

Status: Point in time view as at 01/04/2009.

Changes to legislation: Finance Act 2008, SCHEDULE 24 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 24

Section 74

ANNUAL INVESTMENT ALLOWANCE

PART 1

AMENDMENTS OF CAA 2001

- 1 CAA 2001 is amended as follows.
- 2 In Part 2, after Chapter 3 insert—

“CHAPTER 3A

AIA QUALIFYING EXPENDITURE

AIA qualifying expenditure

- 38A(1) An annual investment allowance is not available unless the qualifying expenditure is AIA qualifying expenditure.
- (2) Expenditure is AIA qualifying expenditure if—
 - (a) it is incurred by a qualifying person on or after the relevant date, and
 - (b) it is not excluded by any of the general exclusions in section 38B.
 - (3) “Qualifying person” means—
 - (a) an individual,
 - (b) a partnership of which all the members are individuals, or
 - (c) a company.
 - (4) In determining whether expenditure is AIA qualifying expenditure, any effect of section 12 on the time at which it is to be treated as incurred is to be disregarded.
 - (5) “The relevant date” means—
 - (a) for corporation tax purposes, 1 April 2008, and
 - (b) for income tax purposes, 6 April 2008.

General exclusions applying to section 38A

- 38B Expenditure within any of the following general exclusions is not AIA qualifying expenditure. *General exclusion 1*

The expenditure is incurred in the chargeable period in which the qualifying activity is permanently discontinued.

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General exclusion 2

The expenditure is incurred on the provision of a car (as defined by section 81).

General exclusion 3

The expenditure is 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).

General exclusion 4

The circumstances of the incurring of the expenditure are that—

- (a) the provision of the plant or machinery on which the expenditure is incurred is connected with a change in the nature or conduct of the trade or business carried on by a person other than the person incurring the expenditure, and
- (b) the obtaining of an annual investment allowance is the main benefit, or one of the main benefits, which could reasonably be expected to arise from the making of the change.

General exclusion 5

Any of the following sections applies—

- section 13 (use for qualifying activity of plant or machinery provided for other purposes);
- section 13A (use for other purposes of plant or machinery provided for long funding leasing);
- section 14 (use for qualifying activity of plant or machinery which is a gift).

This is subject to section 161 (pre-trading expenditure on mineral exploration and access).”

- 3 In Chapter 5 of Part 2 (allowances and charges), insert at the beginning—

“Annual investment allowance

Entitlement to annual investment allowance

51A(1) A person is entitled to an allowance (an “annual investment allowance”) in respect of AIA qualifying expenditure if—

- (a) the expenditure is incurred in a chargeable period to which this Act applies, and
 - (b) the person owns the plant and machinery at some time during that chargeable period.
- (2) Any annual investment allowance is made for the chargeable period in which the AIA qualifying expenditure is incurred.
- (3) If the AIA qualifying expenditure incurred in a chargeable period is less than or equal to the maximum allowance, the person is entitled to an annual investment allowance in respect of all the AIA qualifying expenditure.

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- (4) If the AIA qualifying expenditure incurred in a chargeable period is more than the maximum allowance, the person is entitled to an annual investment allowance in respect of so much of the AIA qualifying expenditure as does not exceed the maximum allowance.
- (5) The maximum allowance is £50,000.
- (6) But if the chargeable period is more or less than a year, the maximum allowance is proportionately increased or reduced.
- (7) A person may claim an annual investment allowance in respect of all the AIA qualifying expenditure in respect of which the person is entitled to an allowance, or in respect of only some of it.
- (8) The Treasury may by order substitute for the amount for the time being specified in subsection (5) such other amount as it thinks fit.
- (9) An order under subsection (8) may make such incidental, supplemental, consequential and transitional provision as the Treasury thinks fit.
- (10) This section is subject to—
 - (a) sections 51B to 51N (restrictions on entitlement to annual investment allowance),
 - (b) section 205 (reduction of allowance if plant or machinery provided partly for purposes other than those of qualifying activity),
 - (c) section 210 (reduction of allowance if it appears that a partial depreciation subsidy is or will be payable), and
 - (d) sections 217, 218A and 241 (anti-avoidance: no allowance in certain cases),and needs to be read with section 236 (additional VAT liabilities).

First restriction: companies

- 51B (1) A company is entitled to a single annual investment allowance in respect of all the qualifying activities carried on by the company in a chargeable period.
- (2) The company may allocate the annual investment allowance to the relevant AIA qualifying expenditure as it thinks fit.
 - (3) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred by the company in the chargeable period mentioned in subsection (1).
 - (4) This section is subject to sections 51C, 51D and 51E.

