



Capital Allowances Act 1990

1990 CHAPTER 1

PART VIII

SUPPLEMENTARY PROVISIONS

140 Income tax allowances and charges in taxing a trade etc

- (1) This section has effect as respects allowances and charges which, under the provisions of this Act as they apply for the purposes of income tax, fall to be made to a person in taxing his trade.
- (2) Allowances which fall to be made to a person in taxing his trade shall be made as a deduction in charging the profits or gains of the trade to income tax.
- (3) Any claim by a person for an allowance falling to be made to him in taxing his trade shall be made in his returns of income for income tax purposes, and section 42 of the Taxes Management Act 1970 shall not apply to any such claim.
- (4) Where full effect cannot be given in any year to any allowance falling to be made in taxing a trade owing to there being no profits or gains of the trade chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be carried forward and, so far as may be, made as a deduction in charging the profits or gains of the trade in subsequent years of assessment.
- (5) Where the allowances in respect of which deductions can be made under this section for any year include allowances carried forward under subsection (4) above from a previous year, the allowances shall, subject to paragraph 5 of Schedule 9 to the Finance Act 1981, be deducted in the following order—
 - (a) allowances other than those carried forward under subsection (4) above from an earlier year;
 - (b) allowances carried forward under subsection (4) above from earlier years of assessment not earlier than the year for which the basis period ended on or included 14th November 1980;

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- (c) allowances carried forward under subsection (4) above from years of assessment earlier than those referred to in paragraph (b) above.
- (6) Subsection (4) above has effect subject to section 383 of the principal Act (right to set capital allowances against general income).
- (7) Any charge falling to be made on a person for any year of assessment in taxing his trade shall be made by means of an assessment to income tax on the profits or gains of that trade for that year of assessment in addition to any other assessment falling to be made thereon for that year.
- (8) This section shall apply in relation to professions, employments, vocations and offices, and the occupation of woodlands the profits or gains whereof are assessable under Schedule D, as it applies in relation to trades, and nothing in this section applies to any deduction allowable under any provision of Parts I, II, IV, V and VI in computing the profits or gains of a trade.
- (9) Subsection (8) above shall have effect after 5th April 1993 with the omission of the words “and the occupation of woodlands the profits or gains whereof are assessable under Schedule D”.
- (10) Deductions allowable in taxing a trade under Part VII as it applies for the purposes of income tax shall be given effect in accordance with subsections (2) and (4) above.

141 Other income tax allowances

- (1) This section has effect as respects any allowance which falls, under the provisions of this Act (except Part VII) as they apply for the purposes of income tax, to be given by way of discharge or repayment of tax and which is to be available primarily against a specified class of income.
- (2) Subject to subsection (3) below, where such an allowance falls to be made to a person for any year of assessment—
 - (a) the amount of the allowance shall be deducted from or set off against income of his of the specified class for that year of assessment, and
 - (b) if the amount to be allowed is greater than the amount of his income of that class for that year of assessment, the balance shall be deducted from or set off against his income of that class for the next year of assessment, and so on for subsequent years of assessment, and tax shall be discharged or repaid accordingly.
- (3) Where the amount of the allowance is greater than the amount of the person’s income of the specified class for the first-mentioned year of assessment, he may elect that the excess shall be deducted from or set off against his other income for that year of assessment, and it shall be deducted from or set off against that income and tax discharged or repaid accordingly, and only the excess, if any, of the amount of the allowance over all his income for that year of assessment shall be deducted from or set off against his income of the specified class for succeeding years.

An election under this subsection as respects an allowance for any year of assessment shall be made by giving notice to the inspector not later than two years after the end of that year of assessment.

- (4) An election under subsection (3) above may be made for any year of assessment with respect to an allowance for the last preceding year of assessment, so far as not

previously allowed, as if the allowance were or formed part of the allowance for the year for which the election is made; and in applying subsections (2) and (3) above as extended by this subsection to any allowances, relief shall be deemed to be given in respect of an allowance carried forward from an earlier year before it is given in respect of an allowance arising in a later year.

- (5) Relief under this section shall be given on a claim (that is to say, a claim to which section 42 of the Taxes Management Act 1970 applies).
- (6) Subsection (3) above shall not apply to an allowance made by virtue of section 61(1).

142 Restriction of set-off of allowances against general income

- (1) Relief shall not be given to an individual under sections 380 and 381 of the principal Act (set-off against general income) by reference to a first-year allowance made to him in respect of expenditure incurred on the provision of machinery or plant for leasing in the course of a trade if—
 - (a) at the time when the expenditure was incurred the trade was carried on by him in partnership with a company (with or without other partners); or
 - (b) a scheme has been effected or arrangements have been made (whether before or after that time) with a view to the trade being so carried on by him.
- (2) Relief shall not be given to an individual under sections 380 and 381 of the principal Act by reference to a first-year allowance if—
 - (a) the allowance is made in connection with—
 - (i) a trade which at the time when the expenditure was incurred was carried on by him in partnership or which has subsequently been carried on by him in partnership or transferred to a person who was connected with him within the meaning of section 839 of the principal Act; or
 - (ii) an asset which after that time has been transferred by him to a person who was connected with him within the meaning of section 839 of the principal Act or, at a price lower than that which it would have fetched if sold in the open market, to any other person; and
 - (b) a scheme has been effected or arrangements have been made (whether before or after that time) such that the sole or main benefit that might be expected to accrue to the individual from the transaction under which the expenditure was incurred was the obtaining of a reduction in tax liability by means of relief under sections 380 and 381 of the principal Act.
- (3) Where relief has been given in a case to which subsection (1) or (2) above applies it shall be withdrawn by the making of an assessment under Case VI of Schedule D.
- (4) For the purposes of subsection (1) above letting a ship on charter shall be regarded as leasing it if, apart from this subsection, it would not be so regarded.
- (5) In this section—

