



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART II

#### PROVISIONS RELATING TO THE SCHEDULE A CHARGE AND THE ASSOCIATED SCHEDULE D CHARGES

##### *Deductions and other allowances*

#### **25 Deductions from rent: general rules**

(1) In computing for the purposes of Schedule A the profits or gains arising to a person (the “person chargeable”) in any chargeable period, the amounts of any permitted deductions shall be deducted from rent to which he becomes entitled under a lease in that period.

(2) In this section—

“permitted deductions” means any payments, except any payment of interest, made by the person chargeable in respect of any of the following matters—

- (a) maintenance, repairs, insurance or management;
- (b) any services provided by him otherwise than by way of maintenance or repairs, being services which he was obliged to provide but in respect of which he received no separate consideration;
- (c) rates or other charges on the occupier which the person chargeable was obliged to defray;
- (d) any rent, rentcharge, ground annual, feuduty or other periodical payment reserved in respect of, or charged on or issuing out of, land;

being payments which are deductible in accordance with subsections (3) to (9) below and section 26; and

“void period” means a period during which the person chargeable was not in occupation of the premises or any part thereof but was entitled to possession thereof.

- (3) There may be deducted from rent to which the person chargeable becomes entitled in a chargeable period the amount of any permitted deduction which became due in that period, or at an earlier time falling within the currency of the lease, in so far as the payment—
- (a) was made in respect of the premises comprised in the lease, and
  - (b) in the case of a payment for maintenance or repairs, was incurred by reason of dilapidation attributable to a period falling within the currency of the lease or, in the case of any other payment, was incurred in respect of such a period.
- (4) Where the person chargeable became the landlord after the lease began, references in subsection (3) above to the currency of the lease shall not include any time before he became the landlord.
- (5) In the case of a lease at a full rent, subsection (3) above shall have effect as if references to the currency of the lease included any period (“a previous qualifying period”)—
- (a) during which the person chargeable was the landlord in relation to a previous lease of the premises, being a lease at a full rent; or
  - (b) which was a void period beginning either with the termination of an earlier lease at a full rent of the premises or with the acquisition by the person chargeable of the interest in the premises giving him the right to possession thereof;
- but a period shall not be a previous qualifying period if it preceded a period ending before the beginning of the lease which was not itself a previous qualifying period.
- (6) Where during any period the conditions necessary for the period to be a previous qualifying period were fulfilled as respects part of the premises, but not the whole, the period shall be treated as a previous qualifying period as respects that part of the premises only, and subsection (5) above shall have effect accordingly, any necessary apportionment being made of rent, payments or other matters.
- (7) In the case of a lease at a full rent, not being a tenant’s repairing lease, there may also be deducted the amount of any payment made in respect of other premises by the person chargeable—
- (a) in so far as that amount could be deducted under subsections (3) and (5) above from rent to which he became entitled in the chargeable period under a lease of those other premises, being a lease at a full rent, or could be so deducted if that rent were not insufficient, or
  - (b) if any part of the chargeable period is, in respect of those other premises, a void period beginning with the termination of a lease at a full rent, in so far as the amount could be so deducted if the lease had continued until the end of the period.
- (8) Where by reason of any change of circumstances a lease ceases to be, or becomes, a tenant’s repairing lease, or ceases to be, or becomes, a lease at a full rent, subsections (5) and (7) above shall apply in relation to the lease as it subsists after the change of circumstances as if it were a new lease granted when the change occurred.
- (9) Where the person chargeable retains possession of a part of the premises and that part is used in common by persons respectively occupying other parts of the premises, this section shall apply as if a payment made in respect of the part used in common had been made in respect of those other parts.

