



Finance Act 2008

2008 CHAPTER 9

PART 3

CAPITAL ALLOWANCES

Plant and machinery: qualifying expenditure

71 Thermal insulation of buildings

- (1) Section 28 of CAA 2001 (thermal insulation of industrial buildings) is amended as follows.
- (2) In subsection (1)—
 - (a) for “consisting of a trade” substitute “ other than an ordinary property business or an overseas property business ”,
 - (b) for “an industrial” substitute “ a ”, and
 - (c) for “the trade” substitute “ the qualifying activity ”.
- (3) In subsection (2), for “an industrial” substitute “ a ”.
- (4) After that subsection insert—
 - “(2A) Subsection (2) is subject to section 35 (expenditure on plant or machinery for use in dwelling-house not qualifying expenditure).
 - (2B) This section does not apply to expenditure within subsection (2) if a deduction for that expenditure is allowable—
 - (a) under section 31ZA of ICTA, or
 - (b) under section 312 of ITTOIA 2005,(deductions for expenditure on energy-saving items).
 - (2C) For the purposes of subsection (2B), whether such a deduction is allowable is to be determined without regard to subsection (1)(e) of the section in question.”

Status: Point in time view as at 01/04/2010.

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- (5) Omit subsection (3).
- (6) In the heading, omit “**industrial**”.
- (7) In section 23(2) of CAA 2001 (expenditure unaffected by sections 21 and 22), in the entry for section 28, omit “industrial”.
- (8) The amendments made by this section have effect—
 - (a) for corporation tax purposes, in relation to expenditure incurred on or after 1 April 2008, and
 - (b) for income tax purposes, in relation to expenditure incurred on or after 6 April 2008.

72 Expenditure on required fire precautions

- (1) In CAA 2001, omit section 29 (expenditure on required fire precautions).
- (2) In section 23(2) of that Act, omit “section 29 (fire safety);”.
- (3) In consequence of the amendment made by subsection (1)—
 - (a) in the Fire and Rescue Services Act 2004 (c. 21), omit paragraph 96 of Schedule 1, and
 - (b) in the Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), omit paragraph 24 of Schedule 3 (and the entry relating to CAA 2001 in Schedule 4).
- (4) The amendments made by subsections (1) and (2) have effect—
 - (a) for corporation tax purposes, in relation to expenditure incurred on or after 1 April 2008, and
 - (b) for income tax purposes, in relation to expenditure incurred on or after 6 April 2008.

73 Integral features

- (1) In section 23 of CAA 2001 (expenditure unaffected by sections 21 and 22)—
 - (a) in subsection (2), after the entry for section 33 insert— “section 33A (integral features);”, and
 - (b) in subsection (4), in List C—
 - (i) in item 2, omit “Electrical systems (including lighting systems) and cold water;”,
 - (ii) omit item 3, and
 - (iii) in item 6, for “Lifts, hoists, escalators and moving walkways.” substitute “Hoists.”
- (2) After section 33 of that Act insert—

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“Expenditure on integral features

33A Expenditure on provision or replacement of integral features

- (1) This section applies where a person carrying on a qualifying activity incurs expenditure on the provision or replacement of an integral feature of a building or structure used by the person for the purposes of the qualifying activity.
- (2) This Part (including in particular section 11(4)) applies as if—
 - (a) the expenditure were capital expenditure on the provision of plant or machinery for the purposes of the qualifying activity, and
 - (b) the person who incurred the expenditure owned plant or machinery as a result of incurring it.
- (3) If the expenditure is qualifying expenditure, it may not be deducted in calculating the income from the qualifying activity.
- (4) If the expenditure is not qualifying expenditure, whether it may be so deducted is to be determined without regard to this section.
- (5) For the purposes of this section each of the following is an integral feature—
 - (a) an electrical system (including a lighting system),
 - (b) a cold water system,
 - (c) a space or water heating system, a powered system of ventilation, air cooling or air purification, and any floor or ceiling comprised in such a system,
 - (d) a lift, an escalator or a moving walkway,
 - (e) external solar shading.
- (6) The items listed in subsection (5) do not include any asset whose principal purpose is to insulate or enclose the interior of a building or to provide an interior wall, floor or ceiling which (in each case) is intended to remain permanently in place.
- (7) The Treasury may by order—
 - (a) provide that subsection (5) does not include a feature of a building or structure specified in the order, expenditure on which would (if not within subsection (5)) be qualifying expenditure other than special rate expenditure, and
 - (b) add to the list in subsection (5) a feature of a building or structure expenditure on the provision of which would not (apart from the order) be expenditure on the provision of plant or machinery.
- (8) An order under subsection (7) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.