“first-year allowance” means a first-year allowance under Part II;

“trade” includes any activity in connection with which a first-year allowance can be given;

and any expression defined in section 83 has the meaning given by that section.

143 Tax agreements

- (1) This section applies in any case where a person is entitled to an allowance to which section 140 or 141 applies for a year of assessment and—
 - (a) he and the inspector have come to an agreement, in writing, as to the extent to which the allowance is to be given effect in that year (whether by deduction from profits or gains or by discharge or repayment of tax, or both); and
 - (b) no assessment giving effect to the allowance is made for that year.
- (2) In a case to which this section applies the allowance shall be taken to have been given effect in the year of assessment in question, as if an assessment had been made, to the extent set out in the agreement mentioned in subsection (1) above.

144 Corporation tax allowances and charges in taxing a trade

- (1) In computing for the purposes of corporation tax a company's profits for any accounting period there shall be made all such deductions and additions as are required to give effect to the provisions of Parts I to VI and this Part which relate to allowances and charges in respect of capital expenditure; and subsection (2) below and section 145 have effect as respects allowances and charges which fall to be made under those provisions as they apply for the purposes of corporation tax.
- (2) Allowances and charges which fall to be made for any accounting period in taxing a trade under the provisions of Parts I to VI and this Part as they apply for the purposes of corporation tax shall be given effect by treating the amount of any allowance as a trading expense of the trade in that period, and by treating the amount on which any such charge is to be made as a trading receipt of the trade in that period.
- (3) Deductions allowable in taxing a trade under the provisions of Part VII as they apply for the purposes of corporation tax shall be given effect in accordance with subsections (1) and (2) above.

145 Other corporation tax allowances

- (1) Where an allowance falls to be made to a company for any accounting period which is to be given by discharge or repayment of tax, and is to be available primarily against a specified class of income, it shall, so far as may be, be given effect by deducting the amount of the allowance from any income of the period, being income of the specified class.
- (2) Where such an allowance which is to be made for any accounting period cannot be given full effect under subsection (1) above in that period by reason of a want or deficiency of income of the relevant class, then (so long as the company remains within the charge to tax) the amount unallowed shall be carried forward to the succeeding accounting period, except in so far as effect is given to it under subsection (3) below; and the amount so carried forward shall be treated for the purposes of subsection (1) above, and of any further application of this subsection, as the amount of a corresponding allowance for that period.
- (3) Where such an allowance which is to be made for any accounting period (otherwise than by being carried forward from an earlier accounting period) cannot be given full effect under subsection (1) above in that period by reason of a want or deficiency of income of the relevant class, the company may, on making a claim to which section 42 of the Taxes Management Act 1970 applies, require that effect shall be given to the

allowance against the profits (of whatever description) of that accounting period and, if the company was then within the charge to tax, of preceding accounting periods ending within the time specified in subsection (4) below; and, subject to that subsection and to any relief for earlier allowances or for losses, the profits of any of those accounting periods shall then be treated as reduced by the amount unallowed under subsection (1) above, or by so much of that amount as cannot be given effect under this subsection against profits of a later accounting period.

- (4) The time referred to in subsection (3) above is a time equal in length to the accounting period for which the allowance falls to be made; but the amount or aggregate amount of the reduction which may be made under that subsection in the profits of an accounting period falling partly before that time shall not, with the amount of any reduction falling to be made therein under any corresponding provision of the Corporation Tax Acts relating to losses, exceed a part of those profits proportionate to the part of the period falling within that time.
- (5) A claim under subsection (3) above shall be made within two years from the end of the accounting period first mentioned in that subsection.
- (6) All such assessments and adjustments of assessments shall be made as are necessary to give effect to a notice given by a company under section 68(3A) of the 1968 Act.

146 Writing-down allowances under Parts V and VI

- (1) This section has effect where it is provided under Part V or VI that writing-down allowances shall be made in respect of any expenditure during a writing-down period of a specified length.
- (2) Subject to subsection (3) below, there shall for any chargeable period wholly or partly comprised in the writing-down period be made an allowance equal to the appropriate fraction of the expenditure; and, subject to any provision to the contrary, the appropriate fraction is such fraction of the writing-down period as falls within the chargeable period.
- (3) The aggregate amount of the allowances made, whether to the same or to different persons, together with the amount of any initial allowance previously made under the 1968 Act (or under any enactment re-enacted by that Act) in respect of the expenditure, shall not exceed the amount of the expenditure.
- (4) Where under paragraph 27(2) of Schedule 14 to the Finance Act 1965 allowances were made for accounting periods of a company falling wholly or partly within the year 1964-65 or 1965-66 in addition to allowances (for income tax purposes) made for either of those years, then in reckoning the period for which allowances are to be made, the periods for which allowances were so made shall be added together, notwithstanding that the same time is (according to the calendar) counted twice.