Second restriction: groups of companies

- 51C (1) This section applies in relation to—
- (a) a company which, in a financial year, is a parent undertaking of one or more other companies, and
 - (b) those other companies.
- (2) The companies are entitled to a single annual investment allowance between them in respect of the relevant AIA qualifying expenditure.

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- (3) The companies may allocate the annual investment allowance to the relevant AIA qualifying expenditure as they think fit.
- (4) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred by the companies in chargeable periods ending in the financial year mentioned in subsection (1).
- (5) A company (“P”) is a parent undertaking of another company (“C”) in a financial year if P is a parent undertaking of C at the end of C's chargeable period ending in that financial year.
- (6) In this section “parent undertaking” has the same meaning as in section 1162 of the Companies Act 2006.
- (7) This section is subject to section 51D.

Third restriction: groups of companies under common control

- 51D(1) Where in a financial year two or more groups of companies are—
- (a) controlled by the same person (see section 51F), and
 - (b) related to one another (see section 51G),
- this section applies in relation to the companies which are members of those groups.
- (2) The companies are entitled to a single annual investment allowance between them in respect of the relevant AIA qualifying expenditure.
 - (3) The companies may allocate the annual investment allowance to the relevant AIA qualifying expenditure as they think fit.
 - (4) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred by the companies in chargeable periods ending in the financial year mentioned in subsection (1).
 - (5) In this section and in sections 51F and 51G, a group of companies means—
 - (a) a company which, in the financial year mentioned in subsection (1), is a parent undertaking of one or more other companies, and
 - (b) those other companies,
 (and the members of the group are the company which is the parent undertaking and those other companies).
 - (6) A company (“P”) is a parent undertaking of another company (“C”) in a financial year if P is a parent undertaking of C at the end of C's chargeable period ending in that financial year.
 - (7) In this section “parent undertaking” has the same meaning as in section 1162 of the Companies Act 2006.

Fourth restriction: other companies under common control

- 51E (1) This section applies in relation to two or more companies which in a financial year are—
- (a) controlled by the same person (see section 51F), and
 - (b) related to one another (see section 51G),

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and in relation to which to neither section 51C nor section 51D applies.

- (2) The companies are entitled to a single annual investment allowance between them in respect of the relevant AIA qualifying expenditure.
- (3) The companies may allocate the annual investment allowance to the relevant AIA qualifying expenditure as they think fit.
- (4) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred by the companies in chargeable periods ending in the financial year mentioned in subsection (1).

Companies and groups: meaning of “control”

- 51F (1) A company is controlled by a person in a financial year if it is controlled by that person at the end of its chargeable period ending in that financial year.
- (2) A group of companies is controlled by a person in a financial year if the company which is the parent undertaking is controlled by that person at the end of its chargeable period ending in that financial year.
 - (3) Section 574(2) defines “control” in relation to a company which is a body corporate.
 - (4) In relation to a company (“C”) which is not a body corporate, control means the power of a person (“P”) to secure—
 - (a) by means of the holding of shares or the possession of voting power in relation to C or another body, or
 - (b) as a result of any powers conferred by the constitution of C or another body,that the affairs of C are conducted in accordance with P's wishes.
 - (5) In subsection (4) “shares” has the meaning given by section 1161(2) of the Companies Act 2006.

Companies and groups: meaning of “related”

- 51G(1) A company (“C1”) is related to another company (“C2”) in a financial year if one or both of—
 - (a) the shared premises condition, and
 - (b) the similar activities condition,are met in relation to the companies in that financial year.
- (2) Where C1 is related to C2 in a financial year, C1 is also related to any other company to which C2 is related in that financial year.
 - (3) A group of companies (“G1”) is related to another group of companies (“G2”) in a financial year if in that financial year a company which is a member of G1 is related to a company which is a member of G2.
 - (4) Where G1 is related to G2 in a financial year, G1 is also related to any other group of companies to which G2 is related in that financial year.
 - (5) The shared premises condition is met in relation to two companies in a financial year if, at the end of the relevant chargeable period of one or both

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of the companies, the companies carry on qualifying activities from the same premises.

- (6) The similar activities condition is met in relation to two companies in a financial year if—
- (a) more than 50% of the turnover of one company for the relevant chargeable period is derived from qualifying activities within a particular NACE classification, and
 - (b) more than 50% of the turnover of the other company for the relevant chargeable period is derived from qualifying activities within that NACE classification.
- (7) In this section—

“NACE classification” means the first level of the common statistical classification of economic activities in the European Union established by Regulation (EC) No 1893/2006 of the European Parliament and the Council of 20 December 2006 (as that Regulation has effect from time to time), and

“relevant chargeable period”, in relation to a company and a financial year, means the chargeable period of the company ending in that financial year.