33B Meaning of “replacement” in section 33A

- (1) Expenditure to which this section applies is to be treated for the purposes of section 33A as expenditure on the replacement of an integral feature.

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- (2) This section applies to expenditure incurred by a person on an integral feature if the amount of the expenditure is more than 50% of the cost of replacing the integral feature at the time the expenditure is incurred.
- (3) Subsection (4) applies where—
- (a) a person incurs expenditure (“initial expenditure”) on an integral feature which is not more than 50% of the cost of replacing the integral feature at the time it is incurred, but
 - (b) in the period of 12 months beginning with the initial expenditure being incurred the person incurs further expenditure on the integral feature.
- (4) If the aggregate of—
- (a) the amount of the initial expenditure, and
 - (b) the amount (or the aggregate of the amounts) of the further expenditure,
- is more than 50% of the cost of replacing the integral feature at the time the initial expenditure was incurred, this section applies to the initial expenditure and the further expenditure.
- (5) Where section 33A applies because of subsection (4), all such assessments and adjustments of assessments are to be made as are necessary to give effect to that section.”

^{F1}(3)

- (4) In Chapter 4 of Part 2 of ITTOIA 2005 (rules restricting deductions from trade profits), after section 55 insert—

“Integral features

55A Expenditure on integral features

Section 33A(3) of CAA 2001 provides that no deduction is allowed in respect of certain expenditure on an integral feature of a building or structure (within the meaning of that section).”

- (5) In the table in section 272(2) of ITTOIA 2005 (provisions of Part 2 applicable to profits of property business), after the entry relating to section 55 insert—

| | |
|--------------|-----------------------------------|
| “section 55A | expenditure on integral features” |
|--------------|-----------------------------------|

- (6) The amendments made by this section have effect—
- (a) for corporation tax purposes, in relation to expenditure incurred on or after 1 April 2008, and
 - (b) for income tax purposes, in relation to expenditure incurred on or after 6 April 2008.

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Textual Amendments

- F1** S. 73(3) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

Plant and machinery: annual investment allowance

74 Annual investment allowance

Schedule 24 contains provision about an annual investment allowance in respect of certain qualifying expenditure on plant or machinery.

Plant and machinery: first-year allowances

75 First-year allowance for small and medium-sized enterprises discontinued

- (1) CAA 2001 is amended as follows.
- (2) Omit section 44 (expenditure incurred by small or medium-sized enterprises).
- (3) In consequence of the repeal made by subsection (2)—
 - (a) in the list in section 39 (provisions under which first-year allowances available), omit the entry relating to section 44,
 - (b) in the list in section 46(1) (provisions subject to general exclusions), omit the entry relating to section 44,
 - (c) omit sections 47 to 49 (definition of small and medium-sized enterprises), and
 - (d) in section 52(3) (first-year allowances) omit—
 - (i) in the table, the entry relating to expenditure qualifying under section 44, and
 - (ii) the words from “In the case” to the end.
- (4) Omit the following provisions (which relate to provisions repealed by subsection (3))
—
 - (a) section 142 of FA 2004 (increase in first-year allowance under section 44 for 2004),
 - (b) section 30 of FA 2006 (increase in first-year allowance under section 44 for 2006), and
 - (c) section 37 of FA 2007 (increase in first-year allowance under section 44 for 2007).
- (5) The repeals made by subsections (2) and (3) have effect in relation to expenditure incurred on or after the relevant date.
- (6) But subsection (7) applies in relation to an additional VAT liability incurred on or after the relevant date which under section 235 of CAA 2001 is treated as qualifying expenditure.
- (7) If the original expenditure (within the meaning of that section) was first-year qualifying expenditure by virtue of section 44 of CAA 2001, Chapter 18 of Part 2 of that Act (additional VAT liabilities and rebates) applies to the additional VAT liability as if the provisions repealed by this section were not so repealed.

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- (8) The relevant date is—
- (a) for corporation tax purposes, 1 April 2008, and
 - (b) for income tax purposes, 6 April 2008.

