

Status: Point in time view as at 22/03/2001.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Part IX. (See end of Document for details)

SCHEDULES

SCHEDULE 22 U.K.

TONNAGE TAX

PART IX U.K.

THE RING FENCE: CAPITAL ALLOWANCES: GENERAL

Introduction

- 68 (1) This Part of this Schedule makes provision about capital allowances where a company enters, leaves or is subject to tonnage tax.
- (2) The general scheme of this Part of this Schedule is that—
- (a) entry of a company into tonnage tax does not of itself give rise to any balancing charges or balancing allowances,
 - (b) a company subject to tonnage tax is not entitled to capital allowances in respect of expenditure incurred for the purposes of its tonnage tax trade, whether before or after its entry into tonnage tax, and
 - (c) on leaving tonnage tax a company is put broadly in the position it would have been in if it had never been subject to tonnage tax.
- (3) A company's tonnage tax trade is not a qualifying activity for the purposes of determining the company's entitlement to capital allowances.

Entry: plant and machinery: assets to be used wholly for tonnage tax trade

- 69 (1) On a company's entry into tonnage tax any unrelieved qualifying expenditure attributable to plant or machinery that is to be used wholly for the purposes of the company's tonnage tax trade is taken to a single pool (the company's "tonnage tax pool").
- [^{F1}(2) In this paragraph "unrelieved qualifying expenditure" has the same meaning as in Chapter 5 of Part 2 of the Capital Allowances Act 2001.]
- (3) The amount of unrelieved qualifying expenditure attributable to plant or machinery in a class pool, or the main pool, is the proportion of the whole given by:

$$\frac{AV}{PV}$$

where:

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AV is the aggregate market value of the assets concerned immediately before entry into tonnage tax, and

PV is the aggregate market value at that time of all the assets in the pool.

- (4) References in this paragraph to unrelieved qualifying expenditure include qualifying expenditure to the extent to which it is unrelieved by virtue of notice having been given under [^{F2}section 130 of the Capital Allowances Act 2001 (notice postponing first-year or writing-down allowance)]

No allowance may be claimed in respect of any such expenditure taken to the company's tonnage tax pool.

Textual Amendments

- F1** Sch. 22 para. 69(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(2)
- F2** Words in Sch. 22 para. 69(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) for Sch. 22 para. 69(a)(b) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(3)

Entry: plant and machinery: assets to be used partly for tonnage tax trade

- 70 (1) This paragraph applies where, on a company's entry into tonnage tax, plant and machinery is to be used partly for the purposes of the company's tonnage tax trade and partly for the purposes of a qualifying activity carried on by the company.
- [^{F3}(2) Sections 61(1)(e), 206(3) and 207 of the Capital Allowances Act 2001 (effect of use partly for qualifying activity and partly for other purposes) apply as follows—
- (a) references to a qualifying activity shall be read as not including references to the tonnage tax trade, and
 - (b) references to purposes other than those of a qualifying activity shall be read as including references to the purposes of the tonnage tax trade.]

Textual Amendments

- F3** Sch. 22 para. 70(2) substituted (28.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(4)

Entry: ships acquired and disposed of within twelve months

- 71 (1) This paragraph applies if a company—
- (a) acquires a qualifying ship within the period of six months before the company enters tonnage tax, and
 - (b) disposes of the ship before the end of the period of twelve months beginning with the day on which the ship was acquired.
- (2) The aggregate amount of the capital allowances to which the company is entitled for the period or periods before entry into tonnage tax in respect of its expenditure on acquiring the ship is limited to the amount by which that expenditure exceeds the market value of the ship on the company's entry into tonnage tax.

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Entry: deferred balancing charge on disposal of ship

- 72 (1) This paragraph applies where deferment of a balancing charge has been claimed under [^{F4}sections 135 to 156 of the Capital Allowances Act 2001]sections 33A to 33F of the ^{M1}Capital Allowances Act 1990 (balancing charge on disposal of ship to be deferred and set against new expenditure incurred within six years) by a company that subsequently enters tonnage tax.
- (2) Expenditure on new shipping incurred by a company subject to tonnage tax shall not be taken into account for the purposes of those sections unless the company that incurred the balancing charge—
- (a) was a qualifying company for the purposes of this Schedule at the time the balancing charge arose, or
 - (b) would have been such a company had this Schedule been in force at that time.
- (3) Subject to sub-paragraph (2)—
- (a) the company's entry into tonnage tax does not affect the operation of those sections, and
 - (b) the expenditure on new shipping that is to be taken into account for the purposes of those sections shall be determined as if the company was not subject to tonnage tax.

