



Finance (No. 2) Act 1997

1997 CHAPTER 58

PART III

INCOME TAX AND CORPORATION TAX

Capital allowances for small and medium-sized businesses

43 Expenditure of a small company or small business.

- (1) After section 22 of the ^{M1}Capital Allowances Act 1990 there shall be inserted the following section—

“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—

Status: Point in time view as at 31/07/1997. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997, Section 43. (See end of Document for details)

- (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 ^{M2}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;
 - (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 ^{M3}Companies Act 1985; or
 - (b) a company, or a Part XXIII company, within the meaning of the ^{M4}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 ^{M5}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—

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- (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 ^{M6}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 ^{M7}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.

Marginal Citations

- M1** 1990 c. 1.
- M2** 1985 c. 6.
- M3** 1985 c. 6.
- M4** S.I. 1986/1032 (N.I. 6).
- M5** 1985 c. 6.
- M6** 1985 c. 6.
- M7** S.I. 1986/1032 (N.I. 6).

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