76 Repeal of spent first-year allowances

- (1) CAA 2001 is amended as follows.
- (2) Omit sections 40 to 43 (first-year allowance for Northern Ireland expenditure incurred on or before 11 May 2002).
- (3) Omit section 45 (first-year allowance for ICT expenditure incurred on or before 31 March 2004).
- (4) In Schedule 3 (transitionals and savings), omit paragraphs 46 to 51 (first-year allowance for additional VAT liabilities).
- (5) In consequence of the amendments made by subsections (2) to (4), omit the following provisions—
 - (a) in the list in section 39 (provisions under which first-year allowances available), the entries relating to section 40 and section 45,
 - (b) in section 46 (general exclusions)—
 - (i) in the list in subsection (1), the entries relating to section 40 and section 45, and
 - (ii) in the heading, from “**applying**” to “**45**”,
 - (c) section 51 (disclosure of information between HMRC and Northern Ireland department),
 - (d) in the table in section 52(3) (first-year allowances), the entries relating to expenditure qualifying under section 40 and expenditure qualifying under section 45,
 - (e) section 237(2) (exception to section 236 where section 43 applies), and
 - (f) in Schedule 3 (transitionals and savings), paragraph 14 (application of section 45).
- (6) In consequence of the amendments made by this section, omit—
 - (a) in section 98 of TMA 1970, in the second column of the table, in the entry relating to requirements imposed by CAA 2001, “43(5) and (6),”,
 - (b) sections 165 and 166 of FA 2003, and
 - (c) paragraph 84 of Schedule 4 to CRCA 2005.
- (7) Subsection (8) applies in relation to an additional VAT liability incurred on or after the day this section comes into force which under section 235 of CAA 2001 is treated as qualifying expenditure.
- (8) If the original expenditure (within the meaning of that section) was first-year qualifying expenditure by virtue of a provision repealed by subsections (2) to (4), Chapter 18 of Part 2 of that Act (additional VAT liabilities and rebates) applies to the additional VAT liability as if that provision were not so repealed.

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77 Cars with low carbon dioxide emissions

- (1) Section 45D of CAA 2001 (expenditure on cars with low carbon dioxide emissions) is amended as follows.
- (2) In subsection (1)(a), for “2008” substitute “ 2013 ”.
- (3) In subsection (4), for “120” substitute “ 110 ”.
- (4) In consequence of the amendment made by subsection (2)—
 - ^{F2}(a)
 - ^{F3}(b)
- (5) The amendment made by subsection (3) has effect in relation to expenditure incurred on or after 1 April 2008.
- (6) But in relation to expenditure incurred on the hiring of a car—
 - (a) for a period of hire which begins on or before 31 March 2008, and
 - (b) under a contract entered into on or before 31 March 2008,[^{F4}section 50 of ITTOIA 2005 applies] on and after 1 April 2008 as if the amendment made by subsection (3) did not have effect.

Textual Amendments

- F2** S. 77(4)(a) and word repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F3** S. 77(4)(b) omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 64\(a\)](#)
- F4** Words in s. 77(6) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), [Sch. 1 para. 731](#) (with [Sch. 2 Pts. 1, 2](#))

78 Gas refuelling stations

- (1) Section 45E of CAA 2001 (expenditure on plant or machinery for gas refuelling station) is amended as follows.
- (2) In subsection (1)(a), for “2008” substitute “ 2013 ”.
- (3) After “natural gas” (in each place) insert “ , biogas ”.
- (4) In subsection (4), before the definition of “gas refuelling station” insert—

““biogas” means gas produced by the anaerobic conversion of organic matter and used for propelling vehicles;”.
- (5) The amendments made by subsections (3) and (4) have effect in relation to expenditure incurred on or after 1 April 2008.

79 First-year tax credits

Schedule 25 contains provision about the payment of first-year tax credits to companies in connection with certain first-year qualifying expenditure.

Status: Point in time view as at 01/04/2010.

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Plant and machinery: writing-down allowances and pools

80 Main rate of writing down allowance

(1) Section 56 of CAA 2001 (amount of allowances and charges) is amended as follows.

(2) In subsection (1), for “25%” substitute “ 20% ”.