**26 Deductions from rent: land managed as one estate**

- (1) Where this section applies to an estate for a chargeable period, the owner shall be treated—
- (a) in relation to a part of the estate which for any portion of that period is not comprised in a lease under which he is the landlord, as if he were entitled under a lease of that part at a full rent (not being a tenant's repairing lease) to rent for that portion, becoming due from day to day, at a rate per annum equal to the relevant annual value, and
  - (b) in relation to a part of the estate which for any portion of that period is comprised in a lease under which he is the landlord, not being a lease at a full rent, as if the lease were at a full rent, and as if the rent so far as it relates to that part were at a rate per annum not less than the relevant annual value;
- and section 25 shall apply accordingly.
- (2) In any case where subsection (1) above applies—
- (a) a payment relating to premises comprised in the estate shall not be deductible from rent in respect of premises not so comprised; and
  - (b) paragraph (a) of that subsection shall not apply to premises occupied by the owner wholly and exclusively for purposes connected with the management of the estate or for the purposes of a trade, profession or vocation.
- (3) This section shall apply to an estate if, at the end of the year 1962-63, the land comprised in the estate was managed as one estate and the owner for the time being of the estate by notice to the inspector so elects; but such an election—
- (a) must be made within 12 months after the end of the first chargeable period for which the person making it became entitled to make it or such further time as the Board may allow;
  - (b) except in the case of the first election that can be made under this subsection or the first election made under section 73(2) of the 1970 Act, shall not have effect unless an election under this section has had effect as respects the immediately preceding ownership;
  - (c) shall apply in relation to the estate throughout the ownership of the person making it.
- (4) Where in any chargeable period the estate comprises premises not included in it at the end of the year 1962-63, subsection (1) above (but not subsection (2)) shall apply in relation to the chargeable period as if the premises were not included in the estate in that period.
- (5) Subsection (4) above shall not have effect in relation to any premises if—
- (a) at the end of the year 1962-63 the owner of the remainder of the estate as then subsisting was entitled under trusts arising under a settlement or on an intestacy, or in Scotland, under a disposition by way of liferent and fee, to an interest such that, on the occurrence of some future event or events, he might become the owner of the premises in question, and
  - (b) before the end of that year, the premises and the remainder of the estate, as then subsisting, were together managed as one estate.
- (6) In this section—
- “estate” means land in one ownership managed as one estate (but without prejudice to section 27); and

“relevant annual value”, in relation to any part of an estate, means the annual value of that part ascertained in accordance with section 837.

## 27 Deductions from rent: maintenance funds for historic buildings

- (1) Where a building or land which is qualifying property for the purposes of paragraph 3(1) of Schedule 4 to the Inheritance Tax Act 1984 (maintenance funds for historic buildings) forms part of an estate in relation to which an election has effect under section 26—
  - (a) the election shall not cease to have effect by reason only of another part of the estate becoming comprised in, and managed by the trustees of, a settlement in relation to which the Treasury give a direction under paragraph 1 of that Schedule, and
  - (b) while such a direction has effect that other part shall be treated as continuing to form part of the estate to which the election relates.
- (2) In any case where—
  - (a) a person becomes the owner of any such building or land as is mentioned in subsection (1) above, and
  - (b) that building or land, in the immediately preceding ownership, formed part of an estate in relation to which an election under section 26 had effect,

any other part of that estate which continues to be or becomes comprised in a settlement of the kind mentioned in subsection (1) above shall, while such a direction as is mentioned in that subsection has effect, be treated as part of the estate in relation to which an election under section 26 may be made by him.
- (3) Where by virtue of this section an election has effect in relation to an estate part of which is comprised in a settlement—
  - (a) there may be treated as deductible from the rents arising from that part—
    - (i) any payments which are made in respect of the other part of the estate by the trustees of the settlement and which would be so deductible under section 25 if that part were also comprised in the settlement; and
    - (ii) any payments made in respect of the other part of the estate by its owner to the extent to which they cannot be deducted by him under that section in the chargeable period in which they become due because of an insufficiency of the rents arising in that period from that part; and
  - (b) any relief available to the trustees under section 33 in respect of the part of the estate comprised in the settlement shall instead be available to the owner of the other part of the estate.
- (4) Where by virtue of this section an election has effect in relation to an estate part of which is comprised in a settlement, the election shall not cease to have effect in relation to any of that part by reason of its ceasing to be comprised in that settlement if either—
  - (a) it becomes comprised in another settlement in circumstances such that by virtue of paragraph 9(1) of Schedule 4 to the Inheritance Tax Act 1984 there is (or would but for paragraph 9(4) be) no charge to inheritance tax in respect of the property so ceasing; or
  - (b) both immediately before and immediately after its so ceasing it is property in respect of which a direction has effect under paragraph 1 of that Schedule.

- (5) The inclusion by virtue of this section in an estate of property comprised in a settlement shall not be construed as requiring it to be treated as the property of the person who owns the remainder of the estate or as affecting any question as to the person entitled to the income arising from that property.

## 28 Deductions from receipts other than rent

Subject to section 122, where a person becomes entitled in a chargeable period to a sum other than rent payable under a lease, then in computing for the purposes of Schedule A the profits or gains arising to that person in that period, there shall be deducted from that sum—

- (a) so much of any payment made by that person as was made in respect of maintenance, repairs, insurance or management of premises to which the sum relates and constituted an expense of the transaction under which he became entitled to that sum;
- (b) so much of any rent, rentcharge, ground annual, feuduty or other periodical payment made by that person as was reserved in respect of, or was charged upon or issued out of, premises to which the sum relates and constituted an expense of that transaction;
- (c) so much of any other payment made by that person as constituted an expense of that transaction, not being an expense of a capital nature; and
- (d) where, in or before the chargeable period, that person entered into any like transaction, any amount which, under paragraphs (a) to (c) above, is deductible from a sum to which he is entitled under that like transaction in the period, or was deductible from a sum to which he was so entitled in a previous chargeable period but has not been deducted.

