first-year allowance could have been made to the lessee if he had bought the machinery or plant at that time and had incurred capital expenditure in doing so, or
 - (b) the buyer’s expenditure was new expenditure and, had the lessee bought the machinery or plant at that time and had incurred new expenditure in doing so, that expenditure would have fallen to be included, in whole or in part, in the lessee’s qualifying expenditure for any chargeable period for the purposes of section 24(2) to (5).

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

For the purposes of paragraph (a) above, section 148(5) and (6) shall be disregarded.

- (3) The buyer uses the machinery or plant for short-term leasing.
- (4) The machinery or plant is leased to a lessee who uses it for short-term leasing and either is resident in the United Kingdom or so uses it in the course of a trade carried on by him there.
- (5) The buyer uses the machinery or plant for the purposes of a trade otherwise than for leasing.
- (6) Without prejudice to subsections (1) to (5) above but subject to subsection (8) below, a ship is also used for a qualifying purpose at any time when it is let on charter in the course of a trade which consists of or includes operating ships if—
 - (a) the person carrying on the trade is resident in the United Kingdom or carries on the trade there, and
 - (b) that person is responsible as principal (or appoints another person to be responsible in his stead) for navigating and managing the ship throughout the period of the charter and for defraying all expenses in connection with the ship throughout that period or substantially all such expenses other than those directly incidental to a particular voyage or to the employment of the ship during that period.
- (7) Subsection (6) above shall with the necessary modifications apply also in relation to aircraft.
- (8) Subsection (6) above does not apply if the main object, or one of the main objects, of the letting of the ship or aircraft on charter, or of a series of transactions of which the letting on charter was one, or of any of the transactions in such a series was to obtain—
 - (a) if the expenditure in question is old expenditure, a first-year allowance, or
 - (b) if the expenditure in question is new expenditure [^{F147}a first-year allowance by virtue of section 22(3B) or], a writing-down allowance of an amount determined without regard to section 42(2),

in respect of expenditure incurred on the provision of the ship or aircraft whether that expenditure was incurred by the person referred to in subsection (6)(a) above or some other person.
- (9) Without prejudice to subsections (1) to (5) above, a transport container is also used for a qualifying purpose at any time when it is leased in the course of a trade which is carried on by a person who is resident in the United Kingdom or who carries on the trade there if—
 - (a) the trade consists of or includes the operation of ships or aircraft and the container is at other times used by that person in connection with the operation of ships or aircraft, or
 - (b) the container is leased under a succession of leases to different persons who, or most of whom, are not connected with each other.
- (10) For any part of the requisite period for which the machinery or plant belongs to a person falling within section 40(5)(a) or (b), that person shall be treated for the purposes of subsections (3) and (5) above as the buyer.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

Textual Amendments

- F146** Words in s. 39(2)(a) substituted (with effect in accordance with s. 85(9) of the amending Act) by Finance Act 1998 (c. 36), s. 85(6)
- F147** Words in s. 39(8)(b) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 115, Sch. 13 para. 5(2)

40 Meaning of “short-term leasing” and “the requisite period”.

- (1) In this Chapter “short-term leasing”, in relation to any machinery or plant, means leasing the machinery or plant in such a manner—
- (a) that—
- (i) the number of consecutive days for which it is leased to the same person will normally be less than 30, and
- (ii) the total number of days for which it is leased to the same person in any period of 12 months will normally be less than 90, or
- (b) that—
- (i) the number of consecutive days for which it is leased to the same person will not normally exceed 365, and
- (ii) subject to subsection (2) below, the aggregate of the periods for which it is leased in the requisite period to lessees in circumstances not falling within section 39(2) will not exceed two years.
- (2) In a case where the requisite period exceeds four years the reference in subsection (1) (b)(ii) above to that period shall be construed as a reference to any period of four consecutive years which falls within the requisite period.
- (3) For the purposes of subsection (1) above, persons who are connected with each other shall be treated as the same person and where any machinery or plant is leased as one of a number of items which form part of a pool of items of the same or a similar description and are not separately identifiable, all the items in the pool may be treated as used for short-term leasing within the meaning of that subsection if substantially the whole of the items in the pool are so used.
- (4) For the purposes of this Chapter the requisite period is—
- (a) in the case of expenditure not falling within paragraph (b) below, the period of four years beginning with the date on which the machinery or plant is first brought into use by the person who incurred the expenditure, or
- (b) in the case of—
- (i) new expenditure, or
- (ii) old expenditure as respects which section 70(3) of the ^{M8}Finance Act 1982 had effect,
- the period of ten years beginning with the date on which the machinery or plant is first brought into use by the person who incurred the expenditure;
- except that where the machinery or plant ceases to belong to that person at any time before the end of those four years or ten years (as the case may be), the requisite period shall end at that time.

If the circumstances are such that machinery or plant is used for a qualifying purpose, this subsection shall have effect [F148 for the purposes of sections 31(2) and 37(6)] with the substitution for each reference to ten years of a reference to four years.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (5) For the purposes of subsection (4) above, machinery or plant shall be treated as continuing to belong to the person who incurred the expenditure so long as it belongs to—
- (a) a person who is connected with him, or
 - (b) a person who acquired it from him as a result of one or more disposals on the occasion of which, or each of which, the trade carried on by the person making the disposal was treated as continuing by virtue of section 113(2) or 114(1) of the principal Act.

Textual Amendments

F148 Words in s. 40(4) inserted (27.7.1993 with effect as mentioned in s. 116(4) of the amending Act) by 1993 c. 34, s. 116(1)(4)

Marginal Citations

M8 1982 c. 39.

41 Writing-down allowances etc. for leased assets and inexpensive cars.

- (1) Where—
- (a) section 42 applies to expenditure on the provision of machinery or plant for leasing in the course of a trade, or
 - (b) section 22(4)(c) precludes, or would but for section 75 preclude, the making of a first-year allowance in respect of expenditure incurred by a person on the provision of machinery or plant for leasing in the course of a trade, or
 - (c) paragraph (a) above does not apply and expenditure is incurred on the provision for the purposes of a trade of a motor car to which section 34 does not apply,

then, subject to the following provisions of this Chapter, subsections (2) to (6) below shall have effect with respect to the allowances and charges to be made in the case of the trade ("the actual trade") under section 24.

- (2) It shall be assumed for the purposes of sections 24, 25 and 26—
- (a) that the person carrying on the trade incurred the expenditure on the provision of the machinery or plant wholly and exclusively for the purposes of a trade carried on by him separately from the actual trade and any other trade carried on by him; and
 - (b) that without prejudice to section 24(6)(c)(i) to (iii), the separate trade is permanently discontinued when the machinery or plant begins to be used wholly or partly for purposes other than those of the actual trade;

and the allowance or charge under section 24 which, on those assumptions and having regard to subsections (3) and (4) below, would fall to be made for any chargeable period in the case of the separate trade shall be made for that period in the case of the actual trade.

- (3) If an allowance under section 24 falling by virtue of this section to be made for any chargeable period in the case of the actual trade is not claimed^{F149}... , or is reduced in amount in accordance with a requirement under subsection (3)^{F149}... of that section, then in determining the allowance or charge under that section which would fall to be made for any subsequent chargeable period in the case of the separate trade,

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

any allowance falling to be made in the case of that trade for the first-mentioned chargeable period shall be treated as not claimed^{F149}... or, as the case may require, as proportionately reduced.

- (4) Where in the case of any person sections 24, 25 and 26 apply in accordance with this section to different items of machinery or plant—
- (a) those sections shall apply separately in relation to expenditure falling within paragraph (a) of subsection (1) above and to expenditure falling within paragraph (b) or (c) of that subsection; and
 - (b) if there is more than one item of machinery or plant falling within subsection (1)(a) above or within subsection (1)(b) or (c) or one item of machinery or plant falling within subsection (1)(b) and one falling within subsection (1)(c), those sections shall apply as if the separate trade for which each such item is treated as used were the same trade, and accordingly that trade shall not by virtue of subsection (2)(b) above be treated as permanently discontinued until all the items falling within subsection (1)(a) or subsection (1)(b) and (c) begin to be used wholly or partly for purposes other than those of the actual trade.
- (5) Where sections 24, 25 and 26 have effect in accordance with this section in respect of expenditure incurred by a person providing machinery or plant for the purposes of a trade, then, if the machinery or plant is disposed of by him to a person who is connected with him and the disposal is not on an occasion on which the trade is treated as continuing by virtue of section 113(2), 114(1) or 343(2) of the principal Act or section 77(1) of this Act—
- (a) the disposal value to be brought into account under sections 24, 25 and 26 in the case of the separate trade shall be of an amount equal to the price which the machinery or plant would have fetched on a sale at the same time in the open market or, if less, the capital expenditure incurred or treated as incurred on the provision of the machinery or plant by the person disposing of it; and
 - (b) the person acquiring it shall be treated for the purposes of this Part as having incurred on its provision expenditure equal to that disposal value.
- [^{F150}(6) This section does not apply—
- (a) to machinery or plant in relation to which sections 24, 25 and 26 apply in accordance with section 34, 79 or 80; or
 - (b) to machinery or plant the expenditure on which is expenditure to which Chapter IVA of this Part applies.]

Textual Amendments

F149 Words repealed by [Finance Act 1990 \(c. 29\)](#), ss. 103(1)(2), 132, [Sch. 17 para. 9](#), [Sch. 19 Pt. V](#), Note 6

F150 S. 41(6) substituted (with application in accordance with [Sch. 14 para. 10](#) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 14 para. 4](#)

42 Assets leased outside the United Kingdom.

- (1) This section has effect with respect to expenditure on the provision of machinery or plant for leasing where the machinery or plant is at any time in the requisite period used for the purpose of being leased to a person who—
- (a) is not resident in the United Kingdom, and

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- ^{F151}[(b) does not use the machinery or plant exclusively for earning such ^{F152}profits] as are chargeable to tax (whether as ^{F152}profits] arising from a trade carried on in the United Kingdom or by virtue of section 830(4) of the principal Act),] and where the leasing is neither short-term leasing nor the leasing of a ship, aircraft or transport container which is used for a qualifying purpose by virtue of section 39(6) to (9).
- (2) In their application to expenditure falling within subsection (1) above ^{F153}which is not expenditure to which Chapter IVA of this Part applies], sections 24, 25 and 26 as they have effect—
- (a) in accordance with section 41, or
 - (b) in accordance with section 80, or
 - (c) in accordance with section 34, or
 - (d) with respect to any motor car to which section 35(1) applies, or
 - (e) with respect to machinery or plant to which section 61 applies,
- shall have effect, subject to subsection (3) below, as if the reference in section 24(2) to 25 per cent. were a reference to 10 per cent.
- (3) No balancing allowances or writing-down allowances shall be available in respect of expenditure falling within subsection (1) above if the circumstances are such that the machinery or plant in question is used otherwise than for a qualifying purpose and—
- (a) there is a period of more than one year between the dates on which any two consecutive payments become due under the lease; or
 - (b) any payments other than periodical payments are due under the lease or under any agreement which might reasonably be construed as being collateral to the lease; or
 - (c) disregarding variations made under the terms of the lease which are attributable to—
 - (i) changes in the rate of corporation tax or income tax, or
 - (ii) changes in the rate of capital allowances, or
 - (iii) changes in any rate of interest where the changes are linked to changes in the rate of interest applicable to inter-bank loans, or
 - (iv) changes in the premiums charged for insurance of any description by a person who is not connected with the lessor or the lessee,
 any of the payments due under the lease or under any such agreement as is referred to in paragraph (b) above, expressed as monthly amounts over the period for which that payment is due, is not the same as any other such payment expressed in the same way; or
 - (d) either the lease is expressed to be for a period which exceeds 13 years or there is, in the lease or in a separate agreement, provision for extending or renewing the lease or for the grant of a new lease so that, by virtue of that provision, the machinery or plant could be leased for a period which exceeds 13 years; or
 - (e) at any time the lessor or a person connected with him will, or may in certain circumstances, become entitled to receive from the lessee or any other person a payment, other than a payment of insurance moneys, which is of an amount determined before the expiry of the lease and which is referable to a value of the machinery or plant at or after that expiry (whether or not the payment relates to a disposal of the machinery or plant).
- (4) Where a balancing allowance or a writing-down allowance has been made in respect of expenditure incurred in providing machinery or plant and, at any time in the requisite

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period, an event occurs such that, by virtue of subsection (3) above, there is no right to that allowance, an amount equal to any such allowance which has previously been given (less any excess reliefs previously recovered by the operation of section 46) shall, in relation to the person to whom the machinery or plant belongs immediately before the occurrence of that event, be treated as if it were a balancing charge to be made on him for the chargeable period in which, ^{F43}... , the machinery or plant is used at the time that event occurs.

- (5) For the purposes of subsection (4) above, the allowances that have been made in respect of expenditure on any item of machinery or plant shall be determined as if that item were the only item of machinery or plant in respect of which sections 24, 25 and 26 had effect.
- (6) Subsection (7) below applies where—
- (a) by virtue of subsection (4) above any amount falls to be treated as if it were a balancing charge, and
 - (b) the person on whom the balancing charge is, by virtue of subsection (4), to be made acquired the machinery or plant in question as a result of a transaction which was, or a series of transactions each of which was, between connected persons, and
 - (c) a first-year allowance, a balancing allowance or a writing-down allowance in respect of expenditure on the provision of that machinery or plant has been made to any of those persons;

except that it does not apply where section 113(2), 114(1) or 343(2) of the principal Act or section 77(1)(a) or (b) of this Act applied on the occasion of the transaction or transactions referred to in paragraph (b) above.

- (7) Where this subsection applies—
- (a) subsection (4) above shall have effect as if it referred to the allowances specified in subsection (6)(c) above; and
 - (b) for the purposes of subsection (4) any consideration paid or received on a disposal of the machinery or plant between connected persons shall be disregarded; and
 - (c) if a balancing allowance or balancing charge is made in respect of the machinery or plant, there shall be made such adjustments of the relief falling to be taken into account by virtue of paragraph (a) above as are just and reasonable in the circumstances.
- (8) For the purposes of the application of this section to old expenditure, this section shall have effect subject to the following modifications—
- (a) in subsection (1) for the words from “neither” to the end there shall be substituted the words “not short-term leasing”;
 - (b) subsection (4) above shall have effect as if—
 - (i) it included a reference to a first-year allowance made in respect of old expenditure, and, for this purpose, subsection (3) above shall be deemed to include a reference to first-year allowances; and
 - (ii) for the reference to section 46 there were substituted a reference to section 47; and
 - (c) subsection (5) shall be omitted.

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- ^{F154}[(9) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue only of [^{F155}one or more of subsections (3B), (3C), (3CA) and (3D)] of that section, this section shall have effect—
- (a) as if subsection (4) above included a reference to a first-year allowance made in respect of that expenditure; and
 - (b) for the purposes of paragraph (a) above, as if the reference in that subsection to an event occurring such that there is no right to that allowance included a reference to an event occurring such that, if subsection (3) included a reference to first-year allowances, there would be no such right.]

Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F151** S. 42(1)(b) substituted (27.7.1993 with effect as mentioned in s. 116(4) of the amending Act) by [1993 c. 34, s. 116\(2\)\(4\)](#)
- F152** Word in s. 42(1)(b) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\), Sch. 7 para. 4](#)
- F153** Words in s. 42(2) inserted (with application in accordance with Sch. 14 para. 10 of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 14 para. 5](#)
- F154** S. 42(9) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by [1993 c. 34, s. 115, Sch. 13 para.6](#)
- F155** Words in s. 42(9) substituted (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 85\(4\)](#)

43 Joint lessees: new expenditure.

- (1) [^{F156}Subsections (2) and (3) below] shall have effect in any case where machinery or plant is leased to two or more persons jointly and—
 - (a) at least one of them is a person falling within section 42(1)(a) and (b); and
 - (b) the leasing is not permitted leasing; and
 - (c) the expenditure in question is new expenditure.
- (2) If at any time when the machinery or plant is leased as mentioned in subsection (1) above the lessees use the machinery or plant for the purposes of a trade or trades, otherwise than for leasing, the expenditure on the provision of the machinery or plant shall be treated as not falling within section 42(1) if and to the extent to which it appears that the [^{F157}profits] of the trade or trades arising throughout the requisite period (or the period of the lease, if shorter) will be chargeable to income tax or corporation tax.
- (3) Where, by virtue of subsection (2) above, part only of the expenditure on the provision of any machinery or plant is treated as not falling within section 42(1), then, whether or not the machinery or plant continues to be leased as mentioned in subsection (1) above, sections 24, 25, 26, [^{F158}38E,] 41 and 42 shall have effect as if—
 - (a) that part were expenditure on the provision of a separate item of machinery or plant; and
 - (b) the remainder were expenditure (falling within section 42(1)) on the provision of another item of machinery or plant used otherwise than for a qualifying purpose;

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and there shall be made all such apportionments as are necessary in consequence of this subsection.