147 Exclusion of double allowances

- (1) Where an allowance is made to any person in respect of capital expenditure under Part I, III, IV, V, VI or VII—
 - (a) no allowance shall be made to him under any other of those Parts—
 - (i) in respect of that expenditure, or

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- (ii) in relation to the construction, provision or acquisition of any asset to the construction, provision or acquisition of which the first-mentioned allowance relates, and
 - (b) that expenditure and any expenditure relating to the provision of any asset to the provision of which the first-mentioned allowance relates shall not be taken into account in determining his qualifying expenditure for the purpose of any allowance or charge under section 24.
- (2) Where in the case of any person an allowance or charge under section 24 is made by reference to an amount of qualifying expenditure which took account of a particular amount of capital expenditure, no allowance shall be made to him under any Part of this Act other than Part II—
 - (a) in respect of that capital expenditure, or
 - (b) in relation to the provision of any asset if that capital expenditure related to the provision of that asset.
- (3) In this section—
 - “asset” means an asset of any kind, including a building or structure, and
 - “capital expenditure” includes any contribution to capital expenditure, and references to the provision of an asset include references to its construction or acquisition.
- (4) This section shall not have effect in relation to any chargeable period ending before 27th July 1989.

148 Double allowances: transitional provisions

- (1) No allowance shall be made under or by virtue of any of the provisions of Part I in respect of, or of premises including, or of expenditure on, a building or structure if, for the same or any other chargeable period, an allowance is or can be made under any of the provisions of Part II, IV or V in respect of, or of expenditure on, that building or structure.
- (2) No initial allowance under Part I shall be made in respect of expenditure on the provision of an asset if that expenditure is expenditure in respect of which a deduction may be allowed under section 137; and no allowance under Part IV shall be made in respect of any expenditure if it is expenditure in respect of which such a deduction may be allowed.
- (3) Where a deduction is allowed for any chargeable period under section 137 or 138 in respect of expenditure represented wholly or partly by any assets, there shall not be made or allowed—
 - (a) any writing-down allowance under Part I, or
 - (b) except under Part VII, any allowance or deduction in respect of wear and tear, obsolescence or depreciation of those assets,
 for any chargeable period during any part of which they are used by the person carrying on a trade for scientific research related to that trade.
- (4) No allowance shall be made by virtue of section 134 in respect of any expenditure if for the same or any other chargeable period an allowance is or can be made in respect of it under any of the provisions of Parts I and II.

- (5) No allowance shall be made under Part II in respect of, or of the expenditure on, any machinery or plant if, for the same or any other chargeable period, an allowance is or can be made in respect of that expenditure under the provisions of section 122.
- (6) Expenditure in respect of which a deduction may be allowed under section 137 shall be disregarded for all the purposes of Part II; and where a deduction in respect of any expenditure has been allowed under that section in taxing a trade carried on by any person, section 81 shall not apply on that person's bringing into use for the purposes of the trade any machinery or plant representing that expenditure.
- (7) This section shall not have effect in relation to any chargeable period or its basis period ending after 26th July 1989.

149 Companies not resident in the United Kingdom

- (1) Where a company not resident in the United Kingdom is within the charge to corporation tax in respect of one source of income and to income tax in respect of another source, then, in applying the provisions of this Act, allowances related to any source of income shall be given effect against income chargeable to the same tax as is chargeable on income from that source.
- (2) This section shall not apply for the purposes of Part II or VII.

150 Apportionment of consideration, and exchanges and surrenders of leasehold interests

- (1) Any reference in this Act to the sale of any property includes a reference to the sale of that property together with any other property and, where property is sold together with other property, so much of the net proceeds of the sale of the whole property as, on a just apportionment, is properly attributable to the first-mentioned property shall, for the purposes of this Act, be deemed to be the net proceeds of the sale of the first-mentioned property, and references to expenditure incurred on the provision or the purchase of property shall be construed accordingly.
- (2) For the purposes of subsection (1) above, all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are or purport to be agreed for separate items of that property or that there are or purport to be separate sales of separate items of that property.
- (3) The provisions of subsections (1) and (2) above shall, with the necessary modifications, apply in relation to other sale, insurance, salvage or compensation moneys as they apply in relation to the net proceeds of sales.
- (4) This Act shall have effect as if any reference therein (including any reference in subsections (1) to (3) above) to the sale of any property included a reference to the exchange of any property and, in the case of a leasehold interest, also included a reference to the surrender thereof for valuable consideration, and any provisions of this Act referring to sales shall have effect accordingly with the necessary adaptations and, in particular, with the adaptations that—
 - (a) references to the net proceeds of sale and to the price shall be taken to include references to the consideration for the exchange or surrender, and

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- (b) references to capital sums included in the price shall be taken to include references to so much of the consideration as would have been a capital sum if it had taken the form of a money payment.
- (5) The reference in subsection (1) above to expenditure incurred on the provision or the purchase of property shall in relation to sections 98 to 118 be deemed to include—
- (a) a reference to expenditure on the acquisition of, or rights in or over, mineral deposits;
 - (b) a reference to expenditure on the acquisition of land; and
 - (c) a reference to expenditure on the acquisition of a mineral asset.