## 29 Sporting rights

- (1) Subject to subsection (2) below, in any case where the person entitled to possession of any land (“the person chargeable”)—
- (a) is in the practice of granting sporting rights over the land for payment, but
  - (b) in any year of assessment, such rights are for any reason not granted by him,
- the aggregate of any amounts paid by him which, if such rights had been granted in that year (the “relevant year”), would have been deductible under section 28 from payments receivable by him in respect of the grant shall be treated for the purposes of section 25(7) as a deduction which, by virtue of section 25(3), might have been made by him from rent to which he was entitled for that year under a lease of the land, being a lease at a full rent.
- (2) If in the relevant year sporting rights over the land are exercised—
- (a) by the person chargeable, or
  - (b) by any other person at his invitation, or
  - (c) where the person chargeable is a close company, by a person who is, within the meaning of Part XI, a director of, or a participator in, that company,
- the aggregate referred to in subsection (1) above shall be treated as reduced by an amount equal to the price which might reasonably be expected to have been paid for that exercise of the rights if the person exercising them had had to give full consideration therefor.

- (3) For the purposes of subsection (2) above, an exercise of sporting rights shall be disregarded if it gives rise to a charge to tax under Schedule E by virtue of section 154.
- (4) Where the person chargeable is a company, section 9(1) shall not have effect so as to require references in that subsection to a year of assessment to be read as references to an accounting period, but any deduction thereby authorised shall be apportioned between the accounting periods (if more than one) comprising the year of assessment.
- (5) In this section, “sporting rights” means rights of fowling, shooting or fishing, or of taking or killing game, deer or rabbits.

### **30 Expenditure on making sea walls**

- (1) Where in any year of assessment the owner or tenant of any premises incurs any expenditure in the making of any sea wall or other embankment necessary for the preservation or protection of the premises against the encroachment or overflowing of the sea or any tidal river, he shall be treated for the purposes of sections 25, 28 and 31 as making in that year of assessment and in each of the succeeding 20 years of assessment a payment in relation to the premises preserved or protected by the embankment of an amount equal to a twenty-first part of the expenditure and incurred in respect of dilapidation attributable to the year.
- (2) Where the whole of that person’s interest in the premises or any part thereof is transferred (whether by operation of law or otherwise) to some other person—
  - (a) the amount of the payment which he would be so treated as making for the year of assessment in which the transfer takes place shall be treated as being made partly by the transferor and partly by the transferee, as may be just; and
  - (b) the transferee shall, to the exclusion of the transferor, be treated in any subsequent year—
    - (i) where the interest transferred is in the whole of the premises, as having made the whole of the payment for that year, and
    - (ii) where the interest transferred is in part only of the premises, as having made so much of the payment as is properly referable to that part of the premises.
- (3) For the purposes of subsection (2) above, where an interest in any premises is a lease and that lease comes to an end, that interest shall be deemed to have been transferred—
  - (a) if an incoming lessee makes any payment to the outgoing lessee in respect of the embankment in question, to the incoming lessee, and
  - (b) in any other case, to the owner of the interest in immediate reversion on the lease and, in relation to Scotland, the expression “the owner of the interest in immediate reversion on the lease” shall be construed as a reference to the landlord.
- (4) In relation to a company, section 9(1) shall not have effect so as to require references in this section to a year of assessment to be read as references to an accounting period, but any deduction authorised by this section shall be apportioned between the accounting periods (if more than one) comprising the year of assessment, other than any such period ended before the expenditure is incurred, or transfer takes place, by virtue of which the company is entitled to the deduction.
- (5) This section shall not apply in relation to any expenditure in respect of which a capital allowance has been made.

**31 Provisions supplementary to sections 25 to 30**

- (1) Schedule 1, which makes provision in relation to certain expenditure incurred before the beginning of the year 1963-64, shall have effect (and the preceding provisions of this Part shall have effect subject to that Schedule).
- (2) Any reference in this section to a deduction is a reference to a sum which is deductible under any of the provisions of sections 25 to 30 and Schedule 1, and any reference to a sum which can be deducted or which is deductible shall be construed accordingly.
- (3) Subject to subsections (4) to (7) below, where a sum or part of a sum can be deducted for the chargeable period in which it is paid, it shall be so deducted, and, where it cannot, it shall be deducted for the earliest chargeable period for which it can be deducted.
- (4) Where for any chargeable period the amount from which deductions can be made is sufficient to allow the deduction from that amount of some, but not all, of different sums or parts of sums which are deductible, the sum or parts to be deducted for that period shall in the aggregate be equal to that amount, and, subject to that requirement, shall be such as the person whose liability to tax is in question may choose.
- (5) No deduction shall be made in respect of—
  - (a) a payment made by any person to the extent that the payment has been or will be—
    - (i) balanced by the receipt of insurance moneys, or
    - (ii) recovered from, or in any other manner borne by, some other person, otherwise than by means of an amount on the profits or gains arising from which the first-mentioned person would be chargeable under Schedule A, or
  - (b) a payment made by a person other than a company, if payable under deduction of income tax.
- (6) An amount, or part of an amount, shall not be deducted more than once from any sum, or from more than one sum, and shall not in any case be deducted if it has otherwise been allowed as a deduction in computing the income of any person for tax purposes.
- (7) Where, on account of a payment made in any chargeable period, a deduction falls to be made from any rents or receipts to which the person making the payment became entitled in a previous period, all such adjustments of liability to tax shall be made, by repayment or otherwise, as may be necessary to give effect to the deduction.