^{F159}[(4) Section 22(6A)(a) shall not prevent a first-year allowance being made in respect of expenditure incurred by any person on the provision of machinery or plant for leasing where it appears that—

(a) the machinery or plant will be leased as mentioned in subsection (1) above; and

(b) the circumstances are such that subsection (2) above will require the whole or any part of the expenditure to be treated as not falling within section 42(1);

and any first-year allowance made by virtue of this subsection in respect of that expenditure shall be made on the same assumptions and subject to the same apportionments (if any) as it appears would, by virtue of subsection (3) above, be applicable in the case of a writing-down allowance.]

[^{F160}(5) Any first-year allowance made in respect of expenditure to which section 22 applies by virtue only of subsection (3C)[^{F161}, (3CA) or (3D)] of that section shall be made on the same assumptions and subject to the same apportionments (if any) as it appears would, by virtue of subsection (3) above, be applicable in the case of a writing-down allowance.]

Textual Amendments

F156 Words in s. 43(1) substituted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 115, **Sch. 13 para. 7(1)**

F157 Word in s. 43(2) substituted (31.7.1998) by **Finance Act 1998 (c. 36), s. 46(3)(a), Sch. 7 para. 4**

F158 Word in s. 43(3) inserted (with application in accordance with Sch. 14 para. 10 of the amending Act) by **Finance Act 1997 (c. 16), Sch. 14 para. 6**

F159 S. 43(4) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 115, **Sch. 13 para. 7(2)**

F160 S. 43(5) added (with effect in accordance with s. 42(9) of the amending Act) by **Finance (No. 2) Act 1997 (c. 58), s. 42(8)**

F161 Words in s. 43(5) inserted (with effect in accordance with s. 85(9) of the amending Act) by **Finance Act 1998 (c. 36), s. 85(7)**

44 Further provisions relating to joint lessees in cases involving new expenditure.

(1) Without prejudice to the operation of section 46, this section shall have effect where new expenditure is incurred on the provision of machinery or plant which is leased as mentioned in section 43(1).

(2) Where, by virtue of section 43(2), the whole or part of the new expenditure has qualified for a normal writing-down allowance and, at any time in the requisite period while it is leased as mentioned in that subsection—

(a) no lessee uses the machinery or plant for the purposes of a trade or trades the [^{F162}profits] of which are chargeable to income tax or corporation tax, and

(b) section 42(4) does not apply at that time and has not applied at any earlier time, sections 46 and 48(2) shall have effect as if the separate item of machinery or plant referred to in section 43(3)(a) had at that time begun to be used for the purpose of being leased to a non-resident, otherwise than by permitted leasing.

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- (3) Where the whole or part of any new expenditure has qualified for a normal writing-down allowance and the machinery or plant is subsequently leased in the requisite period as mentioned in section 43(1), subsection (2) above shall apply as if the whole of the expenditure had qualified for a normal writing-down allowance by virtue only of section 43(2).
- (4) Where, by virtue of section 43(2), the whole or part of the new expenditure has qualified for a normal writing-down allowance and, at the end of the requisite period, the machinery or plant in question is leased as mentioned in section 43(1) but subsection (2) above has not had effect, then, if it appears that the extent to which the machinery or plant has been used for the purposes of such a trade or trades as are referred to in subsection (2) above is less than that which was taken into account in determining the amount of the new expenditure which qualified for a normal writing-down allowance—
- (a) section 46 shall have effect as if a part of the expenditure corresponding to the reduction in the extent of such use were expenditure on the provision of a separate item of machinery or plant used for the purpose of leasing to a non-resident, otherwise than by permitted leasing, on the last day of the requisite period; and
 - (b) any disposal value subsequently brought into account in respect of the machinery or plant under section 24 shall, instead of being apportioned in accordance with section 43(3), be apportioned by reference to the extent of such use as determined at the end of that period.
- ^{F163}[(5) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B)^{F164}, (3C), (3CA) or (3D)] of that section, this section shall have effect as if—
- (a) references to section 43(2) included references to section 43(4);
 - (b) references to a normal writing-down allowance included references to a first-year allowance; and
 - (c) the reference in subsection (2) above to the separate item of machinery or plant referred to in section 43(3)(a) were, in relation to a first-year allowance, a reference to the machinery or plant in respect of which, in accordance with section 43(4), that allowance is or is treated as made.]

Textual Amendments

F162 Word in s. 44(2)(a) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a), [Sch. 7 para. 4](#)

F163 S. 44(5) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by [1993 c. 34](#), s. 115, [Sch. 13 para. 8](#)

F164 Words in s. 44(5) substituted (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 85(5)

45 Joint lessees: old expenditure.

- (1) Sections 22(4)(c), 23, 39, 40, 41 and 47 shall have effect in accordance with this section where the expenditure in question is not new expenditure and the machinery or plant is leased to two or more persons jointly.
- (2) Section 39(2)(a) shall not apply at any time when the machinery or plant is leased to two or more persons jointly but if the lessees use the machinery or plant for the

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purposes of a trade or trades, otherwise than for leasing, it shall be regarded as used for a qualifying purpose if and to the extent to which it appears that the [^{F165}profits] of the trade or trades arising throughout the requisite period (or the period of the lease, if shorter) will be chargeable to income tax or corporation tax.

- (3) Where, by virtue of subsection (2) above, a first-year allowance may be made in respect of part only of the expenditure on the provision of any machinery or plant, then, whether or not the machinery or plant continues to be leased to two or more persons jointly, sections 24, 25, 26, 41 and 47 shall have effect as if—
- (a) that part were expenditure on the provision of a separate item of machinery or plant; and
 - (b) the remainder were expenditure on the provision of another item of machinery or plant;
- and there shall be made all such apportionments as are necessary in consequence of this subsection.
- (4) Where by virtue of subsection (2) above a first-year allowance has been made in respect of the whole or part of the expenditure on the provision of any machinery or plant and at any time in the requisite period while it is leased as mentioned in subsection (1) above no lessee uses it for the purpose of a trade or trades the [^{F166}profits] of which are chargeable to income tax or corporation tax, section 47 shall have effect as if the machinery or plant or, as the case may be, the separate item referred to in subsection (3)(a) above had at that time been used otherwise than for a qualifying purpose.
- (5) Where by virtue of subsection (2) above a first-year allowance has been made in respect of the whole or part of the expenditure on the provision of any machinery or plant and at the end of the requisite period the machinery or plant is leased as mentioned in subsection (1) above but subsection (4) has not had effect, then, if it appears that the extent to which the machinery or plant has been used for the purposes of a trade or trades the [^{F167}profits] of which are chargeable to income tax or corporation tax is less than that by reference to which the amount of the first-year allowance was determined—
- (a) section 47 shall have effect as if a part of the expenditure corresponding to the reduction in the extent of such use were expenditure on the provision of a separate item of machinery or plant used otherwise than for a qualifying purpose on the last day of that period;
 - (b) any disposal value subsequently brought into account in respect of the machinery or plant under section 24 shall, instead of being apportioned in accordance with subsection (3) above, be apportioned by reference to the extent of such use as determined at the end of that period.
- (6) Where a first-year allowance has been made in respect of expenditure on the provision of machinery or plant otherwise than by virtue of subsection (2) above and the machinery or plant is subsequently leased in the requisite period to two or more persons jointly, subsections (4) and (5) above shall apply as if the first-year allowance had been made by virtue of subsection (2) above and had been so made in respect of the whole expenditure.
- (7) Where the machinery or plant is leased to two or more persons jointly and at least one of the joint lessees is a person falling within section 42(1)(a) and (b) (“a non-resident lessee”)—

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- (a) any reference in subsections (2) to (6) above to the requisite period shall be construed in accordance with section 40(4)(b)(ii) whether or not there is also a joint lessee who is not a non-resident lessee;
- (b) if the circumstances are such that no first-year allowance has been or may be made in respect of any part of the expenditure on the provision of the machinery or plant in question, section 42 shall apply in relation to that expenditure as if all the joint lessees were non-resident lessees; and
- (c) if, by virtue of subsections (3), (4) or (5) above, sections 24, 25 and 26 have effect (directly or through the operation of section 47) in relation to the whole or any part of the expenditure on the machinery or plant in question, those sections shall have effect, in accordance with section 42(2), as if that expenditure were expenditure falling within section 42(1).

Textual Amendments

F165 Word in s. 45(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a), [Sch. 7 para. 4](#)

F166 Word in s. 45(4) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a), [Sch. 7 para. 4](#)

F167 Word in s. 45(5) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a), [Sch. 7 para. 4](#)

46 Recovery of excess relief: new expenditure.

- (1) Where new expenditure incurred by any person in providing machinery or plant has qualified for a normal writing-down allowance and the machinery or plant is at any time in the requisite period used for the purpose of being leased to a non-resident, otherwise than by permitted leasing—
 - (a) an amount equal to the excess relief shall, in relation to the person to whom the machinery or plant then belongs, be treated as if it were a balancing charge to be made on him for the chargeable period in which, ^{F43}... , the machinery or plant is first so used; and
 - (b) for the purposes of sections 24, 25 and 26 (as they have effect with respect to expenditure which does not fall within section 42(1)), an amount equal to the unused expenditure shall, in relation to that person, be treated as if it were a disposal value to be brought into account for the chargeable period referred to in paragraph (a) above; and
 - (c) sections 24, 25 and 26 (as they have effect as mentioned in paragraphs (a) to (e) of section 42(2)) shall apply as if a sum equal to the aggregate of the amounts in paragraphs (a) and (b) above were qualifying expenditure of that person for the next chargeable period and, for the purpose of subsequently bringing any disposal value into account, as if the machinery or plant had always been used for the purposes of the separate trade.
- (2) The excess relief is the excess, if any, of—
 - (a) any normal writing-down allowances made in respect of the new expenditure for the chargeable period related to the incurring of the expenditure and any subsequent chargeable period up to and including that mentioned in subsection (1)(a) above, over
 - (b) the maximum writing-down allowance or allowances that could have been made in respect of the expenditure for those chargeable periods if no normal writing-down allowance had been or could have been made.

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- (3) The unused expenditure is the amount by which the new expenditure incurred in providing the machinery or plant exceeds the allowances referred to in subsection (2) (a) above.
- (4) For the purposes of subsection (2) above, the normal writing-down allowances that were made in respect of new expenditure on any item of machinery or plant shall be determined as if that item were the only item of machinery or plant in relation to which sections 24, 25 and 26 had effect.
- (5) Where the person to whom any machinery or plant belongs at a time when it is first used for the purpose of being leased to a non-resident, otherwise than by permitted leasing, has acquired it as a result of a transaction which was, or a series of transactions each of which was, between connected persons and a normal writing-down allowance in respect of expenditure on the provision of the machinery or plant has been made to any of those persons—
- (a) subsection (2) above shall have effect as if it referred to that allowance and to the expenditure in respect of which it was made;
 - (b) for the purposes of subsection (2) any consideration paid or received on a disposal of the machinery or plant between connected persons shall be disregarded; and
 - (c) if a balancing allowance or balancing charge is made in respect of the machinery or plant there shall be made such adjustments of the total relief falling to be taken into account under paragraph (a) of that subsection as are just and reasonable in the circumstances;
- but this subsection does not apply where section 113(2), 114(1) or 343(2) of the principal Act or section 77 of this Act applied on the occasion of the transaction or transactions in question.
- (6) Where the person to whom any machinery or plant belongs at such a time as is mentioned in subsection (5) above acquired it as there mentioned and—
- (a) new expenditure incurred on the provision of the machinery or plant by any of the connected persons would have qualified for a normal writing-down allowance but such an allowance was not claimed^{F168} ... ; and
 - (b) a balancing allowance is made to any of those persons in respect of that expenditure,
- this section shall with the necessary modifications apply as it applies where a normal writing-down allowance has been made.
- (7) If at any time in the requisite period a ship is used for the purpose of being leased to a non-resident otherwise than by permitted leasing, then, without prejudice to subsections (1) to (6) above—
- (a) no allowance shall be made in respect of it under section 31(4)(c) for the chargeable period in which it is first so used or for any subsequent chargeable period;
 - (b) nothing in section 31(7) shall affect the operation of subsection (1) above;
 - (c) sections 24, 25 and 26 (as they have effect in accordance with [^{F169}whichever of sections 38E and 41 is applicable]) shall apply as if the amount of any allowance in respect of the ship which has been postponed under section 31 and not made were qualifying expenditure for the next chargeable period after that in which the ship is first so used.

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- ^{F170}[(8) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B)^{F171}, (3C), (3CA) or (3D)] of that section, this section shall have effect as if—
- (a) in subsection (1) above, after “qualified for a” there were inserted “first-year allowance or any”;
 - (b) in subsection (2) above—
 - (i) in paragraph (a), at the beginning there were inserted “the aggregate of any first-year allowance and”; and
 - (ii) in paragraph (b), after the word “no” there were inserted “first-year allowance or”;
 - (c) in subsection (5) above—
 - (i) after “and a” there were inserted “first-year allowance or”; and
 - (ii) in paragraph (a), for the words from “it referred” to the end of the paragraph there were substituted “that allowance were such a first-year allowance or, as the case may be, normal writing-down allowance as is referred to in paragraph (a) of that subsection and the references to the expenditure in respect of which an allowance is made were construed accordingly;”
 - (d) in subsection (6) above—
 - (i) in paragraph (a), after “for a” there were inserted “first-year allowance or”; and
 - (ii) in the words after paragraph (b), for “a normal writing-down allowance has been made” there were substituted “the allowance that has been made is a first-year allowance or normal writing-down allowance”;
- and
- (e) in subsection (7) above—
 - (i) in paragraph (a), after “section” there were inserted “30(2)(c) or”; and
 - (ii) for “section 31” there were substituted “section 30 or 31”.]

Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F168** Words repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 10, Sch. 19 Pt. V](#), Note 6
- F169** Words in s. 46(7)(c) substituted (with application in accordance with Sch. 14 para. 10 of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 14 para. 7](#)
- F170** S. 46(8) inserted (27.7.1993 with effect as mentioned in [s. 115\(5\)](#) of the amending Act) by [1993 c. 34, s. 115, Sch. 13 para. 9](#)
- F171** Words in s. 46(8) substituted (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 85\(5\)](#)

47 Recovery of excess relief: old expenditure.

- (1) Where a first-year allowance has been made in respect of expenditure incurred in providing machinery or plant and the machinery or plant is at any time in the requisite period used otherwise than for a qualifying purpose—

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (a) an amount equal to the excess relief shall, in relation to the person to whom the machinery or plant then belongs, be treated as if it were a balancing charge to be made on him for the chargeable period in which, ^{F43}... , the machinery or plant is first so used; and
 - (b) sections 24, 25 and 26 (as they have effect in accordance with section 41(1)(b)) shall apply as if that amount were qualifying expenditure of that person for the next chargeable period and, for the purpose of bringing any disposal value into account, as if the machinery or plant had always been used for the purposes of the separate trade.
- (2) The excess relief is the excess, if any, of—
- (a) the first-year allowance made in respect of the expenditure and any writing-down allowance or allowances made in respect of it for the chargeable period related to the incurring of the expenditure and any subsequent chargeable period up to and including that mentioned in subsection (1)(a) above, over
 - (b) the maximum writing-down allowance or allowances that could have been made in respect of the expenditure for those chargeable periods if the first-year allowance had not and could not have been made.
- (3) Where as a result of a requirement under section 22(7) an aggregate amount of first-year allowances in respect of different items of machinery or plant is reduced, there shall be treated for the purposes of subsection (2) above as having been made in respect of each item a reduction proportionate to the capital expenditure on the provision of that item.
- (4) For the purposes of subsection (2) above, the writing-down allowance or allowances that were made or would have been made in respect of any item of machinery or plant shall be determined as if that item were the only item of machinery or plant in relation to which sections 24, 25 and 26 had effect.
- (5) Where the person to whom any machinery or plant belongs at a time when it is first used otherwise than for a qualifying purpose has acquired it as a result of a transaction which was, or a series of transactions each of which was, between connected persons and a first-year allowance in respect of expenditure on the provision of the machinery or plant has been made to any of those persons—
- (a) subsection (2) above shall have effect as if it referred to that first-year allowance and to the expenditure in respect of which it was made;
 - (b) for the purposes of that subsection any consideration paid or received on a disposal of the machinery or plant between connected persons shall be disregarded; and
 - (c) if a balancing allowance or balancing charge is made in respect of the machinery or plant there shall be made such adjustments of the total relief falling to be taken into account under paragraph (a) of that subsection as are just and reasonable in the circumstances;
- but this subsection does not apply where section 113(2), 114(1) or 343(2) of the principal Act or section 77 of this Act applied on the occasion of the transaction or transactions in question.
- (6) Where the person to whom any machinery or plant belongs at such a time as is mentioned in subsection (5) above acquired it as there mentioned and—
- (a) a first-year allowance in respect of expenditure on the provision of the machinery or plant could have been made to any of the connected persons but was not claimed ^{F172}; and

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (b) a balancing allowance is made to any of those persons in respect of that expenditure,
 this section shall with the necessary modifications apply as it applies where a first-year allowance has been made.
- (7) If at any time in the requisite period a ship is used otherwise than for a qualifying purpose, then, without prejudice to subsections (1) to (6) above—
- (a) no allowance shall be made in respect of it under section 30(2)(c) for the chargeable period in which it is first so used or for any subsequent chargeable period;
 - (b) sections 24, 25 and 26 (as they have effect in accordance with section 41) shall apply as if the amount of any first-year allowance in respect of the ship which has been postponed under section 30 and not made were qualifying expenditure for the next chargeable period after that in which the ship is first so used.
- (8) In relation to old expenditure in relation to which section 42 has effect in accordance with subsection (8) of that section, this section shall have effect subject to the following modifications, that is to say—
- (a) any reference to machinery or plant, or to a ship, being used otherwise than for a qualifying purpose shall be construed as a reference to its being used for the purpose of being leased to such a person as is referred to in section 42(1) (a) and (b) and otherwise than for a qualifying purpose;
 - (b) any reference to a first-year allowance shall be construed as including a reference to a normal writing-down allowance;
 - (c) the reference in subsection (1)(b) above to sections 24, 25 and 26 as they have effect in accordance with section 41(1)(b) shall be construed as including a reference to those sections as they have effect as mentioned in section 42(2) (b) to (e);
 - (d) in determining the amount of any excess relief in a case where this section has previously applied, account shall be taken of the relief already recovered;
- and subsections (3) and (4) above shall apply in relation to the allowances mentioned in section 42(4) as they apply in relation to the allowances mentioned in subsection (2) above.
- (9) If section 66(7) of the ^{M9}Finance Act 1980 or subsection (7) above had already applied in relation to expenditure on a ship before section 70(1) of the ^{M10}Finance Act 1982 or section 42(1) of this Act applied to that expenditure, then, on the subsequent application of subsection (7) above by virtue of subsection (8)(a) above, subsection (7) (b) shall not again apply.
- (10) Subsections (7) to (9) above shall have effect in any case where the requisite period began before 27th July 1989 with the substitution for each reference to a ship of a reference to a new ship.

