

Status: Point in time view as at 02/12/2004.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, Part 10. (See end of Document for details)

SCHEDULES

SCHEDULE 29

GAINS AND LOSSES OF A COMPANY FROM INTANGIBLE FIXED ASSETS

Modifications etc. (not altering text)

- C1** Sch. 29 applied (with modifications) (15.8.2002) by [S.I. 2002/1967, regs. 3-6](#)
- C1** Sch. 29 modified (5.10.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 9 para. 28](#) (with s. 38(2)); [S.I. 2004/2575, art. 2\(1\), Sch. 1](#)

PART 10

EXCLUDED ASSETS

Introduction

- 72 (1) This Part provides for the exclusion from this Schedule of certain assets.
- Where or to the extent that an asset of any description is so excluded, an option or other right to acquire or dispose of an asset of that description is similarly excluded.
- (2) This Part provides for three kinds of exclusion—
- (a) assets within paragraphs 73 to 77 are entirely excluded from this Schedule;
 - (b) assets within paragraphs 78 to 81 are excluded from the provisions of this Schedule except as regards royalties;
 - (c) assets within paragraph 82 or 83 are excluded from the provisions of this Schedule to the extent specified in the paragraph concerned.
- (3) Where by virtue of any of those paragraphs an asset is excluded to the extent that—
- (a) it represents certain rights, or
 - (b) it is an asset of a certain description, or
 - (c) it is held for certain purposes, or
 - (d) it represents expenditure of a certain kind,
- the provisions of this Schedule apply as if there were a separate asset representing so much of the asset as is not so excluded.
- (4) The other provisions of the Corporation Tax Acts have effect as if there were a separate asset representing so much of the asset as is excluded.
- (5) Any apportionment necessary for the purposes of sub-paragraphs (3) and (4) shall be made on a just and reasonable basis.

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Assets entirely excluded: rights over tangible assets

- 73 This Schedule does not apply to an intangible fixed asset to the extent that it represents—
- (a) rights enjoyed by virtue of an estate, interest or right in or over land, or
 - (b) rights in relation to tangible movable property.

Assets entirely excluded: assets in respect of which capital allowance previously made

- [^{F1}73A(1) This Schedule does not apply to an intangible asset of a company in the following circumstances.
- (2) The circumstances are that—
- (a) the asset falls to be treated as an intangible asset in accounts of the company,
 - (b) in a previous period of account the asset fell to be treated as a tangible asset in accounts of the company, and
 - (c) an allowance under Part 2 of the Capital Allowances Act (plant and machinery allowances) was made to the company in respect of the asset on the latter basis.]

Textual Amendments

- F1** Sch. 29 para. 73A inserted (with effect in accordance with s. 52(3) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 10 para. 71](#)

Assets entirely excluded: oil licences

- 74 (1) This Schedule does not apply to an oil licence or an interest in an oil licence.
- (2) In sub-paragraph (1) an “oil licence” means a UK oil licence or a foreign oil concession.
- (3) In this paragraph—
- “UK oil licence” means a licence under—
- (a) Part 1 of the Petroleum Act 1998 (c. 17) (“the 1998 Act”), or
 - (b) the Petroleum Production (Northern Ireland) Act 1964 (c. 28 (N.I.)) (“the 1964 Act”),
- authorising the winning of oil; and
- “foreign oil concession” means any right that—
- (a) is a right to search for or win oil that exists in its natural condition in a place to which neither the 1998 Act nor the 1964 Act applies, and
 - (b) is conferred or exercisable (whether or not under a licence) in relation to a particular area.
- (4) In sub-paragraph (1) “interest in an oil licence” includes, if there is an agreement that—
- (a) relates to oil from the whole or a part of the licensed area, and
 - (b) was made before the extraction of the oil to which it relates,
- any entitlement under the agreement to, or to a share of, that oil or the proceeds of its sale.

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- (5) In sub-paragraph (4)(a) “licensed area” means—
- (a) in relation to a UK oil licence, the area to which the licence applies, and
 - (b) in relation to a foreign oil concession, the area in relation to which the right to search for or win oil is conferred or exercisable under the concession.
- (6) In this paragraph “oil”—
- (a) in relation to a UK oil licence, means any substance won or capable of being won under the authority of a licence granted under Part 1 of the 1998 Act or the 1964 Act, other than methane gas won in the course of making and keeping mines safe, and
 - (b) in relation to a foreign oil concession, means any petroleum (as defined by section 1 of the 1998 Act).

Assets entirely excluded: financial assets

- 75 (1) This Schedule does not apply to financial assets.
- (2) “Financial asset” here has the meaning it has for accounting purposes.
- (3) The expression includes—
- [^{F2}(a) loan relationships]
 - [^{F3}(b) derivative contracts (see Part 2 of Schedule 26 to this Act),]
 - (c) contracts or policies of insurance or capital redemption policies, and
 - (d) rights under a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 (c. 8) (see section 235 of that Act).