**32 Capital allowances for machinery and plant used in estate management**

- (1) Subject to the provisions of this section, Chapter II of Part I of the 1968 Act and Chapter I of Part III of the Finance Act 1971, and such other provisions of the Tax Acts as relate to allowances or charges under those Chapters, shall apply with any necessary adaptations in relation to machinery or plant provided for use or used by a person entitled to rents or receipts falling within Schedule A for the maintenance, repair or management of premises in respect of which those rents or receipts arise as they apply in relation to machinery or plant provided for use or used for the purposes of a trade.
- (2) Except as provided by subsection (3) below, the Tax Acts shall apply in relation to any allowances or balancing charges which fall to be made by virtue of this section as if they were to be made in taxing a trade.

- (3) Allowances and balancing charges which by virtue of this section fall to be made to or on a person for any chargeable period shall be made by—
- (a) adding the amount of any such allowances to the expenditure on maintenance, repair or management of the premises which is deductible under sections 25 or 28 in computing his profits or gains for the purposes of Schedule A; and
  - (b) deducting the amount on which any such charge is to be made from that expenditure (or from the sum of that expenditure and any addition made to it under this subsection);
- and sections 46 of the 1968 Act and 48 of the Finance Act 1971 (manner of making allowances or charges) shall not apply.
- (4) Any charge falling to be made under this section shall, in so far as a deduction cannot be made for it under subsection (3)(b) above, be made under Case VI of Schedule D.
- (5) No allowance or balancing charge shall be made by virtue of this section for any chargeable period in respect of expenditure incurred by any person on machinery or plant, except in pursuance of an election made by him for that period; but an election for any chargeable period shall have effect as an election for that and all subsequent chargeable periods.
- (6) Any such election shall be made by notice to the inspector either for all machinery or plant provided for use or used for the maintenance, repair or management of the relevant premises or for any class of machinery or plant so provided or used; but an election for machinery or plant of any class shall not be made for any chargeable period after payments made in that or a subsequent chargeable period for the maintenance, repair or management of the relevant premises have been taken into account in an assessment or claim for repayment of tax which has been finally determined.
- (7) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under Chapter II of Part I of the 1968 Act or Chapter I of Part III of the Finance Act 1971 (whether for the same or different chargeable periods) both in computing profits or gains for the purposes of Schedule A and in some other way; and, on any assessment to tax, expenditure to which an election under this section applies shall not be taken into account otherwise than under those Chapters.
- (8) The Tax Acts shall have effect as if this section were contained in Chapter II of Part I of the 1968 Act or Chapter I of Part III of the Finance Act 1971, as the case may require.

### **33 Agricultural land: allowance for excess expenditure on maintenance**

- (1) Where in the case of an estate which consists of or includes agricultural land—
- (a) provision is made in sections 25 to 32 for the deduction of a sum in respect of payments in a chargeable period for maintenance, repairs, insurance or management of the estate, or in respect of allowances for machinery or plant provided for use or used on the estate, and
  - (b) owing to the insufficiency of rents and receipts to which the owner of the estate becomes entitled in that period, whether from the estate or from other property, the sum in question cannot be deducted (other amounts deductible under Schedule A being treated as deductible in priority thereto),
- then, subject to subsection (2) below, the sum in question shall be treated as if it were the amount of an allowance falling to be made under the 1968 Act by way of discharge



or repayment of tax, and available primarily against agricultural income as defined in section 69 of that Act.

- (2) The sum in question shall not exceed the sum which would have fallen to be so treated if—
- (a) the estate had not included such parts thereof as were used wholly for purposes other than purposes of husbandry, and
  - (b) payments or allowances in respect of parts thereof which were used partly for purposes of husbandry and partly for other purposes were reduced to an extent corresponding to the extent to which those parts were used for other purposes.
- (3) In this section—
- “agricultural land” means land, houses or other buildings in the United Kingdom occupied wholly or mainly for the purposes of husbandry; and
  - “estate” means any land (including any houses or other buildings) managed as one estate.
- (4) Sections 71 and 74 of the 1968 Act shall apply as if this section were contained in Part I of that Act.