Textual Amendments

F43 Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)

F172 Words repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 11, Sch. 19 Pt. V](#), Note 6

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

Marginal Citations

M9 1980 c. 48.

M10 1982 c. 39.

48 Information relating to allowances made in respect of new expenditure.

- (1) Where new expenditure is incurred on the provision of machinery or plant and, before the expenditure has qualified for a normal writing-down allowance, it is used for leasing to a non-resident and that leasing is permitted leasing, a claim^{F173}... for a writing-down allowance which takes account of that expenditure^{F173}... shall be accompanied by a certificate to that effect, setting out the description of permitted leasing.
- (2) If, after any new expenditure has qualified for a normal writing-down allowance, the machinery or plant in question is at any time in the requisite period used for the purpose of being leased to a non-resident, otherwise than by permitted leasing, the person to whom it belongs at that time shall give notice of that fact to the inspector.
- (3) Subject to subsection (6) below, notice under subsection (2) above shall be given within three months after the end of the chargeable period^{F43}... in which the machinery or plant is first used for leasing to a non-resident otherwise than by permitted leasing.
- (4) A certificate or notice given by any person under subsection (1) or (2) above by reference to a chargeable period^{F43}... shall specify the non-resident to whom the machinery or plant has been leased and shall specify all the items of machinery or plant (if more than one) in respect of which the person in question is required to give a certificate or notice under this section by reference to that period.
- (5) Subject to subsection (6) below, where new expenditure is incurred on the provision of machinery or plant which is leased as mentioned in section 43(1), the lessor shall, within three months after the end of the chargeable period^{F43}... in which the machinery or plant is first so leased, give notice to the inspector specifying—
 - (a) the names and addresses of the persons to whom the asset is jointly leased;
 - (b) the portion of the new expenditure which is properly attributable to each of those persons; and
 - (c) so far as it is within his knowledge, which of those persons is resident in the United Kingdom.
- (6) If, at the end of the three months referred to in subsection (3) or (5) above, the person required to give a notice under that subsection does not know and cannot reasonably be expected to know that any item of machinery or plant in respect of which he is required to give such a notice has been used or leased as mentioned in the subsection in question, he shall in respect of that item give the notice within 30 days of his coming to know that it has been so used or leased.

^{F174}[(7) For the purposes of the application of this section to any expenditure to which section 22 applies by virtue of subsection (3B)^{F175}, (3C), (3CA) or (3D)] of that section, this section shall have effect as if the references in subsections (1) and (2) above to a normal writing-down allowance included references to a first-year allowance; but nothing in this subsection shall prevent subsection (1) above from continuing to apply where the use for permitted leasing is after the expenditure has qualified for one allowance and before it qualifies for another.]

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F173** Words repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 12, Sch. 19 Pt. V](#), Note 6
- F174** S. 48(7) inserted (27.7.1993 with effect as mentioned in [s. 115\(5\)](#) of the amending Act) by [1993 c. 34, s. 115, Sch. 13 para.10](#)
- F175** Words in [s. 48\(7\)](#) substituted (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 85\(5\)](#)

49 Information relating to allowances made in respect of old expenditure.

- (1) This section applies where a writing-down allowance (but no first-year allowance) has been made in respect of expenditure which is not new expenditure, and the amount of that allowance was determined without regard to section 42(2); and references below to an allowance are references to an allowance so determined.
- (2) Where a person ^{F176}... has claimed an allowance in respect of any expenditure ^{F176}... and the machinery or plant in question is at any time in the requisite period used for the purpose of being leased to such a person as is referred to in section 42(1)(a) and (b) otherwise than for a qualifying purpose, the person to whom it then belongs shall give notice of that fact to the inspector, specifying the use to which the machinery or plant has been put; and, subject to subsection (3) below, any such notice shall—
 - (a) be given within three months after the end of the chargeable period ^{F43}... in which the machinery or plant is first so used; and
 - (b) relate to all the items of machinery or plant (if more than one) in respect of which that person is required to give notice under this subsection in respect of that period.
- (3) If at the end of the three months mentioned in subsection (2)(a) above the person concerned does not know and cannot reasonably be expected to know that any item of machinery or plant in respect of which he is required to give such a notice has been used as mentioned in that subsection, he shall in respect of that item give the notice within 30 days of his coming to know that it has been so used.
- (4) Where an allowance has been made in respect of any expenditure, the inspector may by notice require—
 - (a) any person to whom the machinery or plant belongs or has belonged, or who is or has been in possession of it under a lease, during the requisite period; and
 - (b) the personal representatives of any such person,
 to furnish him, within such period (not being less than 30 days) as may be specified in the notice, with such information as he may require and the person to whom the notice is addressed has or can reasonably obtain about the leasing of the machinery or plant or the use to which it is being or has been put.

Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

F176 Words repealed by Finance Act 1990 (c. 29), ss. 103(1)(2), 132, Sch. 17 para. 13, Sch. 19 Pt. V, Note 6

50 Interpretation of Chapter V.

- (1) In this Chapter references to a lease include references to a sub-lease and references to a lessor or lessee shall be construed accordingly.
- (2) For the purposes of this Chapter, letting a ship on charter or any other asset on hire shall be regarded as leasing if, apart from this subsection, it would not be so regarded.
- (3) In this Chapter—

“new expenditure” means expenditure incurred after 31st March 1986 except any such expenditure which is old expenditure or which falls within section 41(1)(c);

“non-resident” means such a person as is referred to in section 42(1)(a) and (b);

“normal writing-down allowance” means a writing-down allowance of an amount determined without regard to ^{F177}sections 38F(1) and 42(2);

“old expenditure” means any of the following expenditure, that is to say,—

- (i) expenditure falling within section 22 ^{F178}other than expenditure to which that section applies by virtue only of ^{F179}one or more of subsections (3B), (3C), (3CA) and (3D)] of that section],
- (ii) expenditure incurred before 1st April 1986, and
- (iii) any other expenditure which by virtue of section 57(2) and (3) of the ^{M11}Finance Act 1986 was not new expenditure for the purposes of that section;

“permitted leasing” means short-term leasing or the leasing of a ship, aircraft or transport container which is used for a qualifying purpose by virtue of section 39(6) to (9);

“qualifying purpose” has the meaning given by section 39;

“requisite period” has the meaning given by section 40; and

“short-term leasing” has the meaning given by section 40.

^{F180}[(3A) References in this Chapter to profits or gains chargeable to tax shall not include any of those arising to a person who, under arrangements specified in an Order in Council making any such provisions as are referred to in section 788 of the principal Act (double taxation arrangements), is afforded, or is entitled to claim, any relief from the tax chargeable thereon.]

- (4) Where new expenditure has been incurred by any person, any reference in this Chapter to the new expenditure having qualified for a normal writing-down allowance is a reference to the expenditure having fallen to be included, in whole or in part, in that person’s qualifying expenditure for any chargeable period for the purposes of subsections (2) to (5) of section 24, as that section has effect with respect to expenditure which does not fall within section 42(1).

^{F181}[(4A) In the case of expenditure to which section 22 applies by virtue only of ^{F182}one or more of subsections (3B), (3C), (3CA) and (3D)] of that section, any reference in this Chapter to the expenditure having qualified for a first-year allowance is a reference to such an allowance having fallen to be made in respect of the whole or any part of that expenditure.]

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (5) Without prejudice to section 27, references in this Chapter to the use of machinery or plant for the purposes of a trade include references to its use for any purpose in connection with which a writing-down allowance can be given by virtue of that section.
- (6) Section 839 of the principal Act shall apply for the purposes of this Chapter.

Textual Amendments

- F177** Words in s. 50(3) substituted (with application in accordance with Sch. 14 para. 10 of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 14 para. 8](#)
- F178** Words in definition of “old expenditure” in s. 50(3)(i) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by [1993 c. 34, s. 115](#), [Sch. 13 para. 11\(1\)](#)
- F179** Words in s. 50(3) substituted (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 85\(4\)](#)
- F180** S. 50(3A) inserted (27.7.1993 with effect as mentioned in s. 116(4) of the amending Act) by [1993 c. 34, s. 116\(3\)\(4\)](#)
- F181** S. 50(4A) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by [1993 c. 34, s. 115](#), [Sch. 13 para. 11\(2\)](#)
- F182** Words in s. 50(4A) substituted (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 85\(4\)](#)

Marginal Citations

- M11** [1986 c. 41](#).

CHAPTER VI

FIXTURES

51 Application and interpretation of Chapter VI.

- (1) [^{F183}This Chapter applies to determine entitlement to allowances under this Part in respect of expenditure on the provision of machinery or plant that is, or becomes, a fixture]; and at any time when, by virtue of this Chapter, any machinery or plant is treated as belonging to any person, no other person shall be entitled to such an allowance in respect of it.
- (2) In this Chapter—
- “equipment lessor”, “equipment lessee” and “equipment lease” have the meanings given by section 53;
- [^{F184}“fixture”, subject to subsection (2A) below, means machinery or plant that is so installed or otherwise fixed in or to a building or other description of land as to become, in law, part of that building or other land;]
- “interest in land” and “lease” shall be construed in accordance with subsection (3) below;
- “relevant land”, in relation to a fixture, means the building or other description of land of which the fixture becomes part;
- [^{F185}“return” means (subject to section 59C(10)) any return required to be made under the Taxes Management Act 1970 for income tax or corporation tax purposes.]

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Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

[^{F186}(2A) In this Chapter—

“fixture” includes any boiler, or water-filled radiator, installed in a building as part of a space or water heating system; and

“relevant land”, in relation to such a fixture, means the building in which it is so installed.]

(3) In this Chapter “interest in land” means—

- (a) the fee simple estate in the land or an agreement to acquire that estate;
- (b) in Scotland, the estate or interest of the proprietor of the *dominium utile* (or, in the case of property other than feudal property, of the owner) and any agreement to acquire such an estate or interest;
- (c) any leasehold estate in, or in Scotland lease of, the land (whether in the nature of a head-lease, sub-lease or under-lease) and any agreement to acquire such an estate or, in Scotland, lease;
- (d) an easement or servitude or any agreement to acquire an easement or servitude; and
- (e) a licence to occupy land;

and, except in the context of leasing machinery or plant, any reference in the following provisions of this Chapter to a lease is a reference to such a leasehold estate or, in Scotland, lease as is mentioned in paragraph (c) above or to such an agreement as is mentioned in that paragraph (and, in relation to such an agreement, the expression “grant” shall be construed accordingly).

(4) If an interest in land is conveyed or assigned by way of security and subject to a right of redemption, then, so long as such a right subsists, the interest held by the creditor shall be treated for the purpose of this Chapter as held by the person having that right.

(5) Any reference in this Chapter to a person being entitled to an allowance in respect of any capital expenditure incurred on the provision of a fixture is a reference to a case where—

- (a) that person is, for any chargeable period, entitled to a first-year allowance in respect of that expenditure; or
- (b) [^{F187}that person is entitled to have that expenditure] taken into account in determining his qualifying expenditure for a chargeable period for the purposes of section 24(2), (3) and (5) (whether or not an allowance is made to him for that period),

and any reference to a chargeable period for which a person is so entitled is a reference—

- (i) to the chargeable period referred to in paragraph (a) above; or
- (ii) to the chargeable period referred to in paragraph (b) above; or
- (iii) to any chargeable period which is subsequent to that referred to in paragraph (b) above but is not later than the chargeable period in which [^{F188}he would be required (disregarding section 24(7))] to bring the disposal value of the fixture concerned into account for the purposes mentioned in paragraph (b) above.

[^{F189}(5A) In this Chapter references to making a claim for an allowance in respect of any expenditure include references—

- (a) to making a return in which the expenditure is taken into account, as expenditure on the provision of a fixture, in determining a person’s qualifying expenditure for the purposes of section 24, and

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- (b) to giving notice of any such amendment of a return as provides for that expenditure to be so taken into account.]
- (6) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of this Chapter.
- [^{F190}(6A) Where a person who has made a return becomes aware that anything contained in that return has, after being made, become incorrect by reason of—
- (a) the making an election under section 59B, or
- (b) the operation, in his case, of section 56A(1), section 56B(1) or section 59C(3), he shall, within three months of first becoming so aware, give notice to an officer of the Board of the amendments that are necessitated in his return in the light of the matter of which he has become aware.]
- (7) Where any question arises as to whether any machinery or plant has become, in law, part of a building or other land and that question is material with respect to the liability to tax (for whatever period) of two or more persons, that question shall be determined, for the purposes of the tax of all those persons, by the Special Commissioners who shall determine the question in like manner as if it were an appeal, except that, for the purposes of the determination, all those persons shall be entitled to appear and be heard by, or to make representations in writing to, the Special Commissioners.
- [^{F191}(8) Nothing in this Chapter affects the entitlement of any person to an allowance by virtue of section 154 (allowances in respect of contributions to capital expenditure).]

Textual Amendments

- F183** Words in s. 51(1) substituted (retrospectively) by [Finance Act 2000 \(c. 17\), s. 78\(2\)\(6\)](#)
- F184** Words in s. 51(2) substituted (retrospectively) by [Finance Act 2000 \(c. 17\), s. 78\(3\)\(6\)](#)
- F185** Words in s. 51(2) inserted (with effect in accordance with Sch. 16 para. 2(6) of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 16 para. 2\(1\)](#)
- F186** S. 51(2A) inserted (retrospectively) by [Finance Act 2000 \(c. 17\), s. 78\(4\)\(6\)](#)
- F187** Words in s. 51(5)(b) substituted (with effect in accordance with Sch. 16 para. 2(6) of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 16 para. 2\(2\)\(a\)](#)
- F188** Words in s. 51(5)(iii) substituted (with effect in accordance with Sch. 16 para. 2(6) of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 16 para. 2\(2\)\(b\)](#)
- F189** S. 51(5A) inserted (with effect in accordance with Sch. 16 para. 2(6) of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 16 para. 2\(3\)](#)
- F190** S. 51(6A) inserted (with effect in accordance with Sch. 16 para. 2(6) of the amending Act) by [Finance Act 1997 \(c. 16\), Sch. 16 para. 2\(4\)](#) (with [Sch. 16 para. 2\(7\)](#))
- F191** S. 51(8) substituted (retrospectively) by [Finance Act 2000 \(c. 17\), s. 78\(5\)\(6\)](#)

52 Expenditure incurred by holder of interest in land.

- (1) Subject to subsection (2) below, in any case where—
- (a) a person incurs capital expenditure on the provision of machinery or plant [^{F192}for the purposes of a trade carried on by him], and
- (b) the machinery or plant becomes a fixture, and
- (c) at the time the machinery or plant becomes a fixture he has an interest in the relevant land,

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then, subject to sections 53 and 57, on and after that time the fixture shall be treated for the purposes of this Part as belonging to the person concerned in consequence of his incurring the expenditure.

- (2) If, in respect of the same fixture, there are two or more persons with different interests in the relevant land to whom, by virtue of subsection (1) above, the fixture would (apart from this subsection) be treated as belonging for the purposes of this Part, the only interest which shall be taken into account under that subsection is—
- (a) if one of the interests is an interest falling within section 51(3)(d), that interest;
 - (b) if paragraph (a) above does not apply but one of the interests is an interest falling within section 51(3)(e), that interest; and
 - (c) in any other case—
 - (i) except in Scotland, that interest which is not in reversion (at law or in equity and whether directly or indirectly) on any other interest in the relevant land which is held by any of the persons referred to above; and
 - (ii) in Scotland, that of whichever of those persons has, or last had, the right of use of the relevant land.