151 Procedure on apportionments

- (1) Where, under or by virtue of any provisions of Parts I, III to VI and this Part, any sum falls to be apportioned and, at the time of the apportionment, it appears that it is material as respects the liability to tax (for whatever period) of two or more persons, any question which arises as to the manner in which the sum is to be apportioned shall be determined, for the purposes of the tax of all those persons—
- (a) in a case where the same body of General Commissioners have jurisdiction with respect to all those persons, by those Commissioners, unless all those persons agree that it shall be determined by the Special Commissioners,
 - (b) in a case where different bodies of Commissioners have jurisdiction with respect to those persons, by such of those bodies as the Board may direct, unless all those persons agree that it shall be determined by the Special Commissioners, and
 - (c) in any other case, by the Special Commissioners,
- and any such Commissioners shall determine the question in like manner as if it were an appeal, but all those persons shall be entitled to appear and be heard by the Commissioners who are to make the determination or to make representations to them in writing.
- (2) This section applies in relation to any determination, under Part II or under section 152 or 157, of the price which property would have fetched if sold in the open market as it applies in relation to apportionments.
- (3) This section shall come into force for all purposes on 6th April 1990 to the exclusion of section 81 of the 1968 Act (which is re-enacted in this section).

152 Succession to trades etc

- (1) Where a person succeeds to any trade, profession or vocation which until that time was carried on by another person and, by virtue of section 113 or 337(1) of the principal Act (changes in persons carrying on a trade, and special rules for corporation tax), the trade, profession or vocation is to be treated as discontinued, any property which, immediately before the succession takes place, was in use for the purposes of the discontinued trade, profession or vocation and, without being sold, is immediately after the succession takes place in use for the purposes of the new trade, profession or vocation, shall, for the purposes of Parts I, IV to VI and this Part, be treated as if it had been sold to the successor when the succession takes place, and as if the net proceeds of the sale had been the price which that property would have fetched if sold in the open market.

- (2) No initial allowance shall be made by virtue of subsection (1) above.
- (3) Where, after the setting up and before the permanent discontinuance of a trade, profession or vocation which at any time is carried on in partnership, anything is done for the purposes thereof, any allowance or charge which, if the trade, profession or vocation had at all times been carried on by one and the same person, would have fallen to be made to or on him under any of the provisions of Parts I, IV to VI and this Part shall be made to or on the person or persons from time to time carrying on that trade, profession or vocation, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the trade, profession or vocation and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them.
- (4) This section shall, with the necessary adaptations, apply in relation to the occupation of woodlands the profits or gains of which are assessable under Schedule D as it applies in relation to a trade.

This subsection shall cease to have effect on 6th April 1993.

153 Subsidies, contributions etc

- (1) Expenditure shall not be regarded for any of the purposes of this Act as having been incurred by any person in so far as it has been or is to be met directly or indirectly by the Crown or by any government or public or local authority, whether in the United Kingdom or elsewhere, or by any person other than the first-mentioned person unless it is so met by a grant made under the provisions of Part II of the Industrial Development Act 1982 or Part I of the Industry Act 1972 or such grant made under an enactment of the Parliament of Northern Ireland or a Measure of the Northern Ireland Assembly as may be declared by the Treasury by order to correspond to a grant made under those provisions.
- (2) In considering, for the purposes of this section, how far any expenditure has been or is to be met directly or indirectly by the Crown or by any authority or person other than the person incurring the expenditure, there shall be left out of account—
 - (a) any insurance moneys or other compensation moneys payable in respect of any asset which has been demolished, destroyed or put out of use, and
 - (b) any expenditure met or to be met by any person other than the Crown or a government or public or local authority, being expenditure in respect of which, apart from the provisions of this paragraph, no allowance could be made under section 154, and not being expenditure which is allowed to be deducted in computing the profits or gains of a trade, profession or vocation carried on by that person.
- (3) In determining for the purposes of subsection (2)(b) above whether an allowance could be made under the provisions of section 154, it shall be assumed that the person by whom expenditure has been or is to be met is within the charge to tax, whether or not that is in fact the case.
- (4) This section shall not apply for the purposes of Part VI and subsection (2) shall not apply for the purposes of Part VII.
- (5) In relation to expenditure incurred before 27th July 1989, and in relation to expenditure incurred on or after that date in so far as a contribution to that expenditure was made

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before that date, this section shall have effect with the omission of the words in subsection (2)(b) following “154” and of subsection (3).