Textual Amendments

F4 Words in Sch. 22 para. 72(1) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(5)**

Marginal Citations

M1 1990 c. 1.

During: plant and machinery: new expenditure partly for tonnage tax purposes

- 73 (1) This paragraph applies where a company subject to tonnage tax incurs expenditure on the provision of plant or machinery partly for the purposes of its tonnage tax trade and partly for the purposes of a qualifying activity.
- [^{F5}(2) Sections 206(1), (2) and (4) and 207 of the Capital Allowances Act 2001 (operation of single asset pool for mixed use assets) apply as follows—
- (a) references to a qualifying activity shall be read as not including references to the tonnage tax trade, and
 - (b) references to purposes other than those of a qualifying activity shall be read as including references to the purposes of the tonnage tax trade.]

Textual Amendments

F5 **Sch. 22 para. 73(2)** substituted (23.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 108(6)**

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During: plant and machinery: asset beginning to be used for tonnage tax trade

- 74 A company's tonnage tax pool is not increased by reason of an asset beginning to be used for the purposes of the company's tonnage tax trade after the company's entry into tonnage tax.

During: plant and machinery: change of use of tonnage tax asset

- 75 (1) This paragraph applies where, at a time when a company is subject to tonnage tax, plant or machinery used for the purposes of the company's tonnage tax trade begins to be used wholly or partly for purposes other than those of that trade.

[^{F6}(2) If the asset was acquired before entry into tonnage tax, section 61(1)(e) of the Capital Allowances Act 2001 applies (disposal event if plant or machinery begins to be used wholly or partly for purposes other than those of the qualifying activity), but reading the reference in that provision to the qualifying activity as a reference to the tonnage tax trade.

^{F6}(3) If the asset was acquired after entry into tonnage tax and begins to be used wholly or partly for the purposes of a qualifying activity carried on by the company, section 13 of the Capital Allowances Act 2001 (use for qualifying activity of plant or machinery provided for other purposes) applies as follows—

- (a) references to purposes which were not those of any qualifying activity shall be read as including references to the purposes of the tonnage tax trade, and
- (b) references to the qualifying activity carried on by him shall be read as not including references to the tonnage tax trade.]

Textual Amendments

F6 Sch. 22 para. 75(2)(3) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(7)

During: plant and machinery: change of use of non-tonnage tax asset

- 76 (1) This paragraph applies where, at a time when a company is subject to tonnage tax, plant or machinery used for the purposes of a qualifying activity carried on by the company begins to be used wholly or partly for the purposes of the company's tonnage tax trade.

[^{F7}(2) Sections 61(1)(e), 206(3) and 207 of the Capital Allowances Act 2001 (effect of use partly for qualifying activity and partly for other purposes) apply as follows—

- (a) references to a qualifying activity shall be read as not including references to the tonnage tax trade, and
- (b) references to purposes other than those of a qualifying activity shall be read as including references to the purposes of the tonnage tax trade.]

Textual Amendments

F7 Sch. 22 para. 76(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(8)

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During: plant and machinery: disposals

- 77 (1) This paragraph applies if when a company is subject to tonnage tax a disposal event occurs in relation to plant or machinery—
- (a) in respect of which qualifying expenditure was incurred by the company before its entry into tonnage tax,
 - (b) some or all of the expenditure on which was carried to the tonnage tax pool on the company's entry into tonnage tax, and
 - (c) which is used by the company for the purposes of its tonnage tax trade.
- (2) A “disposal event” means an event as a result of which the company is required under [F8Part 2 of the Capital Allowances Act 2001] to bring a disposal value into account.
- In determining whether such an event has occurred [F8references in that Part of that Act to a qualifying activity] shall be read as including the company's tonnage tax trade.
- (3) Where this paragraph applies—
- (a) the disposal value to be brought into account in respect of any plant or machinery is limited to its market value when the company entered tonnage tax, and
 - (b) the disposal value is set against the unrelieved qualifying expenditure in the company's tonnage tax pool.
- (4) If the amount of the disposal value is less than or equal to the amount of unrelieved qualifying expenditure in the company's tonnage tax pool, the amount of unrelieved qualifying expenditure is reduced or extinguished accordingly.
- (5) If—
- (a) the amount of the disposal value exceeds the amount of unrelieved qualifying expenditure, or
 - (b) there is no unrelieved qualifying expenditure in the pool,
- the company is liable to a balancing charge.
- (6) The amount of the balancing charge is—
- (a) where sub-paragraph (5)(a) applies, the amount of the excess, or
 - (b) where sub-paragraph (5)(b) applies, the amount of the disposal value.