Textual Amendments

F192 Words in s. 52(1)(a) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by Finance Act 1998 (c. 36), s. 38(2)(3), **Sch. 5 para. 53** (with **Sch. 5 Pt. 4**)

53 Expenditure incurred by equipment lessor.

- (1) ^{F193}Subject to subsections (1A) to (1C) below,] in any case where—
- (a) a person (“the equipment lessor”) incurs capital expenditure on the provision of machinery or plant for leasing, and
 - (b) an agreement is entered into for the lease, directly or indirectly from the equipment lessor, of the machinery or plant (otherwise than as part of the relevant land) to another person (“the equipment lessee”) for the purposes of a trade ^{F194}which is or is to be] carried on by the equipment lessee ^{F195}... , and
 - ^{F196}(ba) that agreement is not an agreement for the lease of the machinery or plant for use in a dwelling-house, and
 - ^{F197}(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]]
 - (c) the machinery or plant becomes a fixture, and
 - (d) if the expenditure referred to in paragraph (a) above had been incurred by the equipment lessee, ^{F198}the equipment lessee would, by virtue of section 52, have been entitled to an allowance in respect of the expenditure, as expenditure incurred on the provision of that fixture, and]
 - (e) the equipment lessor and the equipment lessee elect that this section should apply,

then, subject to section 57, on and after the time at which the expenditure is incurred the fixture shall be treated for the purposes of this Part as belonging to the equipment lessor in consequence of his incurring the expenditure.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

[^{F199}(1A) Where the condition specified in paragraph (b) of subsection (1) above is satisfied in any case by reference to an agreement entered into for the purposes of a trade which the equipment lessee has not begun to carry on at the time of the agreement, that subsection shall have effect in that case as if the reference in the words after paragraph (e) to the time at which the expenditure is incurred were a reference to whichever is the later of that time and the time when the equipment lessee begins to carry on that trade.

(1B) Where the conditions set out in subsection (1C) below are satisfied in any case, subsection (1) above shall have effect in that case as if the following were omitted, that is to say—

- (a) in paragraph (b), the words from “for the purposes of” to [^{F200}“by the equipment lessee”]; and
- (b) paragraphs (bb) and (d).

(1C) Those conditions are as follows—

- (a) that the machinery or plant becomes a fixture by virtue of being fixed to land that is neither a building nor part of a building;
- (b) that the equipment lessee has an interest in that land at the time when he takes possession of the machinery or plant under the agreement for the lease of it;
- (c) that, under the terms of that agreement, the equipment lessor is entitled to sever the machinery or plant, at the end of the period for which it is leased, from the land to which it is fixed at that time;
- (d) that, under the terms of that agreement, the machinery or plant will belong to the equipment lessor on its severance from that land in accordance with that agreement;
- (e) that the nature of the machinery or plant and the way in which it is fixed to land are such that its use on one set of premises does not, to any material extent, prevent it from being used, once severed, for the same purposes on a different set of premises; and
- (f) that the agreement for the lease of the machinery or plant is such as falls, for the purposes of the accounts of equipment lessors who are companies incorporated in a part of the United Kingdom, to be treated, in accordance with normal accountancy practice, as an operating lease.]

(2) An election under this section shall be made by notice to [^{F201}an officer of the Board] given before the expiry of the period [^{F202}specified in subsection (2A) below]; but no election may be made under this section if the equipment lessor and the equipment lessee are connected with each other within the terms of section 839 of the principal Act.

[^{F203}(2A) The period mentioned in subsection (2) above is—

- (a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period related to the incurring of the expenditure referred to in subsection (1)(a) above;
- (b) for the purposes of corporation tax, the period of two years beginning at the end of the chargeable period related to the incurring of the expenditure referred to in subsection (1)(a) above.]

(3) Where an election has been made under this section with respect to a fixture, nothing in section 52 shall have the effect of treating the fixture for the purposes of this Part as belonging to the equipment lessee.

Status: Point in time view as at 12/01/2000.

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(4) In this Chapter “equipment lease” means such an agreement as is mentioned in subsection (1)(b) above or a lease entered into pursuant to such an agreement.

Textual Amendments

- F193** Words in s. 53(1) inserted (with effect in accordance with Sch. 16 para. 3(6) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 3(1)**
- F194** Words in s. 53(1)(b) inserted (with effect in accordance with Sch. 16 para. 3(6) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 3(2)**
- F195** Words in s. 53(1)(b) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), [Sch. 5 para. 54\(2\)](#), **Sch. 27 Pt. 3(4)** (with [Sch. 5 Pt. 4](#))
- F196** S. 53(1)(ba)(bb) inserted (with effect in accordance with Sch. 16 para. 3(7) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 3(3)**
- F197** S. 53(1)(bb) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), **Sch. 5 para. 54(3)** (with [Sch. 5 Pt. 4](#))
- F198** Words in s. 53(1)(d) substituted (with effect in accordance with Sch. 16 para. 3(7) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 3(4)**
- F199** S. 53(1A)-(1C) inserted (with effect in accordance with Sch. 16 para. 3(6) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 3(5)**
- F200** Words in s. 53(1B)(a) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), **Sch. 5 para. 54(4)** (with [Sch. 5 Pt. 4](#))
- F201** Words in s. 53(2) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 21 para. 31(2)(a)**
- F202** Words in s. 53(2) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 21 para. 31(2)(b)**
- F203** S. 53(2A) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 21 para. 31(3)**

Modifications etc. (not altering text)

- C50** S. 53(2) modified (for the year of assessment 1988-1989) by [S.I. 1991/851](#), [regs. 1, 9](#), **Sch.2**.
- C51** S. 53(2) modified (for the year of assessment 1989-1990) by [S.I. 1992/511](#), [regs. 1, 9](#), **Sch.2**.
- C52** S. 53(2) applied (with modifications) (for the year of assessment 1990-91) by [S.I. 1993/415](#), [reg. 9](#), **Sch.2**
- C53** S. 53(2) modified (for the year of assessment 1991-92) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), [regs. 1\(1\), 9](#), **Sch. 2**
- C54** S. 53(2) modified (for the years of assessment 1992-93 and 1993-94) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\), 14\(1\)](#), **Sch.**
- C55** S. 53(2) modified (for the year of assessment 1994-95) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\), 15\(1\)](#), **Sch.**

54 Expenditure included in consideration for acquisition of existing interest in land.

(1) In any case where—

- (a) after any machinery or plant has become a fixture, a person (“the purchaser”) acquires an interest in the relevant land, being an interest which was in existence prior to his acquisition of it, and
- (b) the consideration which the purchaser gives for that interest is or includes a capital sum which, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture, ^{F204} ...

^{F204}(c)

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

then, subject to [F205 the following provisions of this Chapter], on and after the purchaser's acquisition of his interest in the relevant land, the fixture shall be treated for the purposes of this Part as belonging to him in consequence of his incurring expenditure as mentioned in paragraph (b) above.

- (2) If, in a case where subsection (1)(a) above applies—
- (a) the machinery or plant was, prior to the purchaser's acquisition of the interest in the relevant land, let under an equipment lease, and
 - (b) in connection with the acquisition of the interest in the relevant land, the purchaser pays a capital sum to discharge the obligations of the equipment lessee under the equipment lease,
- subsection (1) above shall apply as if that capital sum were such a capital sum as is referred to in paragraph (b) of that subsection.

Textual Amendments

F204 S. 54(1)(c) and preceding word repealed (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 16 para. 4\(2\)\(a\)](#), [Sch. 18 Pt. 6\(12\)](#) (with [Sch. 16 para. 4\(5\)](#))

F205 Words in s. 54(1) substituted (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 16 para. 4\(2\)\(b\)](#)

Modifications etc. (not altering text)

C56 S. 54 modified (19.9.1994) by [Coal Industry Act 1994 \(c. 21\)](#), s. 68(4), [Sch. 4 para. 20\(3\)\(c\)](#); S.I. 1994/2189, art. 2, Sch.

55 Expenditure incurred by incoming lessee: transfer of allowances.

- (1) In any case where—
- (a) after any machinery or plant has become a fixture, a person ("the lessor") who has an interest in the relevant land grants a lease, and
 - (b) apart from section 57, the lessor would be entitled, for the chargeable period related to the grant of the lease, to an allowance in respect of expenditure incurred on the provision of the fixture, and
 - (c) the consideration which the lessee gives for the lease is or includes a capital sum which, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture, and
 - (d) the lessor and the lessee make an election under this section,
- then, subject to section 57, on and after the grant of the lease, the fixture shall be treated for the purposes of this Part as belonging to the lessee in consequence of his incurring expenditure as mentioned in paragraph (c) above.
- (2) In any case where the lessor is not within the charge to tax, it shall be assumed that he is within that charge for the purpose of determining whether the condition in subsection (1)(b) above is fulfilled.
- (3) An election under this section shall be made by notice to the inspector given within two years after the date on which the lease takes effect.
- (4) No election may be made under this section if—

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- (a) the lessor and the lessee are connected with each other within the terms of section 839 of the principal Act; ^{F206}...
- ^{F206}(b)

Textual Amendments

F206 S. 55(4)(b) and preceding word repealed (with effect in accordance with Sch. 18 Pt. 6(12) Notes 1, 3 of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 18 Pt. 6(12)**

Modifications etc. (not altering text)

- C57** S. 55(3) modified (for the year of assessment 1988-1989) by [S.I. 1991/851](#), regs. 1, 9, **Sch.2**.
- C58** S. 55(3) modified (for the year of assessment 1989-1990) by [S.I. 1992/511](#), regs. 1, 9, **Sch.2**.
- C59** S. 55(3) applied (with modifications) (for the year of assessment 1990–91) by [The Lloyd’s Underwriters \(Tax\) \(1990–91\) Regulations 1993 \(S.I. 1993/415\)](#), reg. 9, **Sch.2**
- C60** S. 55(3) modified (for the year of assessment 1991-92) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), regs. 1(1), 9, **Sch. 2**
- C61** S. 55(3) modified (for the years of assessment 1992-93 and 1993-94) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), 14(1), **Sch.**
- C62** S. 55(3) modified (for the year of assessment 1994-95) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), 15(1), **Sch.**
- C63** S. 55(4)(a) excluded (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 77, Sch. 17 paras. 5(5)(c), 7

56 Expenditure incurred by incoming lessee: lessor not entitled to allowances.

In any case where—

- (a) after any machinery or plant has become a fixture, a person (“the lessor”) who has an interest in the relevant land grants a lease, but section 55(1)(b) does not apply in his case, and
- (b) the consideration which the lessee gives for the lease is or includes a capital sum which, in whole or in part, falls to be treated for the purposes of this Part as expenditure on the provision of the fixture, and
- ^{F207}(c)
- (d) the fixture has not before [^{F208}the time of the grant of the lease] been used for the purposes of a trade by the lessor or any person connected with him within the terms of section 839 of the principal Act,

then, subject to [^{F209}the following provisions of this Chapter], on and after the grant of the lease, the fixture shall be treated for the purposes of this Part as belonging to the lessee in consequence of his incurring expenditure as mentioned in paragraph (b) above.

Textual Amendments

- F207** S. 56(c) repealed (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 16 para. 4\(3\)\(a\)](#), **Sch. 18 Pt. 6(12)** (with [Sch. 16 para. 4\(6\)](#))
- F208** Words in s. 56(d) substituted (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 4(3)(b)**
- F209** Words in s. 56 substituted (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 4(3)(c)**

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

[^{F210}56A Restriction on duplicate allowances under sections 54 and 56.

- (1) Where the relevant conditions are satisfied in relation to any case in which the provisions of section 54(1) or section 56 would (but for this section) be treated as applying, those provisions shall not apply in that case, and shall be treated as never having applied in that case.
- (2) The relevant conditions are as follows—
 - (a) that an interest in any land in which the whole or any part of the relevant land is comprised is held by any person immediately after the relevant time;
 - (b) that that interest is not the one which—
 - (i) in a case falling within section 54(1)(a), is acquired by the purchaser; or
 - (ii) in a case falling within section 56(a), is acquired by the lessee in consequence of the grant of the lease;
 - (c) that the person with that interest is a person falling to be treated for the purposes of this Part as a person to whom the fixture belonged immediately before the relevant time in consequence of the incurring by him of expenditure on the provision of the fixture;
 - (d) that that person does not fall to be so treated by virtue of section 154;
 - (e) that that person is entitled to an allowance in respect of that expenditure and makes or has made a claim for that allowance; and
 - (f) that the relevant time is on or after 24th July 1996.
- (3) In this section “the relevant time” means, as the case may be—
 - (a) the time when the purchaser acquires his interest in the relevant land; or
 - (b) the time of the grant of the lease.

Textual Amendments

F210 Ss. 56A-56D inserted (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by Finance Act 1997 (c. 16), **Sch. 16 para. 4(1)**

56B Fixtures on which a former owner had an allowance.

- (1) Where—
 - (a) any machinery or plant falls to be treated for the purposes of this Part as a fixture belonging to any person (“the new claimant”) in consequence of his incurring capital expenditure on the provision of that machinery or plant, and
 - (b) the requirements of subsection (2) below are satisfied in the case of that machinery or plant,

so much (if any) of that expenditure as exceeds the maximum allowable amount shall be disregarded for the purposes of this Part or, as the case may be, shall be taken to be expenditure that should never have been taken into account for those purposes.
- (2) The requirements of this subsection are satisfied in the case of any machinery or plant where—
 - (a) it falls or has fallen, otherwise than by virtue of section 154, to be treated as having belonged at a relevant earlier time to any person (“the prior claimant”) in consequence of his incurring expenditure (“the other expenditure”) which is not the expenditure mentioned in subsection (1)(a) above;

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- (b) the prior claimant, as a consequence of having made a claim for an allowance in respect of the other expenditure, is or has been required to bring a disposal value of the machinery or plant into account; and
 - (c) the event by reason of which that disposal value has been or is to be brought into account is an event occurring on or after 24th July 1996.
- (3) For the purposes of this section the new claimant and the prior claimant may be the same person.
- (4) Subject to subsection (5) below, the maximum allowable amount for the purposes of this section is the sum of—
- (a) the disposal value of the machinery or plant which the prior claimant has been or is required to bring into account; and
 - (b) so much (if any) of the expenditure mentioned in subsection (1)(a) above as is deemed by virtue of section 66 (installation costs) to be expenditure on the provision of the machinery or plant.
- (5) Subsection (4) above shall have effect where the requirements of subsection (2) above are satisfied by reference to more than one such event as is mentioned in subsection (2) (c) above as if they were satisfied by reference only to the most recent of those events.
- (6) In this section “a relevant earlier time” means a time which—
- (a) is before the time which is taken for the purposes of this Part to be the earliest time when the machinery or plant belonged to the new claimant in consequence of his incurring the expenditure mentioned in subsection (1)(a) above; and
 - (b) does not fall to be disregarded under subsection (7) below.
- (7) For the purposes of subsection (6) above a time must be disregarded if—
- (a) in consequence of any sale of the machinery or plant, it has ceased, at any time after that time and before the time mentioned in paragraph (a) of that subsection, to belong to any person;
 - (b) that person and the purchaser were not connected with each other, within the terms of section 839 of the principal Act, at the time of sale; and
 - (c) the sale was not a sale of the machinery or plant as a fixture.

Textual Amendments

F210 Ss. 56A-56D inserted (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by Finance Act 1997 (c. 16), **Sch. 16 para. 4(1)**

56C Fixtures on which an allowance has been given under Part I.

- (1) Where—
- (a) a person has at any time made a claim for an allowance to which he is entitled under Part I in respect of expenditure incurred on the construction of a building or structure,
 - (b) that expenditure was or included expenditure on the provision of machinery or plant,
 - (c) that person has made a transfer of the relevant interest in the building or structure (“the relevant transfer”),

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- (d) the person to whom the relevant transfer is made, or any person to whom for the purposes of this Part the machinery or plant is subsequently treated as belonging, makes a claim for an allowance under this Part, and
 - (e) that claim is for an allowance in respect of capital expenditure incurred, at a time on or after 24th July 1996 when it is a fixture in the building or structure, on the provision of the machinery or plant,
- the amount taken for the purposes of the claim mentioned in paragraph (d) above to have been incurred on the provision of the fixture shall not exceed the relevant amount.
- (2) In subsection (1) above “the relevant amount” means the amount equal, on the relevant assumption, to the portion of the consideration for the relevant transfer which would have been attributable to the fixture.
 - (3) The relevant assumption for the purposes of subsection (2) above is that the relevant transfer was a sale of the relevant interest in the building or structure for the amount which immediately after that transfer represented the residue of the expenditure incurred on the construction of the building or structure.
 - (4) Expressions used both in this section and in Part I have the same meanings in this section as in that Part.

Textual Amendments

F210 Ss. 56A-56D inserted (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 16 para. 4\(1\)](#)

56D Fixtures on which an allowance has been given under Part VII.