154 Allowances in respect of contributions to capital expenditure

- (1) Where a person, for the purposes of a trade carried on or to be carried on by him or by a tenant of land in which he has an interest, contributes a capital sum to expenditure on the provision of an asset, being expenditure which, apart from the provisions of section 153, would have been regarded as wholly incurred by another person and in respect of which, apart from that section, an allowance would have been made under Part I, IV or V, then, subject to section 155, and to the following provisions of this section, such initial allowances and writing-down allowances, if any, shall be made to the contributor as would have been made to him if his contribution had been expenditure on the provision, for the purposes of that trade, of a similar asset.
- (2) Subsection (1) above shall have effect as if the references to initial allowances and writing-down allowances under Part I included references respectively to first-year allowances and writing-down allowances under Part II, but, in its application by virtue of this subsection, modified by substituting the words “of that asset” for the words “of a similar asset”; and for the purposes of any allowance under Part II given by virtue of subsection (1) above in respect of any asset, that asset shall be treated as belonging to the person making the contribution in respect of which the allowance is given at any time when it belongs, or is treated under Part II as belonging, to the recipient of the contribution.
- (3) Subsection (1) above shall not apply where the person making the contribution and the person receiving it are connected persons within the terms of section 839 of the principal Act.
- (4) In relation to any contribution to expenditure incurred by the Crown, or by any public or local authority in the United Kingdom, subsection (1) above shall have effect with the omission of the words from “and in respect” to “or V”.
- (5) In subsection (1) above and section 155 “trade” includes—
 - (a) a profession or vocation, and
 - (b) the occupation of woodlands in the United Kingdom in respect of which the assessment and charge to tax falls to be made under Schedule D by virtue of paragraph 5 of Schedule 6 to the Finance Act 1988.

Paragraph (a) above does not apply in relation to contributions made before 27th July 1989, and paragraph (b) shall cease to have effect on 6th April 1993.

155 Further provisions relating to capital contributions

- (1) This section has effect in any case where section 154 applies.
- (2) Subject to the following provisions of this section, for the purpose of determining the amount of the allowances and the manner in which they are to be made, the asset shall be deemed to continue at all material times to be in use for the purposes of the trade.
- (3) Where, when the contribution was made, the trade for the purposes of which it was made was carried on or to be carried on by the contributor, the following provisions shall have effect on any transfer of the trade or any part of the trade—

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- (a) where the transfer is of the whole trade, writing-down allowances for chargeable periods ending after the date of transfer shall be made to the transferee, and shall not be made to the transferor,
 - (b) where the transfer is of part only of the trade, paragraph (a) above shall have effect with respect to so much of the allowance as is properly referable to the part of the trade transferred.
- (4) Where, when the contribution was made, the trade was carried on or to be carried on by a tenant of land in which the contributor had an interest, a writing-down allowance shall be made to a person for a chargeable period if at the end of that period he is entitled to the contributor's interest in that land, and section 20 shall, with the necessary modifications, apply in relation to a contribution made for the purposes of a trade carried on or to be carried on by a tenant of land as it applies in relation to expenditure incurred on the construction of a building or structure.
- (5) Section 3(3) shall not apply in relation to writing-down allowances to be made in respect of contributions.
- (6) Where an allowance is made in accordance with section 154(2) in respect of a contribution made after 26th July 1989 for the purposes of a trade carried on or to be carried on by the contributor, it shall be assumed for the purposes of sections 24, 25 and 26—
- (a) that the contribution was made for the purposes of a trade carried on by the contributor separately from any trade actually carried on by him, and
 - (b) that the separate trade is discontinued or transferred (in whole or in part) when the trade actually carried on is discontinued or transferred (in whole or in part);
- and any allowance or charge which would on those assumptions fall to be made for any chargeable period in the case of the separate trade shall be made for that period in the case of the trade for the purposes of which the contribution was actually made.
- (7) Subject to subsection (8) below, subsections (3) to (5) above shall not apply where the trade is husbandry in the United Kingdom or the occupation of woodlands in the United Kingdom, and in lieu thereof section 122(3), (4) and (5) or section 126, as the case may require, shall apply with any necessary modifications.

This subsection shall have effect after 5th April 1993 with the omission of the words “or the occupation of woodlands in the United Kingdom”.

- (8) In its application to allowances under Part V, except section 122, this section shall have effect with the omission of subsection (7) and as if in subsection (4) the references to section 20 and to expenditure incurred on the construction of a building or structure were references to section 125(2) to (4) and to expenditure falling within section 123.

This subsection shall have effect in relation to contributions made on or after 27th July 1989.

156 Meaning of “sale, insurance, salvage or compensation moneys”

In this Act, except where the context otherwise requires, “sale, insurance, salvage or compensation moneys” means, in relation to an event which gives rise or might give rise to a balancing allowance or a balancing charge to or on any person, or is material in determining whether any, and if so what, writing-down allowance is to be made to a person under Part IV—

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- (a) where the event is the sale of any property, the net proceeds to that person of the sale;
- (b) where the event is the coming to an end of an interest in property on or by reason of the coming to an end of a foreign concession, any compensation payable to that person in respect of that property;
- (c) where the event is the demolition or destruction of any property, the net amount received by him for the remains of the property, together with any insurance moneys received by him in respect of the demolition or destruction and any other compensation of any description received by him in respect thereof, in so far as that compensation consists of capital sums;
- (d) where the event is that a building or structure ceases altogether to be used or machinery or plant is put out of use, any compensation of any description received by him in respect of that event, so far as that compensation consists of capital sums.