Textual Amendments

- F2** Sch. 29 para. 75(3)(a) substituted (with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, s. 79, **Sch. 23 Pt. 2 para. 24(2)**
- F3** Sch. 29 para. 75(3)(b) substituted (with effect as mentioned in s. 83(3)(4) of the amending Act) by 2002 c. 23, s. 83, **Sch. 27 para. 26**

Assets entirely excluded: rights in companies, trusts, etc

- 76 (1) This Schedule does not apply to an asset to the extent that it represents—
- (a) shares or other rights in relation to the profits, governance or winding up of a company,
 - (b) rights under a trust, or
 - (c) the interest of a partner in a partnership.
- (2) Sub-paragraph (1)(b) does not apply to rights that for accounting purposes fall to be treated as representing an interest in trust property that is an intangible fixed asset to which this Schedule applies.
- (3) Sub-paragraph (1)(c) does not apply to an interest that for accounting purposes falls to be treated as representing an interest in partnership property that is an intangible fixed asset to which this Schedule applies.

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Assets entirely excluded: non-commercial purposes etc

- 77 This Schedule does not apply to an intangible fixed asset to the extent that it is held—
- (a) for a purpose that is not a business or other commercial purpose of the company, or
 - (b) for the purpose of activities in respect of which the company is not within the charge to corporation tax.

Assets excluded except as regards royalties: life assurance business

- 78 (1) Except as regards royalties, this Schedule does not apply to an intangible fixed asset to the extent that it is held by an insurance company for the purposes of its life assurance business.
- (2) Sub-paragraph (1) does not apply to computer software.

Assets excluded except as regards royalties: mutual trade or business

- 79 (1) Except as regards royalties, this Schedule does not apply to an intangible fixed asset to the extent that it is held for the purposes of any mutual trade or business.
- (2) Sub-paragraph (1) does not apply to life assurance business.

Assets excluded except as regards royalties: films and sound recordings

- 80 (1) Except as regards royalties, this Schedule does not apply to an intangible fixed asset held by a company to the extent that it represents expenditure by the company on the production or acquisition of a master version of a film or sound recording.
- (2) For this purpose “master version”—
- (a) in relation to a film [^{F4}means an original master version of the film (within the meaning given by section 43 of the Finance (No.2) Act 1992)]; and
 - (b) in relation to a sound recording means a master tape or master audio disc of the recording.

Textual Amendments

F4 Words in Sch. 29 para. 80(2)(a) substituted (retrospective to 2.12.2004) by [Finance Act 2005 \(c. 7\)](#), [Sch. 3 paras. 29, 31\(3\)](#)

Assets excluded except as regards royalties: computer software treated as part of cost of related hardware

- 81 Except as regards royalties, this Schedule does not apply to an intangible fixed asset held by a company to the extent that it represents expenditure by the company on computer software that falls to be treated for accounting purposes as part of the costs of the related hardware.

Assets excluded to extent specified: research and development

- 82 (1) This paragraph applies to an intangible fixed asset held by a company to the extent that it represents expenditure by the company on research and development.

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- (2) The following provisions of this Schedule do not apply to such an asset—
- (a) Part 2 (debts in respect of intangible fixed assets) does not apply, except for paragraph 12 (debit on reversal of previous accounting gain) so far as it relates to credits previously brought into account under paragraph 14 (receipts recognised as they accrue);
 - (b) Part 3 (credits in respect of intangible fixed assets) does not apply, except for paragraph 14.
- (3) Part 4 (debts and credits on realisation of intangible fixed asset) applies as if the cost of the asset did not include any expenditure on research and development.
- (4) In this paragraph “research and development” has the meaning given by section 837A of the Taxes Act 1988 and includes oil and gas exploration and appraisal.

Assets excluded to extent specified: election to exclude capital expenditure on computer software

- 83 (1) This paragraph applies to an intangible fixed asset held by a company to the extent that it represents capital expenditure by the company on computer software in respect of which the company has made an election under this paragraph.
- (2) An insurance company that carries on life assurance business may also make an election under this paragraph in respect of so much of any capital expenditure on computer software as is not referable to its basic life assurance and general annuity business.
- (3) The effect of an election under this paragraph is as follows—
- (a) Part 2 does not apply to the asset, except for paragraph 12 (debit on reversal of previous accounting gain) so far as it relates to credits previously brought into account under paragraph 14 (receipts recognised as they accrue);
 - (b) Part 3 does not apply to the asset, except for paragraph 14;
 - (c) Part 4 (debts and credits on realisation of intangible fixed asset) applies as if the cost of the asset did not include any expenditure in respect of which an election under this paragraph has been made;
 - (d) a credit shall be brought into account under this Schedule in respect of the asset only to the extent that the receipts to which the credit relates do not fall to be taken into account in computing disposal values under section 72 of the Capital Allowances Act 2001 (c. 2).
- (4) Any election under this paragraph must specify the expenditure to which it relates, and must be made—
- (a) in writing,
 - (b) to the Inland Revenue,
 - (c) not more than two years after the end of the accounting period in which the expenditure was incurred.
- (5) An election under this paragraph is irrevocable.
- (6) The references in this paragraph—
- (a) to capital expenditure, and
 - (b) to the time when such expenditure is incurred,

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have the same meaning as if this paragraph were contained in the Capital Allowances Act 2001 (c. 2).

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