- (1) Where—
 - (a) a person has at any time made a claim for an allowance to which he is entitled under Part VII in respect of any allowable scientific research expenditure of a capital nature (“the Part VII expenditure”),
 - (b) the Part VII expenditure was or included expenditure on the provision of machinery or plant,
 - (c) an asset representing the whole or any part of the Part VII expenditure (“the Part VII asset”) has ceased, on any occasion, to belong to that person,
 - (d) the person who acquired the Part VII asset on that occasion, or any person to whom for the purposes of this Part the machinery or plant is subsequently treated as belonging, makes a claim for an allowance under this Part, and
 - (e) that claim is for an allowance in respect of capital expenditure incurred, at a time on or after 24th July 1996 when it is a fixture, on the provision of the machinery or plant,

the amount taken for the purposes of the claim mentioned in paragraph (d) above to have been incurred on the provision of the fixture shall not exceed the relevant amount.
- (2) In subsection (1) above “the relevant amount” means the amount equal, on the relevant assumption, to the portion of the consideration for the disposal of the Part VII asset which would have been attributable to the fixture.
- (3) The relevant assumption for the purposes of subsection (2) above is that the occasion mentioned in subsection (1)(c) above was a disposal of the Part VII asset for the amount equal to whichever is the smaller of—

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- (a) the disposal value of the asset on that occasion; and
 - (b) so much of the Part VII expenditure as related to the provision of the Part VII asset.
- (4) Expressions used both in subsection (1) above and in Part VII have the same meanings in that subsection as in that Part.]

Textual Amendments

F210 Ss. 56A-56D inserted (with effect in accordance with Sch. 16 para. 4(4) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 16 para. 4\(1\)](#)

57 Fixtures treated as ceasing to belong to particular persons.

- (1) The provisions of this section and section 58 are without prejudice to any other circumstances in which the disposal value of a fixture falls to be brought into account in accordance with section 24.
- (2) Subject to subsection (4) below, if at any time the person to whom a fixture is treated for the purposes of this Part as belonging by virtue of any of sections 52, 54, 55 and 56 ceases (whether by reason of the transfer, surrender or expiry of the interest or otherwise) to have the qualifying interest, the fixture shall be treated for those purposes as ceasing to belong to him at that time.
- (3) In this section and section 59 “the qualifying interest” means—
 - (a) where section 52 or 54 applies, the interest in the relevant land referred to in that section; and
 - (b) where section 55 or 56 applies, the lease referred to in that section;but if the qualifying interest is an agreement to acquire an interest in land and that interest in land is subsequently transferred or granted to the person referred to in subsection (2) above, the interest so transferred or granted shall be treated as the same interest as the qualifying interest.
- (4) For the purposes of subsection (2) above—
 - (a) if the qualifying interest ceases to exist by reason of its merger in another interest acquired by the person referred to in that subsection, that other interest shall be treated as the same interest as the qualifying interest;
 - (b) if the qualifying interest is a lease and, on its termination, a new lease of the relevant land (with or without other land) is granted to the lessee, the new lease shall be treated as the same interest as the qualifying interest;
 - (c) if the qualifying interest is a licence and, on its termination, a new licence to occupy the relevant land (with or without other land) is granted to the licensee, the new licence shall be treated as the same interest as the qualifying interest;
 - (d) if the qualifying interest is a lease and, with the consent of the lessor, the lessee remains in possession of the relevant land after the termination of the lease but without a new lease being granted to him, the qualifying interest shall be treated as continuing to subsist so long as the lessee remains in possession of the relevant land.
- (5) At the time at which, by virtue of section 55, the fixture concerned begins to be treated for the purposes of this Part as belonging to the lessee, it shall be treated for those purposes as ceasing to belong to the lessor (as defined in that section).

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- (6) Where, by virtue of subsection (2) above, on the termination of a lease or licence, a fixture is treated for the purposes of this Part as ceasing to belong to the outgoing lessee or licensee, it shall, on that termination, be treated for those purposes as beginning to belong to the person who, immediately before the termination, was the lessor under the lease or, as the case may be, the licensor under the licence.
- (7) If at any time a fixture is permanently severed from the relevant land (so that it ceases to be a fixture) and, immediately before that time, it was treated for the purposes of this Part as belonging to any person by virtue of any provision of sections 51 to 56, subsections (1) to (6) above or section 58(2) or (4), then, unless on its severance the fixture does in fact belong to that person, it shall be treated for those purposes as ceasing to belong to him at that time.

58 Equipment lessors: special provisions.

- (1) If, by virtue of an election under section 53, a fixture is treated for the purposes of this Part as belonging to the equipment lessor and either—
- (a) the equipment lessor at any time assigns his rights under an equipment lease, or
 - (b) the financial obligations of the equipment lessee under an equipment lease are at any time discharged, on the payment of a capital sum or otherwise,
- then, at that time (or, as the case may be, the earliest of those times) the fixture shall be treated for the purposes of this Part as ceasing to belong to the equipment lessor by reason of a sale by him of the fixture.
- (2) If subsection (1)(a) above applies, then, on and after the time of the assignment referred to in that paragraph, the fixture to which the agreement in question relates shall be treated for the purposes of this Part as belonging to the assignee and the consideration given by him for the assignment shall be treated for those purposes—
- (a) as the price received for the sale of the fixture by the assignor; and
 - (b) as expenditure incurred by the assignee on acquiring the fixture.
- (3) On and after an assignment falling within paragraph (a) of subsection (1) above, that subsection shall have effect as if the machinery or plant (as a fixture) were treated for the purposes of this Part as belonging to the assignee by virtue of an election under section 53 and, accordingly, as if the assignee were the equipment lessor, as defined in that section.
- (4) Where a capital sum is paid as mentioned in subsection (1)(b) above, that capital sum shall be treated for the purposes of this Part—
- (a) as the price received for the sale of the fixture by the equipment lessor; and
 - (b) if that capital sum is paid by the equipment lessee, as expenditure incurred by him on the provision of the fixture;
- and where paragraph (b) above applies, on and after the time of that payment, the fixture shall be treated for the purposes of this Part as belonging to the equipment lessee.
- (5) Where the financial obligations of the equipment lessee under an equipment lease have become vested in any other person (by assignment, operation of law or otherwise) any reference in subsection (1)(b) or (4) above to the equipment lessee shall be construed as a reference to the person in whom those obligations are for the time being vested when the capital sum is paid.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

59 Disposal value of fixtures in certain cases.

- (1) In any case where—
- (a) by virtue of section 57, a fixture is at any time treated for the purposes of this Part as ceasing to belong to any person (“the former owner”), and
 - (b) the qualifying interest continues in existence after that time (whether in the hands of the former owner or any other person) or would so continue but for its becoming merged in another interest, and
 - (c) the occasion of the fixture ceasing to belong to the former owner is not its permanent severance from the relevant land (whether on disposal, demolition, destruction or otherwise),
- the fixture shall be treated for the purposes of this Part as sold at that time by the former owner for a price determined [^{F211}(subject to sections 59A and 59B)] in accordance with subsections (2) to (6) below.
- (2) Subject to subsection (6) below, if the occasion of the fixture ceasing to belong to the former owner is the sale of the qualifying interest, the price referred to in subsection (1) above is that portion of the sale price of the qualifying interest which falls (or, if the purchaser were entitled to an allowance, would fall) to be treated for the purposes of this Part as expenditure incurred by the purchaser on the provision of the fixture.
- (3) If the fixture ceases to belong to the former owner by virtue of section 57(5), the price referred to in subsection (1) above is so much of the capital sum referred to in section 55(1)(c) as falls to be treated for the purposes of this Part as expenditure by the lessee on the provision of the fixture.
- (4) If neither subsection (2) nor subsection (3) above applies, the price referred to in subsection (1) above is that portion of the price which, on a sale of the qualifying interest in the open market, would fall to be treated for the purposes of this Part as expenditure by the purchaser on the provision of the fixture.
- (5) The sale referred to in subsection (4) above shall be assumed to take place immediately before the event which causes the fixture to be treated for the purposes of this Part as ceasing to belong to the former owner; but that event shall be disregarded in determining the open market price on that sale.
- (6) If the sale referred to in subsection (2) above is at a price lower than that which the qualifying interest would have fetched if sold in the open market, that subsection shall not apply unless the purchaser’s expenditure on the acquisition of the fixture can be taken into account as mentioned in section 26(1)(b)(i).
- (7) If the occasion of the fixture ceasing to belong to the former owner is the expiry of the qualifying interest, then, except in so far as the former owner receives any capital sum, by way of compensation or otherwise, by reference to the fixture, the disposal value of the fixture which falls to be brought into account under section 24 shall be nil.
- (8) In any case where—
- (a) the disposal value of a fixture falls to be brought into account in accordance with section 24 on the permanent discontinuance of the trade in circumstances where that value falls to be determined under paragraph (e) of subsection (1) of section 26; and
 - (b) before the occurrence of the later event referred to in that paragraph, the fixture is not permanently severed from the relevant land,

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that paragraph shall apply as if the reference therein to paragraphs (a) and (b) of that subsection were omitted; but if the event which follows the discontinuance of the trade is the sale of the qualifying interest, the disposal value of the fixture to be brought into account under those sections shall be that portion of the sale price referred to in subsection (2) above.

- (9) If the disposal value of the fixture falls to be brought into account in accordance with section 24 on its beginning to be used wholly or partly for purposes which are other than those of the trade, section 26(1)(f) shall apply as if the reference to the price which the machinery or plant would have fetched if sold on the open market were a reference to that portion of the price referred to in subsection (4) above.

^{F212}(10)

- (11) In relation to expenditure incurred before 27th July 1989, subsection (10) above shall have effect with the substitution for the words following “to the former owner” of the words “another person incurs expenditure on the provision of the fixture, there shall be disregarded so much (if any) of that expenditure as exceeds the disposal value which the former owner is required to bring into account in accordance with section 24”.

Textual Amendments

F211 Words in s. 59(1) inserted (with effect in accordance with Sch. 16 para. 5(3) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 5(1)**

F212 S. 59(10) repealed (with effect in accordance with Sch. 18 Pt. 6(12) Notes 1, 4 of the amending Act) by [Finance Act 1997 \(c. 16\)](#), **Sch. 18 Pt. 6(12)**

Modifications etc. (not altering text)

C64 S. 59 excluded (19.9.1994) by [Coal Industry Act 1994 \(c. 21\)](#), s. 68(4), **Sch. 4 para. 20(3)(a)**; S.I. 1994/2189, art. 2, Sch.

C65 S. 59(10) excluded (19.3.1997) by [Finance Act 1997 \(c. 16\)](#), **Sch. 16 para. 2(8)**

^{F213}**59A Disposal values in avoidance cases.**

- (1) If, in a case where machinery or plant has been treated by virtue of this Chapter as belonging to any person (“the charged person”) in consequence of his incurring any expenditure—
 - (a) an event occurs by reason of which a disposal value of that machinery or plant is to be brought into account by the charged person in accordance with section 24,
 - (b) the amount of the disposal value to be so brought into account would (but for this section) be less than the notional written-down value of the machinery or plant, and
 - (c) the event is comprised in, or occurs in pursuance of, any scheme or arrangement which has avoidance as its main object, or as one of its main objects,

this Part shall have effect in relation to the charged person as if the amount of the disposal value to be brought into account were equal to the notional written-down value of the machinery or plant.

- (2) In this section “the notional written-down value”, in relation to any machinery or plant, means the amount which, if—

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- (a) it were the disposal value falling to be brought into account as mentioned in subsection (1) above, and
 - (b) the assumptions set out in subsection (3) below were made,
- would give rise to neither a balancing allowance nor a balancing charge for the chargeable period for which that disposal value is to be brought into account.
- (3) Those assumptions are—
- (a) that expenditure on the provision of the machinery or plant were the only expenditure ever taken into account in determining the charged person's qualifying expenditure for the purposes of section 24; and
 - (b) that the full amount of every allowance to which that person was entitled in respect of that expenditure had been made to him.
- (4) The reference in subsection (1) above to avoidance is a reference to—
- (a) the obtaining under this Part for the charged person of an allowance or deduction or of a greater allowance or deduction, or
 - (b) the avoidance or reduction of a charge under this Part on the charged person.]

Textual Amendments

F213 S. 59A inserted (with effect in accordance with Sch. 16 para. 5(3) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 16 para. 5\(2\)](#)

[^{F214}59B Election to use alternative apportionment.

- (1) This section applies where, in a case in which a disposal value of a fixture is required to be brought into account by the former owner, the price referred to in subsection (1) of section 59 falls to be determined in accordance with subsection (2) or (3) of that section.
- (2) Subject to sections 56C, 56D and 59A and to the following provisions of this section, the purchaser and the former owner may jointly, by an election under this section, fix the amount which, for all the purposes of this Part, is to be taken—
 - (a) in a case to which subsection (2) of section 59 applies, to be the portion of the sale price referred to in that subsection; or
 - (b) in a case to which subsection (3) of that section applies, to be the portion of the capital sum referred to in section 55(1)(c) that falls to be treated as expenditure by the purchaser on the provision of the fixture.
- (3) The amount fixed by an election under this section shall not exceed either of the following amounts, that is to say—
 - (a) the amount of the capital expenditure which was taken for the purposes of this Part to have been incurred by the former owner on the provision of the fixture or of the machinery or plant which became the fixture; and
 - (b) the actual amount of the sale price or capital sum referred to in section 59(2) or, as the case may be, section 55(1)(c).
- (4) Where the portion of any amount which is to be taken as attributable to the provision of a fixture is fixed by an election under this section—

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- (a) the remainder (if any) of that amount shall be taken for the purposes of this Act to be expenditure attributable to the acquisition of the property which is not the fixture but is acquired for that amount;
 - (b) if there is no remainder, the expenditure so attributable shall be taken for those purposes to be nil.
- (5) An apportionment by virtue of an election under this section shall have effect in place of any apportionment that would otherwise be made under section 150.
- (6) In this section—
- “the former owner” shall be construed in accordance with subsection (1) of section 59; and
 - “the purchaser” means the purchaser or lessee referred to in subsection (2) or, as the case may be, subsection (3) of that section.

Textual Amendments

F214 Ss. 59B, 59C inserted (with effect in accordance with Sch. 16 para. 6(2) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 16 para. 6\(1\)](#)

59C Elections under section 59B: supplemental.

- (1) A section 59B election must be made by notice given to an officer of the Board.
- (2) A notice containing a section 59B election (in addition to specifying the amount fixed by the election) must contain the following information—
 - (a) the name of each of the persons making the election;
 - (b) information sufficient to identify the machinery or plant;
 - (c) information sufficient to identify the relevant land;
 - (d) particulars of the interest acquired by the purchaser or, as the case may be, of the lease granted to him; and
 - (e) the tax district references of each of the persons making the election.
- (3) The amount specified as the amount fixed by a section 59B election must be quantified at the time when the election is made; but if, as a result of circumstances arising after the making of the election, the maximum amount which could be fixed by the election is reduced to an amount which is less than the amount specified in the election, that election shall be deemed for the purposes of this Act to have specified the amount to which the maximum is reduced.
- (4) A section 59B election shall not be made more than two years after the time when the purchaser acquires the interest in question or, as the case may be, is granted the lease in question.
- (5) Where a person who has joined in making a section 59B election subsequently makes a return for his relevant period, a copy of the notice containing the election must accompany the return.
- (6) A section 59B election shall be irrevocable once made.
- [^{F215}(7) Nothing in—
 - (a) section 42 of, or Schedule 1A to, the Taxes Management Act 1970 (claims and elections for income tax purposes), or

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- (b) paragraphs 54 to 60 of Schedule 18 to the Finance Act 1998 (claims and elections for corporation tax purposes), shall apply to a section 59B election.]
- (8) Where any question relating to a section 59B election falls to be determined by any body of Commissioners for the purposes of any proceedings before them—
- (a) each of the persons who has joined in making the election shall be entitled to appear and be heard by the Commissioners, or to make representations to them in writing;
 - (b) the Commissioners shall determine that question separately from any other questions in those proceedings; and
 - (c) their determination on that question shall have effect as if made in an appeal to which each of those persons was a party.
- (9) In this section—
- “relevant period”, in relation to any person who has joined in making a section 59B election, means the period for which a return is made by that person which is the first such period in which the election has an effect in his case for the purposes of income tax or corporation tax; and
- “a section 59B election” means an election under section 59B; and subsection (6) of section 59B applies for the purposes of this section as it applies for the purposes of that section.
- (10) In the case of an election for the purposes of a trade, profession or business carried on by persons in partnership, the references in this section to a return shall be construed, in relation to those persons, as references to a return under section 12AA of the Taxes Management Act 1970 (partnership returns).]

Textual Amendments

- F214** Ss. 59B, 59C inserted (with effect in accordance with Sch. 16 para. 6(2) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 16 para. 6\(1\)](#)
- F215** S. 59C(7) substituted (with effect in accordance with s. 93(2) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 11 para. 6](#)

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

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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—
 - (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.