This section does not apply for the purposes of Part II.

157 Sales between connected persons etc

- (1) Subject to subsection (5) below, this section and section 158 have effect in relation to sales of any property where either—
 - (a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them or the buyer and the seller are connected with each other within the terms of section 839 of the principal Act; or
 - (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from this section and section 158, might be expected to accrue to the parties or any of them was the obtaining of an allowance or deduction, the obtaining of a greater allowance or deduction or the avoidance or reduction of a charge under this Act (disregarding Part II).
- (2) References in subsection (1) above to a body of persons include references to a partnership.
- (3) This section and section 158 shall have effect in relation to a sale notwithstanding that they are not fully applicable by reason of the non-residence of a party to the sale or otherwise, but subject to subsection (3) of that section.
- (4) Where the property is sold at a price other than that which it would have fetched if sold in the open market, then, subject to section 158, the like consequences shall ensue for the purposes of this Act (except Part II) in its application to the tax of all persons concerned as would have ensued if the property had been sold for the price it would have fetched if sold in the open market.
- (5) Subsections (1) to (4) above and section 158 do not apply for the purposes of Part II.

158 Further provisions relating to sales without change of control or between connected persons

- (1) Subject to subsections (3) and (5) below, where a sale is one to which paragraph (a) of subsection (1) of section 157 applies and paragraph (b) of that subsection does not

- apply, and the parties to the sale so elect by notice given to the inspector not later than two years after the sale, the following provisions shall have effect—
- (a) section 157(4) shall have effect as if for each of the references to the price which the property would have fetched if sold in the open market there were substituted a reference to that price or to the sum mentioned in subsection (2) below, whichever is the lower, and
 - (b) notwithstanding section 157(4) or paragraph (a) above, such balancing charge, if any, shall be made on the buyer on any event occurring after the date of the sale as would have fallen to be made on the seller if the seller had continued to own the property and had done all such things and been allowed all such allowances or deductions in connection therewith as were done by or allowed to the buyer.
- (2) The sum referred to in subsection (1)(a) above is—
- (a) in the case of an industrial building or structure, the residue of the expenditure on the construction of that building or structure immediately before the sale, computed in accordance with section 8;
 - (b) in the case of a qualifying dwelling-house, the residue of the expenditure immediately before the sale, computed in accordance with section 90;
 - (c) in the case of assets representing qualifying expenditure, within the meaning of section 121, the excess of that expenditure attributable to those assets over the aggregate of—
 - (i) any allowances made under Part IV to the seller in respect of that expenditure before the sale; and
 - (ii) any disposal receipts which the seller has been required to bring into account by reference to that expenditure by reason of any event occurring before the sale.
- (3) An election may not be made under this section—
- (a) if—
 - (i) any of the parties to the sale is not resident in the United Kingdom at the time of sale, and
 - (ii) the circumstances are not at that time such that an allowance or charge under Part I, III, IV, VI or VII falls or might fall to be made to or on that party in consequence of the sale;
 - (b) if the buyer is a dual resident investing company;
 - (c) in the case of a qualifying dwelling-house, unless both the seller and the buyer at the time of the sale are or at any earlier time were approved bodies, as defined in section 56(4) of the Housing Act 1980.
- (4) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to this section.
- (5) This section shall not apply in relation to any sale which is material for the purposes of Part V.
- (6) In relation to sales which occurred before 29th July 1988, this section shall have effect with the omission of subsection (4) and the words in subsection (1) “not later than two years after the sale”.

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159 Capital expenditure, capital sums and time when capital expenditure is incurred

- (1) References in this Act to capital expenditure and capital sums—
- (a) in relation to the person incurring the expenditure or paying the sums, do not include any expenditure or sum which is allowed to be deducted in computing, for the purposes of tax, the profits or gains of a trade, profession, office, employment or vocation carried on or held by him, and
 - (b) in relation to the person receiving the amounts expended or the sums in question, do not include references to any amounts or sums which fall to be taken into account as receipts in computing the profits or gains of any trade, profession, office, employment or vocation carried on or held by him,
- and do not include, in relation to any such person, any expenditure or sum in the case of which a deduction falls or may fall to be made under section 348 or 349(1) of the principal Act (annual payments).
- (2) The following provisions of this section have effect to determine when capital expenditure is to be taken to be incurred for the purposes of this Act and any enactment (including any enactment passed after this Act) which falls to be construed (or is expressed to have effect) as if it were contained in this Act.
- (3) Subject to subsections (4) to (6) below, an amount of capital expenditure is to be taken to be incurred on the date on which the obligation to pay that amount becomes unconditional (whether or not there is a later date on or before which the whole or any part of that amount is required to be paid).
- (4) If, under or by virtue of any agreement—
- (a) as a result of the issue of a certificate or some other event, an obligation to pay an amount of capital expenditure on the provision of an asset becomes unconditional, and
 - (b) at a time before that obligation becomes unconditional, the asset becomes the property of or is otherwise under the contract attributed to the person having that obligation,
- then, in a case where the obligation referred to in paragraph (a) above becomes unconditional within the period of one month beginning at the end of a chargeable period or its basis period but the time referred to in paragraph (b) above falls at or before the end of that chargeable period or its basis period, subsection (3) above shall apply as if the obligation became unconditional immediately before the expiry of that period.
- (5) Where, under or by virtue of any agreement, the whole or any part of an amount of capital expenditure is required to be paid on (or not later than) a date which is more than four months after the date on which the obligation to pay that amount becomes unconditional, so much of that expenditure as is required to be so paid shall be taken to be incurred on the date on or before which it is required to be so paid.
- (6) In any case where—
- (a) under or by virtue of any agreement, an obligation to pay an amount of capital expenditure becomes unconditional on a date earlier than that which accords with normal commercial usage, and
 - (b) the sole or main benefit which (apart from this subsection) might have been expected to be obtained from the obligation becoming unconditional on that earlier date is that, by virtue of subsection (3) above, the expenditure would be

