



# Finance Act 1995

## 1995 CHAPTER 4

### PART III U.K.

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Capital allowances: other provisions*

#### 99 Highway concessions. U.K.

- (1) The <sup>M1</sup>Capital Allowances Act 1990 shall be amended as follows.
- (2) In section 3(5) (right to charge road tolls deemed to be interest in land for the purposes of writing-down allowance), for “charge tolls” there shall be substituted “ a highway concession ”.
- (3) In subsection (1) of section 4 (events giving rise to balancing allowances or charges), after paragraph (d) there shall be inserted the following paragraph—
  - “(da) that interest, being a highway concession, is brought to or comes to an end, or”.
- (4) After subsection (2) of section 4 there shall be inserted the following subsections—
  - “(2AA) No balancing allowance or balancing charge shall be made by reason of an event falling within paragraph (da) of subsection (1) above if the period for which the concession was granted is deemed for the purposes of this subsection to be extended to include any period after the end of the concession; and for the purposes of this subsection where in the case of any highway concession that period is or is deemed to be different in relation to different parts of the road in respect of which it has been granted such apportionment shall be made for the purposes of this subsection as may be just and reasonable.
  - (2AB) Where a highway concession in respect of any road (“the prior concession”) is brought to or comes to an end in circumstances in which—

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1995, Cross Heading: Capital allowances: other provisions. (See end of Document for details)*

- (a) the person entitled to that concession is afforded (whether or not in pursuance of any legally enforceable arrangements), and takes advantage of, an opportunity to be granted a renewal of the concession, on the same or modified terms, in respect of the whole or any part of that road, or
- (b) that person, or a person who is connected with that person within the terms of section 839 of the principal Act, is so afforded, and takes advantage of, an opportunity to be granted a new concession, on the same or modified terms, in respect of, or of a road that includes, the whole or any part of that road,

then to the extent that the prior concession and the renewed or new concession relate to the same road, the period of the prior concession shall be deemed, for the purposes of subsection (2AA) above, to have been extended or further extended for the period of the renewed or new concession and any question for the purposes of this Part as to what constitutes the relevant interest at any time after the renewal, or (as the case may be) the grant of the new concession, shall be determined on the assumption that the renewed or new concession is a continuation of the prior concession.”

- (5) In section 18(1)(da) (definition of “industrial building or structure” to include structure in use for the purposes of a toll road undertaking), for “toll road” there shall be substituted “highway”.
- (6) In section 20 (meaning of “the relevant interest”)—
  - (a) in subsection (5), for “a toll road, the right to charge tolls” there shall be substituted “any road, a highway concession”; and
  - (b) in subsection (6)—
    - (i) in the words before paragraph (a), for “toll road” there shall be substituted “road”;
    - (ii) in paragraph (b), for “charge tolls” there shall be substituted “a highway concession”; and
    - (iii) in the words after paragraph (b), for “right to charge tolls” there shall be substituted “highway concession”.
- (7) After subsection (5) of section 21 (interpretation of Part I) there shall be inserted the following subsection—

“(5AA) In this Part—

“highway concession”, in relation to any road, means—

- (a) any right, in respect of the fact that the road is or will be used by the general public, to receive sums from the Secretary of State or from the Department of the Environment for Northern Ireland, or
- (b) where that road is a toll road, the right to charge tolls in respect of the road,

and

“highway undertaking” means so much of any undertaking relating to the design, building, financing and operation of any roads as is carried on for the purposes of, or in connection with, the exploitation of highway concessions.”

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- (8) In subsections (5A) and (5B) of section 21, for the words “toll road undertaking”, in each place where they occur, there shall be substituted “highway undertaking”; and in subsection (5B) for “toll road comprised in it” there shall be substituted “road in relation to which it is carried on”.
- (9) In section 156 (meaning of sale, insurance, salvage or compensation moneys), after paragraph (d) there shall be inserted the following paragraph—
- “(e) where the event is the bringing or coming to an end of a highway concession (within the meaning of Part I), any insurance moneys or other compensation received by him in respect of any expenditure which is, or for the purposes of that Part is deemed to be, capital expenditure on the construction of the road in question, in so far as that compensation consists of capital sums.”
- (10) This section has effect in relation to expenditure incurred on or after 6th April 1995.

#### Marginal Citations

M1 1990 c. 1.