[^{F216}(2A) Subsections (1)(b) and (2)(b) above do not apply where the capital expenditure incurred by the person to whom the machinery or plant is treated as belonging under subsection (1)(a) was incurred on the provision of the machinery or plant for leasing under a finance lease.]

- (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)”.

Textual Amendments

F216 S. 60(2A) inserted (with effect in accordance with s. 45(2) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [s. 45\(1\)](#) (with [s. 45\(2\)\(a\)\(b\)](#))

[^{F217}60A Machinery and plant on hire-purchase etc.: fixtures.

- (1) Section 60 does not—
- (a) apply to expenditure incurred on machinery or plant that is a fixture, or
 - (b) prevent Chapter VI of this Part (fixtures) applying in relation to expenditure on machinery or plant incurred under such a contract as is mentioned in subsection (1) of that section.
- (2) If machinery or plant that is treated as belonging to a person under section 60 becomes a fixture, then, unless it is treated under Chapter VI of this Part as belonging to that person, it shall be treated for the purposes of this Part as ceasing to belong to him at the time when it becomes a fixture.
- (3) In this section “fixture” has the same meaning as in Chapter VI of this Part.]

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Textual Amendments

F217 S. 60A inserted (retrospectively for the purposes of s. 60A(1) and 20.7.2000 otherwise) by [Finance Act 2000 \(c. 17\)](#), [s. 80\(2\)\(3\)\(a\)](#) (with [s. 80\(3\)\(b\)](#))

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 ^{F43}... is not used for the purposes

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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.

^{F218}(6)

(7) Section [^{F219}403] 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.

Textual Amendments

F43 Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)

F218 S. 61(6) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 38\(2\)\(3\), Sch. 5 para. 55\(2\), Sch. 27 Pt. 3\(4\)](#) (with [Sch. 5 Pt. 4](#))

F219 Word in s. 61(7) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 38\(2\)\(3\), Sch. 5 para. 55\(3\)](#) (with [Sch. 5 Pt. 4](#))

Modifications etc. (not altering text)

C66 S. 61 modified by 1988 c. 1, s. 434E(2) (as inserted (with effect in accordance with Sch. 8 paras. 55(2), 57(1) of the amending Act) by [Finance Act 1995 \(c. 4\), Sch. 8 para. 23\(1\)](#))

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 [^{F220}then, subject to section 62A], 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.

Textual Amendments

F220 Words inserted by [Finance Act 1990 \(c. 29\), s. 60](#)

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

[^{F221}62A Special allowance for demolition costs related to offshore machinery or plant.

- (1) Subject to subsection (3) below, this section applies to expenditure which, apart from this section, would fall within section 62(1)(b) and which is incurred—
- (a) by any person carrying on a ring fence trade; and
 - (b) for the purposes of or in connection with the closing down of, or of any part of, an oil field, within the meaning of Part I of the Oil Taxation Act 1975; and
 - (c) on the demolition of machinery or plant which has been brought into use for the purposes of that trade and which is or forms part of an offshore installation or a submarine pipe-line;
- and in this section any such expenditure is referred to as “abandonment expenditure”.
- (2) In this section “ring fence trade” means activities which—
- (a) fall within any paragraphs (a) to (c) of subsection (1) of section 492 of the principal Act (treatment of oil extraction activities etc. for tax purposes); and
 - (b) constitute a separate trade (whether by virtue of that subsection or otherwise).
- (3) In subsection (1)(c) above—
- (a) the reference to demolition is a reference to demolition which is carried out, wholly or substantially, in order to comply with an abandonment programme, within the meaning of [^{F222}Part IV of the Petroleum Act 1998], or with any condition to which the approval of such a programme is subject; and
 - (b) “offshore installation” and “submarine pipeline” have the same meaning as in that Part.
- (4) If the person incurring any abandonment expenditure so elects,—
- (a) for the chargeable period related to the incurring of that expenditure there shall be made to that person an allowance equal to the excess of the abandonment expenditure to which the election relates over any moneys received for the remains of the machinery or plant concerned; and
 - (b) that excess shall not be taken into account to increase qualifying expenditure as mentioned in section 62(1)(b).
- (5) An election under this section—
- (a) shall specify the abandonment expenditure to which it relates and the amounts of any such moneys received as mentioned in subsection (4)(a) above;
 - (b) shall be made by notice in writing given to the inspector not later than two years after the end of the chargeable period related to the incurring of the abandonment expenditure; and
 - (c) shall be irrevocable.
- (6) This section has effect where the chargeable period related to the incurring of the expenditure ^{F43}... ends after 30th June 1991.]

Textual Amendments

F43 Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)

F221 Ss. 62A, 62B inserted by [Finance Act 1990 \(c. 29\), s. 60](#)

F222 Words in s. 62A(3)(a) substituted (15.2.1999) by [Petroleum Act 1998 \(c. 17\), s. 52\(4\), Sch. 4 para. 27\(2\)](#); [S.I. 1999/161](#), art. 2(1)

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

[^{F223} **62B Treatment of post-cessation abandonment expenditure related to offshore machinery or plant.**

- (1) Subsection (2) below applies in any case where—
- (a) a person (in this section referred to as “the former trader”) ceases to carry on a ring fence trade; and
 - (b) after 30th June 1991 and within the period of three years immediately following the last day on which he carried on that trade, the former trader incurs expenditure (in this section referred to as “post-cessation expenditure”) on the demolition of machinery or plant which falls within section 62A(1)(c); and
 - (c) the post-cessation expenditure would have been abandonment expenditure for the purposes of section 62A if the demolition had been carried out and the expenditure incurred before the cessation of the ring fence trade; and
 - (d) apart from this section, the post-cessation expenditure would not be deductible in computing the income of the former trader for any purpose of corporation tax or income tax.
- (2) Where this subsection applies, the qualifying expenditure of the former trader for the chargeable period related to the cessation of his ring fence trade shall be treated for the purposes of sections 24 and 25 as increased by so much of the post-cessation expenditure as exceeds any moneys received in the three year period referred to in paragraph (b) of subsection (1) above for the remains of the machinery or plant referred to in that paragraph.
- (3) Where subsection (2) above applies, any moneys received as mentioned in that subsection shall not constitute income of the former trader for any purpose of income tax or corporation tax.
- (4) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.
- (5) In this section “ring fence trade” has the same meaning as in section 62A.]

Textual Amendments

F223 Ss. 62A, 62B inserted by [Finance Act 1990 \(c. 29\), s. 60](#)

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
 - (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

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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 ^{M12}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 ^{M13}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.

Marginal Citations

M12 1980 c. 48.

M13 1975 c. 22.

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

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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 [^{F224}profits] of the trade.

Textual Amendments

F224 Word in s. 65(3) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\), Sch. 7 para. 4](#)

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.

^{F225}(2)

^{F226}(3)

^{F227}(3A)

(4) In this section “industrial building or structure” has the meaning given by section 18.

[^{F228}(4A) Where the letting of any industrial building or structure by any person is deemed by virtue of section 28A to be in the course of a trade, subsection (1) above shall have effect as if that person occupied that building or structure for the purposes of that trade throughout the period for which it is let by him.]

(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 ^{F43}... ending after 26th July 1989.

Textual Amendments

F43 Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)

F225 S. 67(2) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 38\(2\)\(3\), Sch. 5 para. 56, Sch. 27 Pt. 3\(4\)](#) (with Sch. 5 Pt. 4)

F226 S. 67(3) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 38\(2\)\(3\), Sch. 5 para. 56, Sch. 27 Pt. 3\(4\)](#) (with Sch. 5 Pt. 4)

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

F227 S. 67(3A) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 38(2)(3), [Sch. 5 para. 56](#), [Sch. 27 Pt. 3\(4\)](#) (with [Sch. 5 Pt. 4](#))

F228 S. 67(4A) inserted (with effect in accordance with Sch. 15 para. 9 of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 15 para. 5\(3\)](#)

F229 **[67A Computer software.**

- (1) If a person carrying on a trade incurs capital expenditure in acquiring for the purposes of the trade a right to use or otherwise deal with computer software, then, for the purposes of this Part—
 - (a) the right and the software to which it relates shall be treated as machinery or plant;
 - (b) that machinery or plant shall be treated as provided for the purposes of the trade; and
 - (c) so long as he is entitled to the right, that machinery or plant shall be treated as belonging to him.
- (2) In any case where—
 - (a) a person carrying on a trade incurs capital expenditure on the provision of computer software for the purposes of the trade, and
 - (b) in consequence of his incurring that expenditure, the computer software belongs to him, but
 - (c) the computer software does not constitute machinery or plant,then for the purposes of this Part the computer software shall be treated as machinery or plant.]

Textual Amendments

F229 S. 67A inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. [68\(1\)\(8\)](#).

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,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.

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(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 [^{F230}within the period specified in subsection (5A) below], 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).

[^{F231}(5A) The period mentioned in subsection (5) above is—

- (a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the relevant period mentioned in that subsection;
- (b) for the purposes of corporation tax, the period of two years beginning at the end of the relevant period mentioned in that subsection.]

(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
- (b) which has not been allocated to any earlier relevant period in accordance with subsection (4) or (5) above.

[^{F232}(6A) To the extent that a deduction has been made in respect of any expenditure for a relevant period under section 42 of the Finance (No. 2) Act 1992 (relief for production

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or acquisition expenditure), no allocation of that expenditure shall be made under subsections (3) to (6) above.

^{F232}(6B) Where subsection (6A) above applies, no expenditure incurred on the production or acquisition of the film, tape or disc concerned shall be allocated under subsections (3) to (6) above to the relevant period referred to in subsection (6A).]

(7) Subsections (3) to (6) above do not apply to the [^{F233}profits] 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 [^{F234}in relation to which an election is made under this subsection and] 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 ^{M14}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.

^{F235}(9A) An election under subsection (9) above—

- (a) shall relate to all expenditure incurred (or to be incurred) on the production or acquisition of the film, tape or disc in question,
- (b) shall be made, by giving notice to [^{F236}an officer of the Board] in such form as the Board may determine, [^{F237}within the period specified in subsection (9AA) below], and
- (c) shall be irrevocable.

[The period mentioned in subsection (9A)(b) above is—

^{F238}(9AA) (a) in the case of an election for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the relevant period in which the film, tape or disc is completed;

(b) in the case of an election for the purposes of corporation tax, the period of two years beginning at the end of the relevant period in which the film, tape or disc is completed.]

^{F235}(9B) For the purposes of subsection [^{F239}(9AA)] above, a film, tape or disc is completed—

- (a) at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public, or

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- (b) where the expenditure in question was incurred on the acquisition of the film, tape or disc and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.

^{F235}(9C) An election may not be made under subsection (9) above in relation to expenditure on a film, tape or disc if a claim has been made in respect of any of that expenditure under section 41 (relief for preliminary expenditure) or section 42 (relief for production or acquisition expenditure) of the Finance (No. 2) Act 1992.]

- (10) In this section “expenditure of a revenue nature” means expenditure which, if it were incurred in the course of a trade the [^{F240}profits] 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.

Textual Amendments

- F230** Words in s. 68(5) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 32\(2\)](#)
- F231** S. 68(5A) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 32\(3\)](#)
- F232** S. 68(6A)(6B) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 69\(2\)](#).
- F233** Word in s. 68(7) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 46\(3\)\(a\)](#), [Sch. 7 para. 4](#)
- F234** Words in s. 68(9) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 69\(3\)\(5\)](#).
- F235** S. 68(9A)-(9C) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 69\(4\)\(5\)](#).
- F236** Words in s. 68(9A)(b) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 32\(4\)\(a\)](#)
- F237** Words in s. 68(9A)(b) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 32\(4\)\(b\)](#)
- F238** S. 68(9AA) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 32\(5\)](#)
- F239** Word in s. 68(9B) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 32\(6\)](#)
- F240** Word in s. 68(10) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), [s. 46\(3\)\(a\)](#), [Sch. 7 para. 4](#)

Marginal Citations

- M14** [1985 c. 21](#).

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 ^{M15}Fire Precautions Act 1971, and—
- 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
 - an allowance or deduction in respect of the expenditure could not, apart from this subsection, be made in taxing the trade or computing the [^{F241}profits] 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

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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 ^{M16}Fire Precautions Act 1971 in respect of those premises, as steps that would 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 [^{F242}profits] 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.

Textual Amendments

F241 Word in s. 69(1) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\), Sch. 7 para. 4](#)

F242 Word in s. 69(2) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\), Sch. 7 para. 4](#)

Marginal Citations

M15 1971 c. 40.

M16 1971 c. 40.

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 [^{F243}profits] 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—

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- (a) at the time when the expenditure was incurred the sports ground was of the description specified in section 1(1) of the ^{M17}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 ^{M18}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 ^{M19}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.

Textual Amendments

F243 Word in s. 70(1) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\), s. 46\(3\)\(a\), Sch. 7 para. 4](#)

Marginal Citations

M17 1975 c. 52.

M18 1975 c. 52.

M19 1987 c. 27.

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 [^{F244}profits] of the trade, profession or vocation for the purposes of Case I or Case II of Schedule D, and

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- (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,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.

Textual Amendments

F244 Word in s. 71(1)(c) substituted (31.7.1998) by [Finance Act 1998 \(c. 36\)](#), s. 46(3)(a), [Sch. 7 para. 4](#)

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).

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- (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.

CHAPTER VIII

SUPPLEMENTARY PROVISIONS

73 Manner of making allowances and charges.

- (1) Subject to [^{F245}subsection (2)] below, any allowance or charge made to or on any person under this Part shall be made to or on that person in taxing his trade.
^{F246}(1A)
- (2) Any allowance made by virtue of section 61(1) shall be made by way of discharge or repayment of tax, and, subject to subsection (3) below ^{F247}... , shall be available primarily against income from the letting of machinery or plant; and effect shall be given to any charge made by virtue of section 61(1)—
 - (a) if a charge to income tax, by making the charge under Case VI of Schedule D,
 - (b) if a charge to corporation tax, by treating the amount on which the charge is to be made as income from the letting of machinery or plant.
- (3) Where an allowance falling to be made for any chargeable period by virtue of section 61(1) is in respect of expenditure on the provision of machinery or plant which for the whole or any part of that period ^{F43}... is not used for the purposes of a trade carried on by the lessee, that allowance or, as the case may require, a proportionate part thereof shall be available primarily against income from the letting of that machinery or plant only.
^{F248}(4)

Textual Amendments

- F43** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)
- F245** Words in s. 73(1) substituted (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 38\(2\)\(3\), Sch. 5 para. 57\(a\)](#) (with [Sch. 5 Pt. 4](#))
- F246** S. 73(1A) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 38\(2\)\(3\), Sch. 5 para. 57\(b\), Sch. 27 Pt. 3\(4\)](#) (with [Sch. 5 Pt. 4](#))
- F247** Words in s. 73(2) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), s. 38\(2\)\(3\), Sch. 5 para. 57\(c\), Sch. 27 Pt. 3\(4\)](#) (with [Sch. 5 Pt. 4](#))

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F248 S. 73(4) repealed (with effect in accordance with Sch. 15 para. 9(1) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 18 Pt. 6\(11\)](#)

[^{F249}74 Allowances not available: expenses of MPs and others.

No allowance shall be made under this Part in respect of expenditure incurred by—

- (a) a member of the House of Commons, or
- (b) a member of the Scottish Parliament, or
- (c) a member of the National Assembly for Wales, or
- (d) a member of the Northern Ireland Assembly,

in, or in connection with, the provision or use of residential or overnight accommodation to enable him to perform his duties as such a member in or about the place where the body of which he is a member sits or the constituency or region for which he has been returned.]

Textual Amendments

F249 S. 74 substituted (with effect in accordance with s. 52(2) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 5 para. 2\(3\)](#)

75 Further restrictions on allowances.

- (1) Subject to [^{F250}sections 76, 76A and 77], where a person incurs capital expenditure on the provision by purchase of machinery or plant, and—
- (a) he and the seller are connected with each other, or
 - (b) the machinery or plant continues to be used for the purposes of a trade carried on by the seller, or
 - (c) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, but for this subsection, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under this Part,

a first-year allowance shall not be made in respect of the expenditure [^{F251}or any additional VAT liability incurred in respect of it] or, if made, shall be withdrawn, and there shall be disregarded for the purposes of sections 24, 25 and 26 [^{F252}so much (if any) of the aggregate of the expenditure and any such additional VAT liability] as exceeds the disposal value to be brought into account under those sections by reason of the sale.

- (2) Subject to [^{F253}sections 76, 76A and 77], where a person enters into a contract under which, on the performance thereof, he will or may become the owner of machinery or plant belonging to another person, and—
- (a) he and that person are connected with each other, or
 - (b) the machinery or plant continues to be used for the purposes of a trade carried on by that person, or
 - (c) it appears with respect to the transaction, or with respect to transactions of which it is one, that the sole or main benefit which, but for this subsection, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under this Part,

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a first-year allowance shall not be made in respect of any expenditure incurred by him under the contract so far as relating to that machinery or plant [^{F254}or in respect of any additional VAT liability incurred by him in respect of any such expenditure] or, if made, shall be withdrawn, and there shall be disregarded for the purposes of sections 24, 25 and 26 [^{F255}so much (if any) of the aggregate of the expenditure and any such additional VAT liability] as exceeds the disposal value to be brought into account under those sections by reason of the contract so far as relating thereto.