Fifth restriction: qualifying activities under common control

- 51H(1) This section applies in relation to two or more qualifying activities which, in a tax year—
- (a) are carried on by a qualifying person other than a company,
 - (b) are controlled by the same person (see section 51I), and
 - (c) are related to one another (see section 51J).
- (2) A qualifying activity is carried on by a qualifying person in a tax year if it is carried on by the person at the end of the chargeable period for the activity ending in the tax year.
- (3) Where all the qualifying activities are carried on by one qualifying person, that person is entitled to a single annual investment allowance in respect of the relevant AIA qualifying expenditure.
- (4) Where the qualifying activities are carried on by more than one qualifying person, those persons are entitled to a single annual investment allowance between them in respect of the relevant AIA qualifying expenditure.
- (5) The person or persons carrying on the qualifying activities may allocate the annual investment allowance to the relevant AIA qualifying expenditure as the person or persons think fit.
- (6) The relevant AIA qualifying expenditure is the AIA qualifying expenditure incurred for the purposes of the qualifying activities in the chargeable periods for those activities ending in the tax year mentioned in subsection (1).

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Qualifying activities: meaning of control

- 51I (1) A qualifying activity is controlled by a person in a tax year if it is controlled by the person at the end of the chargeable period for that activity which ends in that tax year.
- (2) A qualifying activity carried on by an individual is controlled by the individual who carries it on.
- (3) A qualifying activity carried on by a partnership is controlled by the person (if any) who controls the partnership.
- (4) Section 574(3) defines “control” in relation to a partnership.
- (5) Where partners who between them control one partnership also between them control another partnership, the qualifying activities carried on by the partnerships are to be treated as controlled by the same person.

Qualifying activity: meaning of “related”

- 51J (1) A qualifying activity (“A1”) is related to another qualifying activity (“A2”) in a tax year if one or both of—
- (a) the shared premises condition, and
 - (b) the similar activities condition,
- are met in relation to the activities in the tax year.
- (2) Where A1 is related to A2 in a tax year, A1 is also related to any other qualifying activity to which A2 is related in that tax year.
- (3) The shared premises condition is met in relation to two qualifying activities in a tax year if, at the end of the relevant chargeable period for one or both of the activities, the activities are carried on from the same premises.
- (4) The similar activities condition is met in relation to two qualifying activities in a tax year if, at the end of the relevant chargeable period for one or both of the activities, the activities are within the same NACE classification.
- (5) In this section—
- “NACE classification” has the same meaning as in section 51G,
 - and
 - “relevant chargeable period”, in relation to a qualifying activity and a tax year, means the chargeable period for that activity ending in that tax year.

Operation of annual investment allowance where restrictions apply

- 51K (1) This section applies where because of section 51B, 51C, 51D, 51E or 51H a person is (or persons between them are) entitled to a single annual investment allowance in respect of relevant AIA qualifying expenditure.
- (2) If the relevant AIA qualifying expenditure is less than or equal to the maximum allowance, the person is (or the persons between them are) entitled to an annual investment allowance in respect of all the relevant AIA qualifying expenditure.

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- (3) If the relevant AIA qualifying expenditure is more than the maximum allowance, the person is (or the persons between them are) entitled to an annual investment allowance in respect of so much of the relevant AIA qualifying expenditure as does not exceed the maximum allowance.
- (4) The maximum allowance is the amount for the time being specified in section 51A(5); but this is subject to sections 51M and 51N (which provide that in certain cases an additional amount of annual investment allowance may be available).
- (5) The person or persons may claim an annual investment allowance in respect of all the relevant AIA qualifying expenditure in respect of which the person is (or the persons between them are) entitled to an allowance, or in respect of only some of it.
- (6) The amount of the annual investment allowance allocated to relevant AIA qualifying expenditure incurred in a chargeable period must not exceed the amount of the annual investment allowance to which a person would be entitled in respect of that expenditure under section 51A(5) and (6) if section 51B, 51C, 51D, 51E or 51H did not apply.

Special provision for short chargeable periods

51L (1) This section applies where—

- (a) more than one chargeable period of a company ends in a financial year, or
 - (b) more than one chargeable period for a qualifying activity ends in a tax year.
- (2) Whether section 51C, 51D or 51E applies in relation to the company, or section 51H applies in relation to the qualifying activity, is to be determined in relation to each chargeable period ending in that year as if it were the only chargeable period ending in that year.
 - (3) AIA qualifying expenditure incurred in a chargeable period in relation to which the section in question does not apply is not relevant AIA qualifying expenditure for the purposes of that section.