(3) After that subsection insert—

“(1A) But in relation to qualifying expenditure incurred wholly for the purposes of a ring fence trade in respect of which tax is chargeable under section 501A of ICTA (supplementary charge in respect of ring fence trades), the amount of the writing-down allowance to which a person is entitled for a chargeable period is 25% of the amount by which AQE exceeds TDR.”

(4) In subsection (2), for “Subsection (1) is” substitute “ Subsections (1) and (1A) are ”.

(5) Part 10 of Schedule 22 to FA 2000 (companies within tonnage tax: capital allowances in respect of ship leasing) is amended as follows.

(6) In each of the following provisions, for “25%” substitute “ 20% ”

- (a) paragraph 94(3)(a) and (4),
- (b) paragraph 95(4),
- (c) paragraph 97(2) and (3),
- (d) paragraph 98(8), and
- (e) paragraph 99(2).

(7) In paragraph 99—

- (a) in sub-paragraph (4), for “25%” substitute “ the appropriate rate ”, and
- (b) after that sub-paragraph insert—

“(5) The appropriate rate is 20%; but if for any part of the period mentioned in sub-paragraph (4) the rate of writing-down allowance to which the lessor would have been entitled under section 56(1) of the Capital Allowances Act 2001 if paragraph 94 had not applied was more than 20%, for that part of the period that rate is the appropriate rate.”

(8) The amendments made by this section have effect in relation to chargeable periods—

- (a) beginning on or after the relevant date, and
- (b) beginning before, and ending on or after, the relevant date.

(9) But in respect of a chargeable period within subsection (8)(b), they apply as if in—

- (a) section 56(1) of CAA 2001,
- (b) the provisions listed in subsection (6), and
- (c) paragraph 99(5) of Schedule 22 to FA 2000,

the references to 20% were to x%.

(10) For the purposes of subsection (9)—

$$x = \left(25 \times \frac{BRD}{CP} \right) + \left(20 \times \frac{ARD}{CP} \right)$$

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Where x would be a figure with more than 2 decimal places, it is to be rounded up to the nearest second decimal place.

- (11) In subsection (10)—
- BRD is the number of days in the chargeable period before the relevant date,
 - ARD is the number of days in the chargeable period on and after the relevant date, and
 - CP is the number of days in the chargeable period.
- (12) The relevant date is—
- (a) for corporation tax purposes, 1 April 2008, and
 - (b) for income tax purposes, 6 April 2008.

81 Small pools

- (1) CAA 2001 is amended as follows.
- (2) In section 56(2) (amount of allowances and charges), before paragraph (a) insert—
- “(za) section 56A (small main pools and special rate pools),”.
- (3) After section 56 insert—

“56A Writing-down allowances for small pools

- (1) This section applies in relation to the main pool and the special rate pool.
 - (2) Where the amount by which AQE exceeds TDR is less than or equal to the small pool limit, the amount of the writing-down allowance to which a person is entitled for a chargeable period is the amount by which AQE exceeds TDR.
 - (3) The small pool limit is £1,000, except that—
 - (a) if the chargeable period is more or less than a year, it is proportionately increased or reduced, and
 - (b) if the qualifying activity has been carried on for part only of the chargeable period, it is proportionately reduced.
 - (4) A person claiming a writing-down allowance under this section may require the allowance to be reduced to a specified amount.
 - (5) The Treasury may by order substitute for the amount for the time being specified in subsection (3) such other amount as it thinks fit.
 - (6) An order under subsection (5) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.”
- (4) In section 59(1) (definition of unrelieved qualifying expenditure)—
- (a) after “that period” insert “ (a) ”, and
 - (b) after “TDR” insert “, and
 - (b) where section 56A(2) applies, the person does not claim a writing-down allowance of the amount by which AQE exceeds TDR.”
- (5) The amendments made by this section have effect—

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- (a) for corporation tax purposes, in relation to chargeable periods beginning on or after 1 April 2008, and
- (b) for income tax purposes, in relation to chargeable periods beginning on or after 6 April 2008.

82 Special rate expenditure and the special rate pool

Schedule 26 contains provision about special rate expenditure and the special rate pool.