- (3) Subject to [^{F256}sections 76, 76A and 77], where a person, being entitled to the benefit of a contract under which, on the performance thereof, he will or may become the owner of any machinery or plant, assigns the benefit of the contract so far as it relates to that machinery or plant to another person, and—
- (a) he and the assignee are connected with each other, or
 - (b) the machinery or plant continues to be used for the purposes of a trade carried on by him, or
 - (c) it appears with respect to the assignment, or with respect to transactions of which the assignment is one, that the sole or main benefit which, but for this subsection, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under this Part,

a first-year allowance shall not be made in respect of any expenditure incurred by him under the contract so far as so relating, or by way of consideration for the assignment [^{F257}or in respect of any additional VAT liability incurred by him in respect of any such expenditure] or, if so made, shall be withdrawn, and there shall be disregarded for the purposes of sections 24, 25 and 26 [^{F258}so much (if any) of the aggregate of the assignee's expenditure and any such additional VAT liability] as exceeds the disposal value to be brought into account under section 60 by reason of the assignment.

- (4) In this section references to persons connected with each other shall be construed in accordance with section 839 of the principal Act.
- (5) All such assessments and adjustments of assessments shall be made as are necessary to give effect to this section.

Textual Amendments

F250 Words in s. 75(1) substituted (with effect in accordance with s. 46(3) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 46\(1\)\(a\)](#) (with s. 46(3)(a)-(c))

F251 Words in s. 75(1) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), s. 59, Sch. 14 Pt. II para. 11\(1\)\(a\)](#).

F252 Words in s. 75(1) substituted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), s. 59, Sch. 14 Pt. II para. 11\(1\)\(b\)](#).

F253 Words in s. 75(2) substituted (with effect in accordance with s. 46(3) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 46\(1\)\(a\)](#) (with s. 46(3)(a)-(c))

F254 Words in s. 75(2) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), s. 59, Sch. 14 Pt. II para. 11\(2\)\(a\)](#).

F255 Words in s. 75(2) substituted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), s. 59, Sch. 14 Pt. II para. 11\(2\)\(b\)](#).

F256 Words in s. 75(3) substituted (with effect in accordance with s. 46(3) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\), s. 46\(1\)\(a\)](#) (with s. 46(3)(a)-(c))

F257 Words in s. 75(3) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\), s. 59, Sch. 14 Pt. II para. 11\(3\)\(a\)](#).

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F258 Words in s. 75(3) substituted (for any chargeable period or its basis period ending on or after 06.04.1990) by Finance Act 1991 (c. 31), s. 59, Sch. 14 Pt. II para. 11(3)(b).

76 Extension of section 75.

- (1) Paragraph (b) of each of subsections (1) to (3) of section 75 shall have effect as if the reference to the machinery or plant continuing to be used for the purposes of a trade carried on by the person there mentioned included a reference to its being used after the date of the sale, the making of the contract or the assignment of the benefit of the contract (as the case may be) for the purposes of a trade carried on by that person or another person who is connected with him (other than the buyer, the person entering into the contract or the assignee) without having been used since that date for the purposes of any other trade except that of leasing machinery or plant.
- (2) In a case in which no disposal value falls to be brought into account as mentioned in subsection (1) of section 75, that subsection shall have effect as if for the reference to the disposal value to be so brought into account there were substituted a reference to an amount equal to whichever of the following is the smallest—
 - (a) the open market value of the machinery or plant;
 - (b) where capital expenditure was incurred by the seller on the provision of the machinery or plant, the amount of that expenditure;
 - (c) where capital expenditure was incurred by any person connected with the seller on the provision of the machinery or plant, the amount of the expenditure incurred by that person.

^{F259}[(2A) In any case where—

- (a) section 75(1) has effect with the modification specified in paragraph (a) of subsection (2) above, but
- (b) the open market value of the machinery or plant in question is determined for the purposes of those provisions inclusive of value added tax,

section 75(1) as so modified shall have effect with the omission of the words “the aggregate of” and “and any such additional VAT liability”.

(2B) For the purposes of paragraphs (b) and (c) of subsection (2) above—

- (a) any additional VAT liability incurred by the seller or, as the case may be, any person connected with him in respect of capital expenditure incurred on the provision of the machinery or plant shall be regarded as capital expenditure incurred on the provision of the machinery or plant, and
- (b) any additional VAT rebate made to the seller or, as the case may be, any person connected with him in respect of any such expenditure shall be regarded as reducing the amount of capital expenditure so incurred by him,

to the extent that the liability or rebate in question would not, apart from this subsection, fall to be so regarded.]

^{F260}(3)

(4) [^{F261}Subsections (2), (2A) [^{F262}and (2B)]] above shall apply in relation to section 75(2) and (3) as they apply in relation to section 75(1) but taking references—

- (a) to the sale as references to the making of the contract and to the assignment of the benefit of the contract respectively;
- (b) to the seller as references to the person to whom the machinery or plant belongs and to the assignor respectively.

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- (5) Neither subsection (1) nor subsection (2) of section 75 shall apply in relation to a sale or contract if the machinery or plant has never been used before the sale or the making of the contract and the business or part of the business of the seller or owner was the manufacture or supply of machinery or plant of that class and the sale was effected or the contract was made in the ordinary course of that business.
- (6) In this section—
- (a) “open market value” in relation to any machinery or plant means an amount equal to the price which the machinery or plant would have fetched if sold in the open market; and
 - (b) references to persons connected with each other shall be construed in accordance with section 839 of the principal Act.

[^{F263}(7) This section has effect subject to the modifications made by section 76A in cases where there is a finance lease.]

Textual Amendments

F259 S. 76(2A)(2B) inserted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\)](#), s. 59, [Sch. 14 Pt. II para. 11\(4\)](#).

F260 S. 76(3) repealed (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), s. 85(8)(a), [Sch. 27 Pt. 3\(18\)](#)

F261 Words in s. 76(4) substituted (*for any chargeable period or its basis period ending on or after 06.04.1990*) by [Finance Act 1991 \(c. 31\)](#), s. 59, [Sch. 14 Pt. II para. 11\(5\)](#).

F262 Words in s. 76(4) substituted (with effect in accordance with s. 85(9) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 85\(8\)\(b\)](#)

F263 S. 76(7) inserted (with effect in accordance with s. 46(3) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), [s. 46\(1\)\(b\)](#) (with s. 46(3)(a)-(c))

[^{F264}76A Special provision for finance lease cases.

- (1) Where—
- (a) any machinery or plant is used for the purposes of any non-trading activities carried on by any person, and
 - (b) it is directly or indirectly as a consequence of the machinery or plant having been leased under a finance lease that it is available for that use,
- subsections (1), (2) and (3) of section 75 and subsection (1) of section 76 (except the words after “without”) shall have effect as if the use for the purposes of those activities were a use for the purposes of a trade carried on by that person.
- (2) Where—
- (a) subsection (1), (2) or (3) of section 75 applies by virtue of paragraph (b) of that subsection, or is treated (under one or both of section 76(1) and subsection (1) above) as so applying,
 - (b) it is directly or indirectly as a consequence of the machinery or plant having been leased under a finance lease that it is available after—
 - (i) the date of the sale,
 - (ii) the date of the making of the contract, or
 - (iii) the date of the assignment,

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

for the use which is mentioned in that paragraph, or which is treated as if it were a use so mentioned, and

- (c) apart from this subsection the disposal value to be brought into account under sections 24, 25 and 26 by reason of the sale, contract or assignment would be more than the amount (“the section 76(2) amount”) which (if no disposal value fell to be brought into account) would be applicable instead in accordance with section 76(2) and subsection (5) below,

sections 24, 25 and 26 (and, accordingly, subsections (1) to (3) of section 75) shall have effect as if the disposal value to be so brought into account were equal to the section 76(2) amount.

(3) Where—

- (a) a disposal value has fallen, in a case within sub-paragraphs (a) and (b) of subsection (2) above, to be brought into account under sections 24, 25 and 26 by reason of the sale, contract or assignment,
- (b) the machinery or plant in question falls to be treated as belonging, at a time after the event by reason of which that disposal value fell to be brought into account, to any person in consequence of his incurring any capital expenditure,
- (c) the allowances under this Part in respect of that capital expenditure are not restricted by subsection (1), (2) or (3) of section 75, and
- (d) the amount of that expenditure (“the actual amount”) exceeds the maximum allowable amount,

this Part shall have effect in relation to that expenditure as if it were expenditure of an amount equal to the maximum allowable amount.

(4) In subsection (3) above “the maximum allowable amount” means the sum of the following amounts—

- (a) the disposal value falling to be brought into account as mentioned in subsection (3)(a) above, and
- (b) so much of the actual amount of the expenditure as is equal to the amount included in that expenditure by virtue of section 66 (installation costs).

(5) In a case which—

- (a) falls within paragraphs (a) and (b) of subsection (2) above, but
- (b) is a case in which no disposal value falls to be brought into account as mentioned in the applicable subsection of section 75,

subsections (2) to (4) of section 76 shall have effect as if the amounts referred to in each of paragraphs (b) and (c) of section 76(2) were equal to the notional written-down value of the capital expenditure incurred by the person mentioned in that paragraph on the provision of the machinery or plant.

(6) Subsection (7) below applies where, in a case falling within paragraphs (a) and (b) of subsection (2) above—

- (a) the finance lease, or
- (b) any transaction or series of transactions of which it forms a part,

makes provision (otherwise than by means of guarantees from persons connected with the lessee) the effect of which (if the lessor and the persons connected with him are treated as the same person) is to remove the whole, or the greater part, of any non-compliance risk which (apart from that provision) would fall directly or indirectly on the lessor.

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- (7) Where this subsection applies—
- (a) subsections (1), (2) and (3) of section 75 shall have effect as if (as well as excluding the making of a first-year allowance), they also required—
 - (i) the whole amount of the expenditure, and
 - (ii) any additional VAT liability incurred in respect of it,
 to be left out of account in determining the amount for any period of a person's qualifying expenditure under section 25; and
 - (b) subsections (2), (3) and (5) above shall not apply.
- (8) Where subsection (7) above applies in a case where the buyer, person entering into the contract or assignee is different from the lessor—
- (a) any capital expenditure incurred on the provision of the machinery or plant by the lessor, and
 - (b) any additional VAT liability incurred in respect of it,
- shall also be disregarded both for the purposes of determining the amount for any period of the lessor's qualifying expenditure under section 25 and for the purposes of any claim by the lessor to a first-year allowance.
- (9) In this section “the notional written-down value”, in relation to any expenditure incurred by a person on the provision of any machinery or plant, means the amount which, if—
- (a) the sale, contract or assignment were an event by reason of which a disposal value of that machinery or plant fell to be brought into account in that person's case, and
 - (b) the further assumptions set out in subsection (10) below were made in relation to that expenditure,
- would give rise to neither a balancing allowance nor a balancing charge for the chargeable period for which that disposal value would be brought into account in that person's case.
- (10) Those assumptions are—
- (a) that the person in question incurred the expenditure on the provision of the machinery or plant wholly and exclusively for the purposes of a trade carried on by him (until its deemed discontinuance) separately from any other trade or other activities carried on or assumed to be carried on by him;
 - (b) that that person was within the charge to tax in respect of that separate trade;
 - (c) that the expenditure was the only capital expenditure ever taken into account in respect of that trade in determining qualifying expenditure for the purposes of section 24;
 - (d) that the expenditure is to be treated in relation to that person as expenditure to which Chapter IVA of this Part applies if, but only if, it is expenditure falling in fact to be so treated apart from the preceding assumptions; and
 - (e) that there had been made to that person the full amount of every allowance to which, on the assumptions specified in paragraphs (a) to (c) above, that person was entitled in respect of that expenditure.
- (11) This section and sections 75 and 76 shall have effect in relation to machinery or plant where—

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- (a) it is directly or indirectly as a consequence of the machinery or plant having been leased under a finance lease that it is available for any use to which it is put, and
- (b) the machinery or plant has at any time been acquired by one public authority from another otherwise than by purchase,

as if the public authority from whom it was acquired were connected with the public authority that acquired it and with every person connected with the acquiring authority.

(12) In this section—

“deemed discontinuance”, in relation to the trade assumed under subsection (10) above in a case in which section 75(1), (2) or (3) applies or is treated as applying, means a permanent discontinuance of that trade at the time of the sale, of the performance of the contract or, as the case may be, of the assignment;

“non-compliance risk”, in relation to a finance lease, means a risk that a loss will be sustained by any person if payments under the lease are not made in accordance with its terms;

“non-trading activities” means any activities that do not constitute a trade; and

“public authority” includes the Crown or any government or local authority;

and (subject to subsection (11) above) references in this section to persons connected with each other shall be construed in accordance with section 839 of the principal Act.]

Textual Amendments

F264 S. 76A inserted (with effect in accordance with s. 46(3) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), s. 46(2) (with s. 46(3)(a)-(c))

77 Successions to trades: connected persons.

- (1) Where a person (in this subsection referred to as “the successor”) has succeeded to a trade which was until that time carried on by another person (in this subsection referred to as “the predecessor”) and the two persons are connected with each other within the terms of section 839 of the principal Act and the successor is not a dual resident investing company, those persons may by notice to the inspector elect that the provisions of this subsection shall have effect; and in that event—
 - (a) for the purpose of making allowances and charges under this Part, the trade shall not be treated as discontinued;
 - (b) allowances and charges shall be so made to or on the successor as if everything done to or by the predecessor had been done to or by the successor, but with no account being taken of the sale or transfer from the predecessor to the successor of any machinery or plant which was in use for the purposes of the trade at the time of the succession.
- (2) Subsection (1) above shall not apply in relation to successions occurring after the passing of the ^{M20}Finance Act 1988 (29th July 1988); and the requirement in that subsection that the successor must not be a dual resident investing company shall not apply if the successor began to carry on the trade before 1st April 1987.

Status: Point in time view as at 12/01/2000.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Part II. (See end of Document for details)

- (3) Where at any time after the passing of the Finance Act 1988 a person (referred to below as “the successor”) succeeds to a trade which was until that time carried on by another person (referred to below as “the predecessor”) and—
- (a) the two persons are connected with each other;
 - (b) each of them is within the charge to tax in the United Kingdom on the profits of the trade; and
 - (c) the successor is not a dual resident investing company,
- those persons may by notice given to the inspector not later than two years after that time, elect that the provisions of subsection (4) below shall have effect.
- (4) In the event of an election under subsection (3) above—
- (a) for the purpose of making allowances and charges under this Part, any machinery or plant which—
 - (i) immediately before the time when the succession took place, belonged to the predecessor and was in use for the purposes of the trade; and
 - (ii) immediately after that time, belonged to the successor and was in use for those purposes,
 shall (notwithstanding any actual sale or transfer) be treated as sold by the predecessor to the successor at a price which does not give rise to a balancing allowance or balancing charge; and
 - (b) allowances and charges shall be made under this Part to or on the successor as if everything done to or by the predecessor had been done to or by the successor.
- (5) For the purposes of subsection (3) above the predecessor and the successor are connected with each other if—
- (a) they are connected with each other within the terms of section 839 of the principal Act;
 - (b) one of them is a partnership and the other has the right to a share in that partnership;
 - (c) one of them is a body corporate and the other has control over that body;
 - (d) both of them are partnerships and some other person has the right to a share in both of them; or
 - (e) both of them are bodies corporate, or one of them is a partnership and the other is a body corporate, and (in either case) some other person has control over both of them.
- (6) In subsection (5) above “control” shall be construed in accordance with section 840 of the principal Act; and any reference to the right to a share in a partnership is a reference to the right to a share of the assets or income of that partnership.
- (7) All such assessments and adjustments of assessments shall be made as are necessary to give effect to subsections (3) and (4) above.
- (8) Sections [F²⁶⁵38G,] 41(5) and 78(1) shall not apply in any case where an election is made under subsection (3) above.

This subsection shall not apply in relation to successions occurring before 27th July 1989.

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Textual Amendments

- F265** Word in s. 77(8) inserted (with application in accordance with Sch. 14 para. 10 of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [Sch. 14 para. 9](#)

Modifications etc. (not altering text)

- C67** S. 77 excluded (with effect in accordance with Sch. 33 para. 5 of the amending Act) by [Greater London Authority Act 1999 \(c. 29\)](#), s. 425(2), [Sch. 33 para. 4\(8\)\(b\)](#); S.I. 1999/3434, art. 2
- C68** S. 77(3) modified (for the year of assessment 1988-1989) by S.I. 1991/851, regs. 1, 9, [Sch.2](#).
- C69** S. 77(3) modified (for the year of assessment 1989-1990) by S.I. 1992/511, regs. 1, 9, [Sch.2](#).
- C70** S. 77(3) applied (with modifications) (for the year of assessment 1990–91) by [The Lloyd's Underwriters \(Tax\) \(1990–91\) Regulations 1993 \(S.I. 1993/415\)](#), reg. 9, [Sch.2](#)
- C71** S. 77(3) modified (for the year of assessment 1991-92) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), regs. 1(1), 9, [Sch. 2](#)
- C72** S. 77(3) modified (for the years of assessment 1992-93 and 1993-94) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), 14(1), [Sch.](#)
- C73** S. 77(3) modified (for the year of assessment 1994-95) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), 15(1), [Sch.](#)

Marginal Citations

- M20** [1988 c. 39](#).