This is subject to any reduction under paragraph 78.

Textual Amendments

- F8** Words in [Sch. 22 para. 77\(2\)](#) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 22, ss. 578, 579](#), [Sch. 2 para. 108\(9\)](#)

During: plant and machinery: reduction of balancing charges

- 78 (1) The amount of any balancing charge under this Part of this Schedule is reduced by reference to the number of whole years the company has been subject to tonnage tax at the time of the disposal event giving rise to the charge.
- (2) The following table shows the percentage reduction:

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<i>Number of years</i>	<i>Percentage reduction</i>
1	15%
2	30%
3	45%
4	60%
5	75%
6	90%
7 or more	100%

During: plant and machinery: giving effect to balancing charge

- 79 (1) A balancing charge under this Part of this Schedule—
- (a) is treated as arising in connection with a trade (other than its tonnage tax trade) carried on by the company, and
 - (b) is made in taxing that trade.
- (2) Subject to paragraph 80 (deferment of balancing charge in case of reinvestment), the charge must be given effect in the accounting period in which it arises.

During: plant and machinery: deferment of balancing charge

- 80 (1) If—
- (a) a balancing charge under this Part of this Schedule arises in connection with the disposal of a qualifying ship, and
 - (b) within the requisite period the company incurs capital expenditure on acquiring one or more other qualifying ships, and
 - (c) the company claims relief under this paragraph,
- only the amount (if any) by which the balancing charge exceeds that expenditure must be given effect in the accounting period in which the charge arises and the rest may be held over.
- (2) For the purposes of this paragraph—
- (a) the disposal of a qualifying ship includes any event within [F9 section 61(1) (a) to (d) of the Capital Allowances Act 2001] occurring with respect to a qualifying ship, and
 - (b) the requisite period is the period beginning one year before, and ending two years after, the date of the disposal.
- (3) If the new qualifying ship (or any of them) is disposed of before the end of the period of seven years after the company in question entered tonnage tax—
- (a) there is a balancing charge under this paragraph when the disposal occurs, and
 - (b) the amount of that charge is equal to the amount held over under subparagraph (1) by reference to the acquisition of that ship.

This is subject to any reduction under paragraph 78 and to any further deferment under this paragraph.

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- (4) [Sections 135 to 156 of the Capital Allowances Act 2001] (deferral of balancing charges) do not apply in relation to balancing charges arising when the company is subject to tonnage tax.
- (5) The fact that there is a balancing charge under this paragraph does not affect the operation of paragraph 77 in a case where that paragraph also applies.

Textual Amendments

F9 Words in [Sch. 22 para. 80\(2\)\(4\)](#) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, ss. 578, 579\(1\)](#), [Sch. 2 para. 108\(9\)\(10\)](#)

During: plant and machinery: surrender of unrelieved qualifying expenditure

- 81 (1) This paragraph applies where—
- (a) a company subject to tonnage tax is liable to a balancing charge under this Part of this Schedule,
 - (b) another tonnage tax company which is a member of the same group has unrelieved qualifying expenditure in its tonnage tax pool, and
 - (c) the two companies have been members of the same group for not less than a year at the date of the disposal giving rise to the balancing charge.
- (2) The latter company may surrender to the former all or part of its unrelieved qualifying expenditure, and the amount of the balancing charge shall be reduced or extinguished accordingly.
- (3) The provisions of Part VIII of Schedule 18 to the ^{M2}Finance Act 1998 (corporation tax self-assessment: claims for group relief), except paragraph 77 (joint amended returns), apply in relation to relief under this paragraph as they apply in relation to group relief.

Marginal Citations

M2 [1998 c. 36.](#)

During: industrial buildings: mixed use

- 82 Where any identifiable part of a building or structure is used for the purposes of a company's tonnage tax trade, that part is treated for the purposes of Part I of the ^{M3}Capital Allowances Act 1990 as used otherwise than as an industrial building or structure.

Marginal Citations

M3 [1990 c. 1.](#)

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During: industrial buildings: balancing charges

- 83 (1) This paragraph applies where, in an accounting period during which a company is subject to tonnage tax, a [^{F10}balancing event occurs in relation to an industrial building]in respect of which qualifying expenditure was incurred by the company before its entry into tonnage tax.
- (2) [^{F11}A “balancing event” means an event by reason of which the company is required by Part 3 of the Capital Allowances Act 2001 to bring into account any proceeds.] In determining whether such an event has occurred references in that Part of that Act to a trade or undertaking shall be read as including the company’s tonnage tax trade.
- (3) Where this paragraph applies—
- ^{F12}(a) the proceeds to be brought into account in respect of the industrial building are limited to the market value of the relevant interest when the company entered tonnage tax; and]
- (b) the amount of any balancing charge under that Part is reduced in accordance with paragraph 78.