Special provision for long chargeable periods

51M(1) This section applies where—

- (a) section 51H applies in relation to two or more qualifying activities controlled by a person (“P”) in a tax year, and
 - (b) the relevant chargeable period for one of those qualifying activities (“A1”) is longer than a year.
- (2) An additional amount of annual investment allowance may be allocated to relevant AIA qualifying expenditure incurred for the purposes of A1.
 - (3) That additional amount is the amount, or the aggregate of the amounts, of any relevant unused allowance for each tax year (a “previous tax year”)—
 - (a) which falls before the tax year mentioned in subsection (1)(a), and
 - (b) in which part of A1's relevant chargeable period falls.

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- (4) The amount of the relevant unused allowance for a previous tax year is (subject to subsections (7) and(8))—

MA – AM

but where the amount given by that formula is less than nil, the amount of the relevant unused allowance for the previous tax year is nil.

- (5) In subsection (4)—
- MA is the amount specified in section 51A(5) in relation to the previous tax year, and
- AM is the amount of any annual investment allowance made under section 51A or 51K in respect of AIA qualifying expenditure incurred for the purposes of a relevant qualifying activity in the chargeable period for that activity ending in the previous tax year.
- (6) “Relevant qualifying activity” means—
- (a) any qualifying activity carried on by a qualifying person other than a company which was controlled by P in the previous tax year (see section 51I) and related to A1 in that tax year (see section 51J), and
- (b) if A1 was controlled by P in the previous tax year (see section 51I), A1.
- (7) Where any part of the amount calculated under subsection (4) has, on a previous application of this section, been allocated to AIA qualifying expenditure incurred for the purposes of a qualifying activity controlled by P in a tax year before that mentioned in subsection (1)(a), the amount of the relevant unused allowance is reduced accordingly.
- (8) Where the amount of the relevant unused allowance for a previous tax year would (apart from this subsection) exceed—

$$\frac{DCPY}{DY} \times MA$$

the amount of the relevant unused allowance for that tax year is limited to the amount given by that formula.

- (9) In subsection (8)—
- DCPY is the number of days in A1's relevant chargeable period falling in the previous tax year,
- DY is the number of days in that tax year, and
- MA has the meaning given by subsection (5).
- (10) Nothing in this section prevents section 51K(6) applying in relation to relevant AIA qualifying expenditure incurred for the purposes of A1.
- (11) In this section references to a relevant chargeable period, in relation to a qualifying activity, are to the chargeable period for that activity ending in the tax year mentioned in subsection (1)(a).

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Special provision for long chargeable periods: supplementary

51N(1) This section applies where—

- (a) section 51H applies in relation to two or more qualifying activities controlled by a person (“P”) in a tax year, and
 - (b) the relevant chargeable period for more than one of those qualifying activities is longer than a year.
- (2) Section 51M applies in relation to each of the qualifying activities mentioned in subsection (1)(b) and the tax year mentioned in subsection (1)(a), as it applies in relation to A1 and the tax year mentioned in subsection (1)(a) of that section.
 - (3) But where two or more of the qualifying activities mentioned in subsection (1)(b) were related in a previous tax year, section 51M applies with the following modifications.
 - (4) The amount of any relevant unused allowance for that tax year is to be calculated under section 51M(4) to (7) (without regard to section 51M(8)).
 - (5) For that purpose section 51M(6) applies as if the references to A1 were references to any of the qualifying activities mentioned in subsection (1)(b).
 - (6) The amount of the relevant unused allowance may be allocated between those activities, but this is subject to subsection (7).
 - (7) The amount of the relevant unused allowance allocated to any one of those activities may not exceed the amount given by the formula in section 51M(8).”

4 After section 52 insert—

“Prevention of double relief

52A Prevention of double relief

A person may not claim an annual investment allowance and a first-year allowance in respect of the same expenditure.”

5 In section 58 (allocation of qualifying expenditure to pools), after subsection (4) insert—

- “(4A) If an annual investment allowance is made to a person for a chargeable period—
- (a) the AIA qualifying expenditure in respect of which the allowance is made must be allocated to the appropriate pool (or pools) in that chargeable period, and
 - (b) the available qualifying expenditure in a pool to which the expenditure (or some of it) is allocated is reduced by the amount of that expenditure.”

6 (1) Section 205 (reduction of first-year allowances) is amended as follows.

(2) In subsection (1), after “any” insert “ annual investment allowance or ”.