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taken to be incurred in a chargeable period or its basis period which is earlier than would otherwise have been the case,

then, in relation to that amount of expenditure, subsection (3) above shall have effect as if, for the words from “on which” onwards there were substituted “on or before which it is required to be paid”; and, accordingly, subsection (5) above shall be disregarded.

- (7) In so far as (apart from subsections (3) to (6) above) any provision of this Act, or sections 520 to 533 of the principal Act (patents and know-how), would have the effect that any expenditure would for any purpose fall to be treated as incurred on a date which is later than that which would result from the application of those subsections, nothing in this section shall affect the continuing operation of that provision.
- (8) In relation to any chargeable period or its basis period ending before 27th July 1989, the reference in subsection (7) above to this Act shall be construed as excluding a reference to Parts III to V of this Act.

160 Meaning of “basis period”

- (1) Except as otherwise expressly provided, in this Act as it applies for income tax purposes, “basis period” has the meaning given by the following provisions of this section.
- (2) In the case of a person to or on whom an allowance or charge falls to be made in taxing his trade, his basis period for any year of assessment is the period on the profits or gains of which income tax for that year falls to be finally computed under Case I of Schedule D in respect of the trade in question or, where, by virtue of any provision of section 60 of the principal Act, the profits or gains of any other period are to be taken to be the profits or gains of that period, that other period.
- (3) For the purposes of subsection (2) above, in the case of any trade—
 - (a) where two basis periods overlap, the period common to both shall be deemed to fall in the first basis period only;
 - (b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then, unless the second-mentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to be part of the second basis period; and
 - (c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.
- (4) Where an allowance falls to be made under Part II to a person carrying on a profession or vocation, subsections (2) and (3) above shall apply as if the references to a trade included references to a profession or vocation and as if the reference to Case I of Schedule D included a reference to Case II of Schedule D.
- (5) In the case of any other person to or on whom an allowance or charge falls to be made under Parts I to VI or this Part, his basis period for any year of assessment is the year of assessment itself.
- (6) Any reference in this section to the overlapping of two periods shall be construed as including a reference to the coincidence of two periods or to the inclusion of one

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period in another, and references to the period common to both of two periods shall be construed accordingly.

161 Other interpretative provisions

(1) Subject to subsection (10) below and except where the context otherwise requires, the following provisions of this section shall have effect for the interpretation of this Act.

(2) In this Act—

“the 1968 Act” means the Capital Allowances Act 1968;

“the Board” means the Commissioners of Inland Revenue;

“chargeable period” means an accounting period of a company or a year of assessment; and—

(a) a reference to a “chargeable period or its basis period” is a reference to the chargeable period if it is an accounting period and to the basis period for it if it is a year of assessment;

(b) a reference to a “chargeable period related to” the incurring of expenditure, or a sale or other event, is a reference to the chargeable period in which, or to that in the basis period for which, the expenditure is incurred or the sale or other event takes place, and means the latter if, but only if, the chargeable period is a year of assessment;

“control” means—

(a) in relation to a body corporate, the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and

(b) in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income, of the partnership;

“dual resident investing company” means a company which is for the purposes of section 404 of the principal Act a dual resident investing company;

“foreign concession” means a right or privilege granted by the government of, or any municipality or other authority in, any territory outside the United Kingdom;

“income” includes any amount on which a charge to tax is authorised to be made under any of the provisions of this Act;

“lease” includes an agreement for a lease where the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage, and “lessee”, “lessor” and “leasehold interest” shall be construed accordingly;

“mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth and, for this purpose, geothermal energy, whether in the form of aquifers, hot dry rocks or otherwise, shall be treated as a natural deposit;

“notice” means a notice in writing;

“the principal Act” means the Income and Corporation Taxes Act 1988;

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“scientific research allowance” means an allowance made under Part VII other than an allowance under section 136;

“tax”, where neither corporation tax nor income tax is specified, means either of those taxes;

“writing-down allowance”, where the reference is partly to years of assessment before the year 1966-67, includes an annual allowance in the sense which, in the context, that phrase had immediately before the commencement of the Finance Act 1965;

and any reference to a particular Part, Chapter or Schedule is a reference to that Part or Chapter of or Schedule to this Act.