Textual Amendments

- F10** Words in Sch. 22 para. 83(1) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(13)**
- F11** Words in Sch. 22 para. 83(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(14)**
- F12** Sch. 22 para. 83(3)(a) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(15)**

During: industrial buildings: residue of qualifying expenditure

- 84 (1) This paragraph applies where a company subject to tonnage tax disposes of the relevant interest in an industrial building ^{F13}. . . .
- (2) [^{F14}Section 313 and Chapter 8 of Part 3 of the Capital Allowances Act 2001 (meaning of “residue of qualifying expenditure” and writing off qualifying expenditure)] apply to determine the residue of expenditure in the hands of the person who acquires the relevant interest, as if—
- (a) the company had not been subject to tonnage tax, and
- (b) all writing-down allowances, and balancing allowances and charges, had been made as could have been made if the company had not been subject to tonnage tax.

Textual Amendments

- F13** Words in Sch. 22 para. 84(1) repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), 580, Sch. 2 para. 108(16), **Sch. 4**
- F14** Words in Sch. 22 para. 84(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 108(17)**

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Exit: plant and machinery

- 85 (1) If a company leaves tonnage tax—
- (a) the amount of qualifying expenditure under [^{F15}Part 2 of the Capital Allowances Act 2001 (plant and machinery allowances)]Part II of the ^{M4}Capital Allowances Act 1990 (plant and machinery), and
 - (b) the pools to which such expenditure is to be allocated for the purposes of that Part,
- shall be determined under this paragraph.
- (2) For each asset used by the company for the purposes of its tonnage tax activities and held by the company when it leaves tonnage tax there shall be determined—
- (a) the amount of expenditure incurred on the provision of the asset that would have been qualifying expenditure if the company had not been subject to tonnage tax, and
 - (b) the written down value of that amount by reference to the period since the expenditure was incurred.
- (3) The Inland Revenue shall make provision by regulations as to the basis on which the writing down is to be done.

The regulations may make different provision for different descriptions of asset.

Textual Amendments

F15 Words in Sch. 22 para. 85(1) substituted (22.3.2002 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(18)

Marginal Citations

M4 1990 c. 1.

Exit: industrial buildings

- 86 If a company leaves tonnage tax the amount of unrelieved qualifying expenditure under [^{F16}Part 3 of the Capital Allowances Act 2001 (industrial buildings allowances)] is calculated as if—
- (a) the company had never been subject to tonnage tax, and
 - (b) all such allowances and charges under that Part had been made as could have been made.

Textual Amendments

F16 Words in Sch. 22 para. 86(1) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, Sch. 2 para. 108(19)

Meaning of “not entitled to capital allowance”s

- 87 (1) Where any provision of this Part of this Schedule states that a person is not entitled to capital allowances in respect of expenditure on plant or machinery—
- (a) a first-year allowance shall not be given in respect of that expenditure, and

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[^{F17}(b) the expenditure shall be disregarded for the purposes of calculating the person's entitlement to a writing-down allowance or balancing allowance or liability to a balancing charge.]

(2) If there is no entitlement to capital allowances in respect of expenditure, there is no entitlement to capital allowances in respect of any additional VAT liability incurred in respect of it.

Textual Amendments

F17 Sch. 22 para. 87(1)(b) substituted (23.1.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(20)**

Interpretation

88 (1) In this Part of this Schedule—

[^{F18}“capital allowance” means any allowance under the Capital Allowances Act 2001;]

[^{F19}“qualifying activity” means any activity in respect of which a person may be entitled to a capital allowance;]

“qualifying expenditure” means expenditure in respect of which a person is or may be entitled to a capital allowance.

[^{F20}(2) In this Part of this Schedule any reference to pooling or to single asset pools, class pools or the main pool shall be construed in accordance with sections 53 and 54 of the Capital Allowances Act 2001.]

(4) Other expressions relating to capital allowances have the same meaning in this Part of this Schedule as in the [^{F21}Capital Allowances Act 2001].

Textual Amendments

F18 Sch. 22 para. 88: definition of “capital allowance” substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(21)**

F19 Sch. 22 para. 88: definition of “qualifying activity” substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(21)**

F20 Sch. 22 para. 88(2) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) for Sch. 22 para. 88(2)(3) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(22)**

F21 Words in Sch. 22 para. 88(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 108(23)**

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