

SCHEDULES

SCHEDULE 13

Section 70.

CAPITAL ALLOWANCES: ENTERPRISE ZONES

Introduction

- 1 Part I of the Capital Allowances Act 1990 (capital allowances for buildings and structures) shall be amended as follows.

Buildings and structures purchased before use

- 2 After section 10 (purchases of buildings and structures) there shall be inserted the following section—

“10A Purchases of buildings and structures: special provision for enterprise zones

- (1) This section shall apply where—
- expenditure is incurred on the construction of a building or structure (actual expenditure);
 - some or all of that expenditure is incurred, or is incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone; and
 - before the building or structure is used, the relevant interest in it is sold.
- (2) Where this section applies—
- the actual expenditure shall be left out of account for the purposes of sections 1 to 8, but
 - subject to subsection (8) below, the person who buys the relevant interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure (deemed expenditure) equal to the actual expenditure or to the net price paid by him for that interest, whichever is the less.
- (3) The deemed expenditure shall be regarded as comprising an enterprise zone element and a non-enterprise zone element.
- (4) The enterprise zone element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

- (5) In subsection (4) above—

Status: This is the original version (as it was originally enacted).

A is the deemed expenditure;
 B is the expenditure falling within subsection (1)(b) above; and
 C is the actual expenditure.

- (6) The non-enterprise zone element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the enterprise zone element.
- (7) Notwithstanding the provisions of subsection (2)(b) above—
- (a) the enterprise zone element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as incurred at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone; and
 - (b) the non-enterprise zone element of the deemed expenditure shall be treated for that purpose as not incurred, and not incurred under a contract entered into, at such a time.
- (8) Where the relevant interest in the building or structure is sold more than once before the building or structure is used, subsection (2)(b) above shall have effect only in relation to the last of those sales.
- (9) Where the actual expenditure was incurred by a person carrying on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale and, before the building or structure is used, he sells the relevant interest in it in the course of that trade or, as the case may be, of that part of that trade, then—
- (a) if that sale is the only sale of the relevant interest before the building or structure is used, paragraph (b) of subsection (2) above shall have effect as if the words “the actual expenditure or to” and “whichever is the less” were omitted; and
 - (b) in any other case, that paragraph shall have effect as if the reference to the actual expenditure were a reference to the price paid on that sale.

(10) This section shall have effect subject to section 17A.”

3 In section 1 (buildings and structures in enterprise zones) in subsection (10) the words from “and, except for that purpose” to the end of the subsection shall cease to have effect.

4 In section 6 (buildings and structures in enterprise zones) subsection (5) shall cease to have effect.

5 In section 10, at the beginning of subsection (1) there shall be inserted “Subject to subsection (3A) below,”.

6 After that subsection there shall be inserted the following subsection—

“(1A) Notwithstanding the provisions of paragraph (b) of subsection (1) above, in the case of a building or structure the site of which is or has been in an enterprise zone, any expenditure which a person is deemed to have incurred by virtue of that paragraph shall be treated for the purpose only of determining entitlement to allowances as not incurred, and not incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone.”

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

7 After subsection (3) of that section there shall be inserted the following subsection—

“(3A) Subsections (1) to (3) above shall not apply in any case where section 10A applies.”

Buildings and structures purchased within two years of use

8 After section 10A there shall be inserted the following section—

“10B Purchases of buildings and structures in enterprise zones within two years of use

- (1) Without prejudice to section 10A, this section shall apply where—
 - (a) expenditure is incurred on the construction of a building or structure (actual expenditure);
 - (b) some or all of that expenditure is incurred, or is incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone;
 - (c) whether or not there were any sales of the relevant interest in the building or structure before it was used, that interest is sold after the building or structure has been used but before the expiry of the period of two years beginning with the date on which the building or structure was first used; and
 - (d) that sale is the first such sale in that period.
- (2) Where this section applies—
 - (a) any balancing allowance or charge which falls to be made on the occasion of the sale shall be so made;
 - (b) the residue of expenditure immediately after the sale (if any) shall be left out of account for the purposes of this Part;
 - (c) the person who buys the relevant interest (the purchaser) shall be deemed for the purposes of sections 1 to 8 to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure (deemed expenditure) of an amount determined in accordance with the following provisions of this section; and
 - (d) in relation to the deemed expenditure, the building or structure shall be treated for the purposes of sections 1 to 8 as not having been used before the date of the sale.
- (3) The deemed expenditure shall be regarded as comprising an enterprise zone element and a non-enterprise zone element and the amount of the deemed expenditure shall accordingly be the sum of the enterprise zone element and the non-enterprise zone element.
- (4) The enterprise zone element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

- (5) In subsection (4) above—

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

A is the actual expenditure or the net price paid by the purchaser for the relevant interest, whichever is the less;

B is the expenditure falling within subsection (1)(b) above; and

C is the actual expenditure.

- (6) The non-enterprise zone element of the deemed expenditure shall be calculated in accordance with the formula—

$$A - \left(A \times \frac{B}{C} \right)$$

- (7) In subsection (6) above—

A is the actual expenditure or the net price paid by the purchaser for the relevant interest, whichever is the less;

B is the expenditure falling within subsection (1)(b) above; and

C is the actual expenditure.

- (8) Where the actual expenditure was incurred by a person carrying on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale and he sells the relevant interest in the building or structure in the course of that trade or, as the case may be, of that part of that trade, then—

- (a) if that sale is the sale falling within subsection (1)(c) above—

(i) section 10(4) and (5) shall not apply; and

(ii) subsection (5) above shall have effect as if for the definition of A there were substituted—

“(i) A is the net price paid by the purchaser for the relevant interest;”;

- (b) if that sale is a sale which occurs before the sale falling within subsection (1)(c) above, subsections (5) and (7) above shall have effect as if the reference in the definition of A in each of those subsections to the actual expenditure were a reference to the price paid on that sale.

- (9) Notwithstanding the provisions of subsection (2)(c) above—

(a) the enterprise zone element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as incurred at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone; and

(b) the non-enterprise zone element of the deemed expenditure shall be treated for that purpose as not incurred, and not incurred under a contract entered into, at such a time.

- (10) This section shall have effect subject to section 17A.”

9 At the beginning of section 10(4) there shall be inserted “Subject to section 10B”.

Exclusion of expenditure

10 After section 17 there shall be inserted the following section—

“17A Enterprise zones: exclusion of expenditure

References in sections 1(1)(b), 6(1), 10A(1)(b) and 10B(1)(b) to expenditure incurred under a contract entered into at a time when the site of a building or structure is in an enterprise zone do not include any expenditure incurred under the contract if the expenditure is incurred more than 20 years after the site in question was first included in the enterprise zone.”

11 After section 1(10) there shall be inserted the following subsection—

“(11) This section shall have effect subject to section 17A.”

12 After section 6(4) there shall be inserted the following subsection—

“(4A) This section shall have effect subject to section 17A.”

Miscellaneous

13 In section 4(9) (balancing allowances and charges) in paragraph (a) of the definition of “the capital expenditure” after the words “section 10(1)” there shall be inserted “10A or 10B”.

Commencement

14 Paragraphs 2 to 7 above shall have effect in any case where the purchase price payable on the sale of the relevant interest in a building or structure before it is used (or if there is more than one such sale before the building or structure is used, the purchase price payable on the last of those sales) becomes payable on or after 16th December 1991.

15 Paragraphs 8 and 9 above shall have effect in relation to buildings or structures first used on or after 16th December 1991.

16 Paragraph 10 above shall apply in relation to contracts whenever made.

17 Paragraph 13 above shall have effect in accordance with paragraphs 14 and 15 above.