78 Succession to trades where no election made under section 77.

- (1) Where a person succeeds to any trade which until that time was carried on by another person and, by virtue of section 113 or 337(1) of the principal Act (changes in persons carrying on a trade, and special rules for corporation tax), the trade is to be treated as discontinued, any property which, immediately before the succession takes place, was either in use or provided and available for use for the purposes of the discontinued trade and, without being sold, is, immediately after the succession takes place, either in use or provided and available for use for the purposes of the new trade shall, for the purposes of this Part be treated as if—
- it had been sold to the successor when the succession takes place, and
 - the net proceeds of the sale had been the price which that property would have fetched if sold in the open market;
- but no first-year allowance shall be made by virtue of this subsection.
- (2) Where a person succeeds to a trade as a beneficiary under the will or on the intestacy of a deceased person who carried on that trade and the beneficiary by notice to the inspector so elects, then, in relation to any machinery or plant which passes to him together with the trade, being machinery or plant—
- previously owned by the deceased person, and
 - either used or provided and available for use by him for the purposes of that trade,

the reference in subsection (1) above to the price which the machinery or plant would have fetched if sold in the open market shall, in relation to the succession and any previous succession occurring on or after the death of the deceased, be deemed to be a reference to that price or, if it is less than that price, any excess of qualifying expenditure over disposal value which would have been taken into account under sections 24, 25 and 26 for making an allowance for the chargeable period related to

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the permanent discontinuance of the deceased person's trade if the machinery or plant had had no disposal value.

[^{F266}(2A) Where the disposal value of any machinery or plant in relation to which an election under subsection (2) above has effect falls to be ascertained in accordance with section 26, that section shall apply as if the person mentioned in subsection (2) of that section were the deceased.]

(3) This subsection has effect as respects any allowance under this Part, other than a balancing allowance.

Where, after the setting up and before the permanent discontinuance of a trade which at any time is carried on in partnership, anything is done for the purposes thereof, any such allowance which, if the trade had at all times been carried on by one and the same person, would have fallen to be made to him shall be made to the person or persons from time to time carrying on that trade, and the amount of any such allowance shall be computed as if that person or those persons had at all times been carrying on the trade, and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.

(4) Where, after the setting up and on or before the permanent discontinuance of a trade which at any time is carried on in partnership, any event occurs which gives rise or may give rise to a balancing allowance or balancing charge under this Part in respect of machinery or plant, any balancing allowance or balancing charge which, if the trade had at all times been carried on by one and the same person, would have fallen to be made to or on him in respect of that machinery or plant by reason of that event shall be made to or on the person or persons carrying on the trade at the time of that event, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the trade and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.

(5) Notwithstanding section 27(1), this section shall not apply to any employment or office.

Textual Amendments

F266 S. 78(2A) inserted by [Finance Act 1990 \(c. 29\)](#), s. 88, [Sch. 13 para. 3\(1\)\(2\)](#)

79 Effect of use partly for trade etc. and partly for other purposes.

(1) A first-year allowance may be made to a person in respect of any machinery or plant notwithstanding that it appears that the provision of the machinery or plant is partly for purposes other than those of a trade carried on by him; but the allowance in any such case shall be so much only of the allowance that would fall to be made if the provision of the machinery or plant were wholly and exclusively for the purposes of the trade as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent to which it appears that the machinery or plant is likely to be used for those other purposes.

(2) Where a person carrying on a trade incurs capital expenditure on the provision of machinery or plant partly for the purposes of a trade (in subsections (4) to (6) below referred to as “the actual trade”) and partly for other purposes, it shall be assumed for the purposes of sections 24, 25 and 26 that he incurred the expenditure on the

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provision of the machinery or plant wholly and exclusively for the purposes of a trade (in subsections (4) to (6) below referred to as “the notional trade”) carried on by him separately from the actual trade and any other trade carried on him.

- (3) If, for any chargeable period, a person who has incurred expenditure on the provision of machinery or plant for the purposes of a trade (in subsections (4) to (6) below referred to as “the actual trade”) is required to bring the disposal value of the machinery or plant into account by reason of it beginning in that chargeable period ^{F43}... to be used partly, but not wholly, for purposes other than those of the actual trade, it shall be assumed for the purposes of sections 24, 25 and 26 that, immediately after the beginning of that chargeable period ^{F43}..., he incurs capital expenditure equal to that disposal value on the provision of the machinery or plant wholly and exclusively for the purposes of a trade (in subsections (4) to (6) below referred to as “the notional trade”) carried on by him separately from the actual trade and any other trade carried on by him.
- (4) Without prejudice to section 24(6)(c)(i) to (iii), it shall be assumed for the purposes of that section that the notional trade is permanently discontinued on the machinery or plant beginning to be used wholly for purposes other than those of the actual trade.
- (5) The allowance or charge under section 24 which, on the above assumptions, and having regard to subsection (6) below, would fall to be made for any chargeable period in the case of the notional trade—
 - (a) shall be reduced to such extent as may be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent to which the machinery or plant was used in that chargeable period ^{F43}... otherwise than for the purposes of the actual trade; and
 - (b) shall, as so reduced, be made for that chargeable period in the case of the actual trade.
- (6) If an allowance under section 24 falling to be made by virtue of this section for any chargeable period in the case of the actual trade is not claimed ^{F267}..., or is reduced in amount in accordance with a requirement under subsection (3) ^{F267}... of that section then, in determining the allowance or charge under that section which would fall to be made for any subsequent chargeable period in the case of the notional trade, any allowance falling to be made in the case of that trade for the first-mentioned chargeable period shall be treated as not claimed ^{F267}... or, as the case may require, as proportionately reduced.

Textual Amendments

F43 Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 213\(1\), Sch. 26 Pt. 5\(24\)](#)

F267 Words repealed by [Finance Act 1990 \(c. 29\), ss. 103\(1\)\(2\), 132, Sch. 17 para. 14, Sch. 19 Pt. V](#), Note 6

80 Effect of subsidies towards wear and tear.

- (1) If it appears that, during the period during which any machinery or plant will be used by a person for the purposes of his trade, sums which—
 - (a) are in respect of, or take account of, the wear and tear to the machinery or plant occasioned by its use for those purposes, and

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- (b) do not fall to be taken into account as income of that person, or in computing the [^{F268}profits] of any trade carried on by him,
- are, or are to be, payable to that person directly or indirectly by the Crown, or by any government or public or local authority (whether in the United Kingdom or elsewhere), or by any other person, then, unless those sums are in respect of, or take account of, part only of that wear and tear, any expenditure incurred by the first-mentioned person in providing the machinery or plant shall be wholly disregarded for the purposes of this Part.
- (2) Where subsection (1) above would apply to a person's expenditure on the provision of machinery or plant but for the fact that the sums there referred to are in respect of, or take account of, part only of the wear and tear to the machinery or plant, a first-year allowance may be made in respect of the expenditure, but the amount thereof shall be reduced to such extent as may be just and reasonable having regard to all the relevant circumstances of the case.
- (3) Where sums within subsection (1) above are paid as mentioned in that subsection to a person carrying on a trade, but are in respect of, or take account of, part only of the wear and tear to the machinery or plant in respect of which they are paid, subsections (4) to (6) below shall have effect with respect to the allowances and charges to be made in the case of the trade ("the actual trade") under section 24.
- (4) If an allowance has been made under section 24 for a chargeable period prior to the relevant period, the machinery or plant shall be treated for the purposes of that section as having begun to be used wholly for purposes other than those of the actual trade immediately after the beginning of the relevant period.
- (5) Whether or not subsection (4) above applies—
- (a) it shall be assumed for the purposes of section 24—
- (i) that (with section 81 applying where appropriate) immediately after the beginning of the relevant period, capital expenditure was incurred on providing the machinery or plant wholly and exclusively for the purposes of a trade ("the notional trade") carried on by the person carrying on the actual trade separately from that and any other trade carried on by him,
- (ii) that from then until the notional trade is treated by virtue of subparagraph (iii) below as permanently discontinued no sums within subsection (1) above are paid in respect thereof to the person carrying on that trade, and
- (iii) that without prejudice to section 24(6)(c)(i) to (iii), the notional trade is permanently discontinued on the machinery or plant beginning to be used wholly or partly for purposes other than those of the actual trade; and
- (b) the allowance or charge under section 24 which, on the assumptions set out in paragraph (a) above and having regard to subsection (6) below, would fall to be made for any chargeable period in the case of the notional trade—
- (i) shall be reduced to such extent as may be just and reasonable having regard to all the relevant circumstances of the case, and
- (ii) shall, as so reduced, be made for that chargeable period in the case of the actual trade.
- (6) If an allowance under section 24 falling by virtue of this section to be made for any chargeable period in the case of the actual trade is not claimed ^{F269}... , or is reduced

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in amount in accordance with a requirement under subsection (3) ^{F269}... of that section then, in determining the allowance or charge under that section which would fall to be made for any subsequent chargeable period in the case of the notional trade, any allowance falling to be made in the case of that trade for the first-mentioned chargeable period shall be treated as not claimed ^{F269}... or, as the case may require, as proportionately reduced.

- (7) In subsections (4) and (5) above “the relevant period” means the chargeable period in which or, as the case may be, in the basis period for which the first sum is paid as mentioned in subsection (1) above in respect of the machinery or plant in question.

Textual Amendments

F268 Word in s. 80(1)(b) substituted (31.7.1998) by Finance Act 1998 (c. 36), s. 46(3)(a), Sch. 7 para. 4

F269 Words repealed by Finance Act 1990 (c. 29), ss. 103(1)(2), 132, Sch. 17 para. 15, Sch. 19 Pt. V, Note 6

81 Effect of use after user not attracting capital allowances, or after receipt by way of gift.

- (1) Subject to section 63, where a person—

- (a) brings into use for the purposes of a trade carried on by him machinery or plant which belongs to him in consequence of his having incurred capital expenditure on its provision, for purposes which were such that that expenditure has not been taken into account in computing any allowance falling to be made in the case of the trade under this Part, or
- (b) brings into use for the purposes of a trade carried on by him machinery or plant which belongs to him in consequence of a disposition by way of gift,

sections 24, 25 and 26 shall have effect as if that person had incurred capital expenditure on the provision of the machinery or plant for the purposes of the trade in the chargeable period related to its bringing into use for those purposes, the amount of that expenditure being taken as the price which the machinery or plant would have fetched if sold in the open market on the date when it was so brought into use, and the machinery or plant being treated as belonging to that person in consequence of his having incurred that expenditure.

- ^{F270}[(1A) Subject to section 63, in a case falling within subsection (1)(a) or (b) above, the assumptions applied by that subsection in relation to sections 24 to 26—

- (a) shall apply in relation to section 22 as they apply in relation to those sections but only for the purposes of first-year allowances by virtue of section 22(3B); and
- (b) where those assumptions require any person to be treated as having incurred expenditure in a chargeable period related to any event, shall apply for those purposes as if they required that person to be treated as having incurred that expenditure on the date of that event.]

- (2) Where subsection (1) above applies, the question whether the provision of the machinery or plant is to be taken to be wholly and exclusively or only partly for the purposes of the trade shall be determined according to whether the use referred to in paragraph (a) or, as the case may be, (b) of that subsection is wholly and exclusively or only partly for those purposes.

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- ^{F271}[(2A) Where a person is treated as having incurred capital expenditure on the provision of machinery or plant by virtue of subsection (1)(a) above, he shall be treated for the purposes of section 75(1), as it has effect in relation to first-year allowances by virtue of section 22(3B), as having done so by way of purchase from a person connected with him.]
- (3) Where a person is treated as having incurred capital expenditure on the provision of machinery or plant by virtue of subsection (1)(b) above, he shall for the purposes of section 75 be treated as having done so by way of purchase from the donor.
- (4) This section shall have effect in any case where the machinery or plant in question was brought into use before 27th July 1989—
- (a) with the addition at the end of subsection (1)(b) of the words “by reason of which the donor was required by virtue of section 24(6) to bring into account for the purposes there mentioned a disposal value equal to the price which the machinery or plant would have fetched if sold in the open market at the time of the gift”, and
 - (b) with the omission of subsection (3).

Textual Amendments

F270 S. 81(1A) inserted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by 1993 c. 34, s. 115, **Sch. 13 para. 12(1)**

F271 S. 81(2A) inserted (27.7.1993 with effect as mentioned in Sch. 13 para. 12(3) of the amending Act) by 1993 c. 34, s. 115, **Sch. 13 para. 12(2)(3)**

82 Capital expenditure to which this Part does not apply.

^{F272}(1) This Part shall not apply to capital expenditure—

- (a) which was not eligible expenditure within the meaning of section 39 of the ^{M21}Finance Act 1976 (which brought expenditure previously not within Chapter I of Part III of the ^{M22}Finance Act 1971 within that Chapter but with certain exceptions), and
- (b) which was incurred in a chargeable period [^{F273}or its basis period] ending before 6th April 1976,

and the repeals made by this Act shall not have effect in relation to any such expenditure.

^{F274}(2) This Part shall not apply to capital expenditure—

- (a) on animals or other creatures to which Schedule 5 to the principal Act (treatment of farm animals etc for purposes of Case I of Schedule D) applies; or
- (b) on shares in such animals or creatures.]

Textual Amendments

F272 S. 82 renumbered as s. 82(1) (retrospectively) by Finance Act 2000 (c. 17), s. 76(1)(3)

F273 Words in Act ceased to have effect (with effect in accordance with s. 211(2) of the amending Act) by Finance Act 1994 (c. 9), s. 213(1)

F274 S. 82(2) inserted (retrospectively) by Finance Act 2000 (c. 17), s. 76(1)(3)

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Marginal Citations

M21 1976 c. 40.

M22 1971 c. 68.

[^{F275}82A Meaning of “finance lease”.

- (1) In this Part “finance lease” means any arrangements which—
- (a) provide for machinery or plant to be leased or otherwise made available by a person (“the lessor”) to another (“the lessee”); and
 - (b) are such that, in cases where the lessor and persons connected with the lessor are all UK companies—
 - (i) the arrangements, or
 - (ii) arrangements in which they are comprised,fall, in accordance with normal accountancy practice, to be treated in the accounts of one or more of those companies as a finance lease or as a loan.
- (2) In this section—
- “accounts”, in relation to a company, includes any consolidated group accounts relating to two or more companies of which that company is one;
- “consolidated group accounts” means accounts prepared in accordance with—
- (a) section 227 of the Companies Act 1985, or
 - (b) Article 235 of the Companies (Northern Ireland) Order 1986;
- and
- “UK company” means a company incorporated in a part of the United Kingdom;
- and references in this section to persons connected with each other shall be construed in accordance with section 839 of the principal Act.]

Textual Amendments

F275 S. 82A inserted (with effect in accordance with s. 47(2) of the amending Act) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), s. 47(1)

83 Other interpretative provisions.

- (1) In this Part, except where the context otherwise requires—
- “income” includes any amount on which a charge to tax is authorised to be made under this Part;
- “mineral exploration and access” and “trade of mineral extraction” have the same meaning as in section 121;
- “motor car” has the meaning given by section 36;
- “new” (except in the expression “new expenditure”) means unused and not second-hand.
- (2) For the purposes of this Part, any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by him on the first day on which he does carry it on.

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- (3) Any reference in this Part to an allowance or charge is a reference to such an allowance or charge under this Part and a reference to an allowance made or postponed under this Part includes, so far as the context permits, a reference to an allowance relating to expenditure in respect of machinery or plant (or anything treated as machinery or plant) made or postponed under any enactment repealed by this Act or by any other Act, notwithstanding that this Act does not re-enact that repealed enactment.
- (4) The provisions of this Part, and the provisions applying for the purposes of this Part, shall apply in relation to a share in machinery or plant as they apply in relation to a part of machinery or plant; and for the purposes of those provisions, a share in machinery or plant shall be deemed to be used for the purposes of a trade so long as, and only so long as, the machinery or plant is used for those purposes.
- (5) This Part has effect subject to section 577(1)(c) of the principal Act (under which the use of an asset for providing business entertainment is not to be treated as use for the purposes of a trade).
- (6) For the purposes of this Part, where a person is carrying on a trade of mineral extraction, expenditure incurred by him in connection with that trade on the provision of machinery or plant for mineral exploration and access shall be taken to be incurred on the provision of the machinery or plant wholly and exclusively for the purposes of that trade.
- [^{F276}(7) Schedule AA1 (which excludes certain expenditure from the expression “expenditure on the provision of machinery or plant”) shall have effect.]

Textual Amendments

- F276** S. 83(7) added (with effect in accordance with s. 117(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), s. 117(1)

Status:

Point in time view as at 12/01/2000.

Changes to legislation:

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