



Capital Allowances Act 1990

1990 CHAPTER 1

PART II

MACHINERY AND PLANT

CHAPTER V

LEASED ASSETS AND INEXPENSIVE CARS

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, or in the basis period for which, 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—

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- (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.
- (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 or was disclaimed; 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;

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- (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 section 41) 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.