



Capital Allowances Act 1990

1990 CHAPTER 1

PART VIII

SUPPLEMENTARY PROVISIONS

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

Status: This is the original version (as it was originally enacted).

- (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 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.