## 100 Arrangements affecting the value of a relevant interest. **U.K.**

- (1) After section 10C of the <sup>M2</sup>Capital Allowances Act 1990 there shall be inserted the following section—

### “10D Arrangements affecting the value of the purchased interest.

- (1) This section has effect for determining the following amounts, that is to say—
- (a) any amount which for the purposes of any of sections 10 to 10C is to be taken to be the sum paid on the sale of the relevant interest in any building or structure; and
- (b) any amount which for the purposes of sections 1 to 8 is to be taken to be the amount of any sale, insurance, salvage or compensation moneys payable in respect of any building or structure where—
- (i) a person is deemed, under any of sections 10 to 10C, to have incurred expenditure on the construction of the building or structure; and
- (ii) the amount of the deemed expenditure is taken, under those sections, to have been equal to the price paid on a sale of the relevant interest in the building or structure;
- and in this section “the relevant amount” means the amount falling to be determined and “the basic amount” means whatever would be the relevant amount for the purposes of this Part if the provisions of this section were disregarded.
- (2) Where—
- (a) arrangements falling within subsection (3) below have been entered into, and
- (b) those arrangements contain any provision having an artificial effect on pricing,

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the relevant amount shall be taken to be equal to the basic amount less so much of the basic amount as, on a just apportionment, represents the extent to which the sale price or, as the case may be, the amount of the sale, insurance, salvage or compensation moneys is more than it would have been if those arrangements had not contained that provision.

(3) The arrangements falling within this subsection are any arrangements relating to, or to any other arrangements made with respect to, any interest in or right over the building or structure in question (whether granted by the person entitled to the relevant interest or by somebody else), so far as they are arrangements which—

- (a) were entered into between any two or more persons at or before the time mentioned in subsection (5) below; and
- (b) had the effect at the time so mentioned of enhancing the value of the relevant interest in that building or structure.

(4) For the purposes of this section arrangements falling within subsection (3) above in relation to any building or structure shall be treated as containing a provision having an artificial effect on pricing to the extent that they go beyond what, at the time they were entered into, it was reasonable to regard as required, so far as transactions involving interests in or rights over buildings or structures of the same or a similar description were concerned, by the market conditions then prevailing for persons dealing with each other at arm's length in the open market.

(5) The time mentioned in subsection (3)(a) above is—

- (a) in relation to the determination of an amount falling within subsection (1)(a) above, the time of the fixing of the sale price for the sale in question; and
- (b) in relation to the determination of an amount falling within subsection (1)(b) above, the time of the fixing of the sale price for the sale by reference to which the amount of the deemed expenditure on the construction of the building or structure fell to be determined in accordance with any of sections 10 to 10C.”

(2) In section 151 of that Act (procedure on apportionments), after subsection (1) there shall be inserted the following subsection—

“(1A) This section applies in relation to so much of the determination of any price, or of any sale, insurance, salvage or compensation moneys, as is made in accordance with section 10D as it applies in relation to apportionments.”

(3) This section has effect in relation to determinations on or after 29th November 1994 except where the time referred to in subsection (5) of the section 10D inserted in the <sup>M3</sup>Capital Allowances Act 1990 by this section would, in relation to the amount to be determined, be the time of the fixing of a sale price which either—

- (a) became payable before 29th November 1994; or
- (b) being an amount becoming payable before 6th April 1995, was fixed by a contract entered into before 29th November 1994.

#### Marginal Citations

M2 1990 c. 1.

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**M3** 1990 c. 1.

**101 Import warehouses etc. U.K.**

Section 18(1)(f)(iv) of the Capital Allowances Act 1990 (industrial building or structure to include building or structure used for the storage of goods arriving by sea or air into the United Kingdom) shall have effect, and be deemed always to have had effect, as if for “by sea or air into any part of” there were substituted “ in any part of the United Kingdom from a place outside ”.

**102 Commencement of certain provisions. U.K.**

(1) Chapter IV of Part IV of the <sup>M4</sup>Finance Act 1994 (changes for facilitating self-assessment) shall be deemed to have been enacted with the following modification.

(2) In section 218 (commencement etc. of Chapter IV, sections 213(4) and (8) and 214(4) and (6) of which relate to capital allowances) the following subsection shall be inserted after subsection (1)—

“(1A) In a case where—

(a) a trade is set up and commenced by a company, and

(b) it is not set up and commenced before 6th April 1994,

sections 213(4) and (8) and 214(4) and (6) have effect only if it is set up and commenced on or after 6th April 1995.”

**Marginal Citations**

**M4** 1994 c. 9.

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