83 Existing long-life asset expenditure treated as special rate expenditure

- (1) This section applies in relation to long-life asset expenditure—
 - (a) incurred before the relevant date, and
 - (b) allocated to a pool in a chargeable period beginning before the relevant date.
- (2) In relation to a transitional chargeable period, section 102 of CAA 2001 applies as if the percentage figure specified in subsection (1) of that section were x%, where—

$$x = \left(6 \times \frac{BRD}{CP} \right) + \left(10 \times \frac{ARD}{CP} \right)$$

Where x would be a figure with more than 2 decimal places, it is to be rounded up to the nearest second decimal place.

- (3) In subsection (2)—
 - BRD is the number of days in the chargeable period before the relevant date,
 - ARD is the number of days in the chargeable period on and after the relevant date, and
 - CP is the number of days in the chargeable period.
- (4) Any unrelieved qualifying expenditure in a long-life asset pool at the end of—
 - (a) a transitional chargeable period, or
 - (b) a chargeable period which ends immediately before the relevant date,
 is to be carried forward to the special rate pool.
- (5) In subsequent chargeable periods, expenditure so carried forward is to be treated for the purposes of CAA 2001 as if it were special rate expenditure carried forward in the special rate pool from the chargeable period mentioned in subsection (4).
- (6) Any unrelieved qualifying expenditure in a single asset pool at the end of—
 - (a) a transitional chargeable period, or
 - (b) a chargeable period which ends immediately before the relevant date,
 is in subsequent chargeable periods to be treated for the purposes of CAA 2001 as if it were special rate expenditure carried forward in the single asset pool from that chargeable period.
- (7) Where expenditure is treated as special rate expenditure because of this section, for the purposes of section 104E of CAA 2001—
 - (a) the reference in subsection (1)(a) of that section to section 104D of CAA 2001 includes a reference to section 102 of that Act (writing-down allowances in respect of long-life asset expenditure), and

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- (b) the allowances that could have been made to the taxpayer in respect of the expenditure include allowances that could have been made under section 102 of that Act for chargeable periods before that in which the expenditure was first treated as special rate expenditure.
- (8) A “transitional chargeable period” is one which begins before, and ends on or after, the relevant date.
- (9) “The relevant date” means—
 - (a) for corporation tax purposes, 1 April 2008, and
 - (b) for income tax purposes, 6 April 2008.
- (10) Expressions used in this section and in CAA 2001 have the same meaning in this section as in that Act.

Industrial and agricultural buildings allowances

84 Abolition of allowances from 2011

- (1) Parts 3 and 4 of CAA 2001 (industrial buildings allowances and agricultural buildings allowances) do not apply in relation to expenditure incurred on or after the relevant date.
- (2) Omit those Parts of that Act.
- (3) The amendment made by subsection (2) has effect in relation to chargeable periods beginning on or after the relevant date.
- (4) The relevant date is—
 - (a) for corporation tax purposes, 1 April 2011, and
 - (b) for income tax purposes, 6 April 2011.
- (5) Schedule 27 contains amendments and savings related to this section.

^{F5}85 Phasing out of allowances before abolition

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Textual Amendments

F5 S. 85 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 27 para. 29(a)**

^{F6}86 Qualifying enterprise zone expenditure: transitional provision

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Textual Amendments

F6 S. 86 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 27 para. 29(b)**

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^{F7} 87 Phasing out of industrial buildings allowance: anti-avoidance

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Textual Amendments

- F7** S. 87 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 27 para. 29(c)**

Supplementary provision

88 Power to make consequential and transitional provision

- (1) The Treasury may by order make such amendments (including repeals and revocations) of enactments or instruments as may appear appropriate in consequence of, or otherwise in connection with, sections 71 to 87.
- (2) The Treasury may by order make such transitional or saving provision as may appear appropriate in consequence of, or otherwise in connection with, those sections.
- (3) An order under subsection (1) may make transitional provision and savings.
- (4) An order under subsection (1) or (2) may—
 - (a) make different provision for different cases, and
 - (b) include provision having effect in relation to times before the order is made if that provision does not increase any person's liability to tax.
- (5) An order under subsection (1) or (2) is to be made by statutory instrument.
- (6) A statutory instrument containing an order under subsection (1) or (2) is subject to annulment in pursuance of a resolution of the House of Commons.

Anti-avoidance

^{F8} 89 Balancing allowances on transfers of trade

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Textual Amendments

- F8** S. 89 repealed (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010 (c. 4)**, s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

Status:

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