- (3) This Act shall apply in relation to a trade, profession or vocation chargeable in accordance with section 65(3) of the principal Act as it applies to one chargeable to tax under Case I or II of Schedule D.
- (4) For the purposes of this Act, a source of income is “within the charge to” corporation tax or income tax if that tax is chargeable on the income arising from it, or would be so chargeable if there were any such income, and references to a person, or to income, being within the charge to tax shall be similarly construed.
- (5) Any reference to allowances or charges being made in taxing a trade is a reference to their being made in computing the trading income for corporation tax or in charging the profits or gains of the trade to income tax.
- (6) Any reference to an allowance made or deduction allowed includes a reference to an allowance or deduction which would be made or allowed but for an insufficiency of profits or gains, or other income, against which to made it.
- (7) Any reference to any building, structure, machinery, plant, works, asset, farmhouse, farm or forestry building, cottage or fence shall be construed as including a reference to a part of any building, structure, machinery, plant, works, asset, farmhouse, farm or forestry building, cottage or fence.

This subsection shall not apply where the reference is expressed to be to the whole of a building or structure; and in relation to chargeable periods beginning on or after 6th April 1993 this subsection shall have effect with the omission of the words “or forestry” (in both places where they occur).

- (8) Any reference to the time of any sale shall be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.

This subsection does not apply for the purposes of Part VII.

- (9) Any reference to the setting up, commencement or permanent discontinuance of a trade includes, except where the contrary is expressly provided, a reference to the occurring of an event which, under any of the provisions of the Income Tax Acts or the Corporation Tax Acts (other than paragraph 7 of Schedule 16 to the Finance Act 1965), is to be treated as equivalent to the setting up, commencement or permanent discontinuance of a trade.
- (10) For the purposes of Part II this section shall have effect with the omission of the definitions of “control” and “lease” and related expressions in subsection (1) above and of subsection (8); and subsections (5), (7) and (9) do not apply for the purposes of Part III.

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- (11) Chapter I of Part XIII of the principal Act (which relates to patents and know-how) contains further provisions relating to capital allowances.

162 Application to Scotland

In the application of this Act to Scotland, “leasehold interest” means the interest of a tenant in property subject to a lease; and any reference to an interest which is reversionary on a leasehold interest or on a lease shall be construed as a reference to the interest of the landlord in the property subject to the leasehold interest or lease.

163 Continuity and construction of enactments etc

- (1) The continuity of the Income Tax Acts and the Corporation Tax Acts shall not be affected by the substitution of this Act for the repealed enactments.
- (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act or any Act amended by this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or, as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.
- (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made after the passing of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be, to things done or deemed to be done or falling to be done under or for the purposes of, that corresponding provision.
- (4) In connection with the transition for companies from income tax to corporation tax effected by the Finance Act 1965 the provisions of this Act and any other provisions of the Income Tax Acts relevant thereto shall have effect with such modifications as are necessary to preserve the continuity of the system of allowances and charges under this Act, and so that in particular references to a previous chargeable period or to a subsequent chargeable period, or to a time before, or a time after, a chargeable period, shall have effect in relation to a company as if the year 1965-66 or any earlier year of assessment preceded that company’s first accounting period for corporation tax.

This subsection shall not be taken to require any time to be counted twice in reckoning duration, except in a case where any time has been so counted by virtue of section 15(2) of the 1968 Act.

- (5) In this section “the repealed enactments” means the enactments repealed by this Act and earlier enactments repealed by any enactment repealed by this Act.
- (6) The provisions of this section and section 164 are without prejudice to the provisions of the Interpretation Act 1978 as respects the effect of repeals.

164 Commencement, amendments and repeals

- (1) Except as otherwise expressly provided, this Act shall have effect as respects allowances and charges falling to be made for chargeable periods ending after 5th April 1990, and, accordingly, to the extent required to give effect to section 163(1), applies in relation to expenditure incurred in chargeable periods ending before 6th April 1990.
- (2) The allowances referred to in subsection (1) above include those which fall to be made for one chargeable period by setting any part of them against the profits or gains of some other chargeable period, and, accordingly, subsection (1) above shall apply to allowances falling to be made for chargeable periods ending after 5th April 1990 notwithstanding that, under any provision of this Act, or under any other provision of the Income Tax Acts or the Corporation Tax Acts, effect is to be given to those allowances by setting any part of them against the profits or gains of a chargeable period ending before 6th April 1990.
- (3) Schedule 1, which makes amendments to other enactments consequential on the passing of this Act, shall have effect (but nothing in that Schedule shall affect the construction of any enactment mentioned in it for chargeable periods ending before 6th April 1990).
- (4) Subject to section 82, the enactments mentioned in Schedule 2 shall be repealed to the extent specified in the third column of that Schedule, and the provisions of this Act shall have effect in accordance with subsection (1) above to the exclusion of the corresponding provisions so repealed, and those repeals take effect accordingly.
- (5) The repeals referred to above shall not affect any enactment so far as it authorises the taking into account, in any computation required to be made for any tax purpose for chargeable periods for which this Act has effect, of expenditure incurred in earlier chargeable periods, whether by setting any part of it against profits or gains of a chargeable period ending after 5th April 1990 or otherwise.

165 Short title

This Act may be cited as the Capital Allowances Act 1990.