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- (3) In the heading, after “**of**” insert “ **annual investment allowance and** ”.
- 7 (1) Section 210 (reduction of first-year allowances) is amended as follows.
- (2) In subsection (1), after “amount of any” insert “ annual investment allowance or ”.
- (3) In the heading, after “**of**” insert “ **annual investment allowance and** ”.
- 8 (1) Section 217 (restrictions on allowances) is amended as follows.
- (2) In subsection (1), for “a first-year allowance is not” substitute “ no annual investment allowance or first-year allowance is ”.
- (3) In subsection (2), after “Any” insert “ annual investment allowance or ”.
- (4) In the heading, after “**No**” insert “ **annual investment allowance or** ”.
- 9 After section 218 insert—
- “218A Further restriction on annual investment allowance**
- (1) This section applies where an arrangement is entered into wholly or mainly for a disqualifying purpose.
- (2) Arrangements are entered into for a disqualifying purpose if their main purpose, or one of their main purposes, is to enable a person to obtain an annual investment allowance to which the person would not otherwise be entitled.
- (3) The annual investment allowance mentioned in subsection (2) is not to be made.
- (4) Any annual investment allowance which is prohibited by subsection (3), but which has already been made, is to be withdrawn.”
- 10 (1) Section 236 (additional VAT liability generates first-year allowance) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) Subsection (3B) applies if—
- (a) the original expenditure was AIA qualifying expenditure, and
- (b) the additional VAT liability is incurred at a time when the plant or machinery is provided for the purposes of the qualifying activity.
- (3B) The additional VAT liability is to be regarded for the purposes of this Part as AIA qualifying expenditure incurred on the same plant or machinery as the original expenditure in the chargeable period in which the liability accrues.
- (3C) Section 51A(7) applies to AIA qualifying expenditure constituted by the additional VAT liability as it applies to other AIA qualifying expenditure.”
- (3) In the heading, after “**allowance**” insert “ **or annual investment allowance** ”.
- 11 In section 237(1) (exceptions to section 236), after “liability is not” insert “ AIA qualifying expenditure or ”.
- 12 (1) Section 241 (no first-year allowance in respect of additional VAT liability) is amended as follows.

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- (2) In subsection (1)(b), before “a first-year” insert “ an annual investment allowance or ”.
- (3) In subsection (2), for “A first-year allowance is not” substitute “ No annual investment allowance or first-year allowance is ”.
- (4) In subsection (3), after “Any” insert “ annual investment allowance or ”.
- (5) In the heading, after “**No**” insert “ **annual investment allowance or** ”.
- 13 In section 263(3) (qualifying activities carried on in partnership), after “Any” insert “ annual investment allowance, ”.
- 14 In section 265(4) (successions: general), after “to” insert “ an annual investment allowance or ”.
- 15 In Part 2 of Schedule 1 (index of defined expressions), insert at the appropriate place—
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- | | |
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| “AIA qualifying expenditure | section 38A”. |
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PART 2

AMENDMENTS OF OTHER ENACTMENTS

ICTA

- 16 ICTA is amended as follows.
- 17 In section 395(1)(c) (leasing contracts and company reconstructions), after “for which” insert “ an annual investment allowance or ”.
- 18 In paragraph 1(6)(b)(i) of Schedule 18 (group relief), before “a first-year” insert “ an annual investment allowance or ”.

FA 2000

- 19 (1) Schedule 22 to FA 2000 (tonnage tax) is amended as follows.
- (2) In paragraph 87(1)(a), for “a first-year allowance shall not” substitute “ no annual investment allowance or first-year allowance is to be ”.
- (3) In paragraph 94(2), after “any” insert “ annual investment allowance or ”.

ITA 2007

- 20 ITA 2007 is amended as follows.
- 21 In section 76 (first-year allowances)—
- (a) after “from” insert “ an annual investment allowance or ”, and
- (b) in the heading, after “**allowances**” insert “ **and annual investment allowances** ”.
- 22 In section 78 (arrangements to reduce tax liabilities)—

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- (a) in subsection (1)(a), after “the” insert “ annual investment allowance or ”, and
- (b) in the heading, after “allowances” insert “ **and annual investment allowances** ”.

PART 3

COMMENCEMENT

- 23 (1) This Schedule has effect in relation to expenditure incurred on or after the relevant date.
- (2) In relation to a chargeable period which—
- (a) begins before the relevant date, and
 - (b) ends on or after the relevant date,
- the maximum allowance under section 51A of CAA 2001 is to be calculated as if the period beginning with the relevant date and ending with the end of the chargeable period were the chargeable period.
- (3) The relevant date is—
- (a) for corporation tax purposes, 1 April 2008, and
 - (b) for income tax purposes, 6 April 2008.

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