

SCHEDULES

SCHEDULE 22

TONNAGE TAX

PART IX

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").
- (2) For the purposes of this paragraph "unrelieved qualifying expenditure" means the balance that would otherwise have been carried forward under Part II of the Capital Allowances Act 1990.
- (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:

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.

Status: This is the original version (as it was originally enacted).

(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—

- (a) section 30(1) of the Capital Allowances Act 1990 (postponement or reduction of first year allowances), or
- (b) section 31(3) of that Act (postponement of writing-down allowance in respect of expenditure in single ship pool).

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

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.
- (2) The provisions of sections 24(6)(c)(iv) and 79(3) to (6) of the Capital Allowances Act 1990 (effect of use partly for trade and partly for other purposes) apply as follows—
- (a) references to a trade shall be read as references to the qualifying activity (and not as including a reference to the tonnage tax trade), and
 - (b) references to purposes other than those of a trade shall be read as including references to the purposes of the tonnage tax trade.

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.

Entry: deferred balancing charge on disposal of ship

- 72 (1) This paragraph applies where deferment of a balancing charge has been claimed under sections 33A to 33F of the 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)—

Status: This is the original version (as it was originally enacted).

- (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.

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.
- (2) The provisions of section 79(2) and (4) to (6) of the Capital Allowances Act 1990 (operation of single asset pool for mixed use assets) apply as follows—
- (a) references to a trade shall be read as references to the qualifying activity (and not as including a reference to the tonnage tax trade), and
 - (b) references to purposes other than those of a trade shall be read as including references to the purposes of the tonnage tax trade.

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.
- (2) If the asset was acquired before entry into tonnage tax, section 24(6)(c)(iv) of the Capital Allowances Act 1990 applies (disposal value to be brought into account on plant of machinery beginning to be used wholly or partly for purposes other than those of the trade for which it was provided).

The reference to the trade shall be read as a reference to the tonnage tax trade.

- (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 81(1)(a) of the Capital Allowances Act 1990 (effect of use after user not attracting capital allowances) applies as follows—
- (a) the reference to the trade shall be read as a reference to the qualifying activity (and as not including a reference to the tonnage tax trade), and
 - (b) the reference to purposes such that the expenditure has not been taken into account in computing any capital allowance shall be read as including the purposes of the tonnage tax trade.

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

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

company begins to be used wholly or partly for the purposes of the company's tonnage tax trade.

- (2) The provisions of sections 24(6)(c)(iv) and 79(3) to (6) of the Capital Allowances Act 1990 (disposal value to be brought into account on plant or machinery beginning to be used wholly or partly for purposes other than those of trade for which it was provided) apply as follows—
- (a) references to a trade shall be read as references to the qualifying activity (and not as including a reference to the tonnage tax trade), and
 - (b) references to purposes other than those of a trade shall be read as including references to the purposes of the tonnage tax trade.

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 Part II of the Capital Allowances Act 1990 to bring a disposal value into account.
- In determining whether such an event has occurred references in that Part of that Act to a trade 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.

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

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:

<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 section 24(6)(c) (i) to (iii) of the Capital Allowances Act 1990 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—

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

- (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 sub-paragraph (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.

- (4) Sections 33A to 33F of the Capital Allowances Act 1990 (deferment 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.

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 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.

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 Capital Allowances Act 1990 as used otherwise than as an industrial building or structure.

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 disposal event occurs in relation to an industrial building or structure in respect of which qualifying expenditure was incurred by the company before its entry into tonnage tax.
- (2) A "disposal event" means an event by reason of which the company is required by Part I of the Capital Allowances Act 1990 to bring into account sale, insurance, salvage or compensation moneys.

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.

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

- (3) Where this paragraph applies—
- (a) the sale, insurance, salvage or compensation moneys to be brought into account in respect of any industrial building or structure 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.

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 or structure.
- (2) The provisions of section 8(1) to (12) of the Capital Allowances Act 1990 (writing off of expenditure and meaning of “residue of 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.

Exit: plant and machinery

- 85 (1) If a company leaves tonnage tax—
- (a) the amount of qualifying expenditure under Part II of the 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.

Exit: industrial buildings

- 86 If a company leaves tonnage tax the amount of unrelieved qualifying expenditure under Part I of the Capital Allowances Act 1990 (industrial buildings) 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.

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

Meaning of “not entitled to capital allowances”

- 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
 - (b) the expenditure shall be disregarded for the purposes of sections 24, 25 and 26 of the Capital Allowances Act 1990.
- (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.

Interpretation

- 88 (1) In this Part of this Schedule—
- “capital allowance” means any allowance under the Capital Allowances Act 1990 or any provision of the Taxes Act 1988 that is to be construed as one with that Act;
 - “qualifying activity” means—
 - (a) a trade, or
 - (b) an activity treated as a trade or to which capital allowance provisions apply as they apply to a trade,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.
- (2) In this Part of this Schedule references to pooling are to the way in which effect is given to provisions requiring expenditure to be aggregated for the purpose of determining a person’s entitlement to, or the amount of, a capital allowance.
- (3) In the context of capital allowances for plant and machinery—
- (a) “single asset pool” refers to the way in which effect is given to provisions under which an asset is treated as having been provided for the purposes of a notional trade separate from all other trades,
 - (b) “class pool” refers to the way in which effect is given to provisions under which assets of a particular description are so treated, and
 - (c) “main pool” refers to the way in which effect is given to provisions relating to assets not allocated to a single asset pool or class pool.
- (4) Other expressions relating to capital allowances have the same meaning in this Part of this Schedule as in the Capital Allowances Act 1990.