



Finance (No. 2) Act 1997

1997 CHAPTER 58

PART III

INCOME TAX AND CORPORATION TAX

Capital allowances for small and medium-sized businesses

42 Temporary first-year allowances

- (1) In subsection (1) of section 22 of the Capital Allowances Act 1990 (first-year allowances), after “40 per cent. of that expenditure” there shall be inserted “, 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”.
- (2) After that subsection there shall be inserted the following subsection—
 - “(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.”
- (3) After subsection (3B) of that section there shall be inserted the following subsection—
 - “(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.”
- (4) In subsection (4) of that section, after “any expenditure” there shall be inserted “to which this section applies otherwise than by virtue only of subsection (3C) above”.

Status: This is the original version (as it was originally enacted).

(5) After subsection (6A) of that section there shall be inserted the following subsections—

“(6B) No first-year allowance shall be made in respect of any expenditure to which this section applies by virtue only of subsection (3C) 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 subsection (3C) 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.”

(6) In sections 23(6), 42(9), 44(5), 46(8), 48(7) and 50(3) and (4A) of that Act (which contain provisions referring to the temporary first-year allowances under section 22(3B) of that Act), after the words “subsection (3B)”, in each place where they occur, there shall be inserted the words “or (3C)”.

(7) In section 39(2)(a) of that Act (definition of a qualifying purpose), for “subsections (2) to (3B)” there shall be substituted “subsections (2) to (3C)”.

(8) In section 43 of that Act (provisions relating to joint lessees in cases involving new expenditure), after subsection (4) there shall be added the following subsection—

“(5) Any first-year allowance made in respect of expenditure to which section 22 applies by virtue only of subsection (3C) 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.”

(9) This section shall have effect in relation to every chargeable period ending on or after 2nd July 1997.

43 Expenditure of a small company or small business

(1) After section 22 of the Capital Allowances Act 1990 there shall be inserted the following section—

Status: This is the original version (as it was originally enacted).

“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 parent company of a group which does not qualify as small or medium-sized in relation to the financial year of the parent company in which that time falls; or
 - (b) it is at that time a subsidiary undertaking in relation to the parent company 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;

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- (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”, “parent company” 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.
- (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.”
- (2) This section shall have effect in relation to every chargeable period ending on or after 2nd July 1997.