

## SCHEDULES

### SCHEDULE 14

Section 59.

#### CAPITAL ALLOWANCES: VAT CAPITAL GOODS SCHEME

#### PART I

##### INDUSTRIAL BUILDINGS AND STRUCTURES

###### *Buildings and structures in enterprise zones*

1 In section 1 of the Capital Allowances Act 1990 (enterprise zones) after subsection (1) there shall be inserted—

“(1A) Where the person entitled to the relevant interest in relation to any capital expenditure incurred as mentioned in paragraphs (a) and (b) of subsection (1) above incurs an additional VAT liability in respect of any of that capital expenditure at a time when—

- (a) the building or structure is, or is to be, an industrial building or structure occupied as mentioned in paragraph (a) of that subsection, and
- (b) the site of the building or structure is in an enterprise zone and not more than 10 years have elapsed since the site was first included in the zone,

that liability shall be regarded for the purposes of this Act as capital expenditure incurred on the construction of the building or structure and, subject to the following provisions of this Act, an allowance shall accordingly be made to him under that subsection for the chargeable period related to the incurring of that liability.”

###### *Transitional relief for regional projects*

2 (1) In section 2 of that Act, in subsection (1) (which applies section 1, with modifications, in relation to certain regional projects) after paragraph (a) there shall be inserted—

“(aa) in subsection (1A)—

- (i) for the words “paragraphs (a) and (b)” there shall be substituted the words “paragraph (a)”; and
- (ii) paragraph (b) shall be omitted; and”.

(2) After subsection (3) of that section there shall be inserted—

“(3A) This section also applies to any additional VAT liability incurred in respect of expenditure certified under subsection (2) or (3) above.”

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*Writing-down allowances*

- 3 (1) In section 3 of that Act (writing-down allowances in respect of industrial buildings and structures) after subsection (2) there shall be inserted—

“(2A) Where the person entitled to the relevant interest in relation to any capital expenditure incurred on the construction of a building or structure incurs an additional VAT liability in respect of any of that capital expenditure, then—

- (a) that liability shall be regarded for the purposes of this Act as capital expenditure incurred by him on the construction of the building or structure, and
- (b) the residue (as defined in section 8(1)) of the expenditure incurred on the construction of the building shall accordingly be deemed for the purposes of this Part to be increased as at the time at which the liability is incurred by an amount equal to the liability.

(2B) Where an additional VAT liability is incurred as mentioned in subsection (2A) above, then (subject to any further adjustment under this subsection on any later such event or under subsection (2C) or (3) below) the writing-down allowance for any chargeable period, if that chargeable period or its basis period ends after the time at which the liability is incurred, shall be the residue of the capital expenditure immediately after the incurring of the liability, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired, at the date of the incurring of the liability, of the period of 25 years beginning with the time when the building or structure was first used.

(2C) In any case where—

- (a) an additional VAT rebate in respect of any capital expenditure incurred on the construction of a building or structure is made to the person entitled to the relevant interest in relation to that expenditure, and
- (b) the residue of that expenditure immediately before the making of the rebate is not less than the amount of the rebate,

then (subject to any further adjustment under this subsection on any later such event or under subsection (2B) above or (3) below) the writing-down allowance for any chargeable period, if that chargeable period or its basis period ends after the time at which the rebate is made, shall be the residue of that expenditure immediately after the making of the rebate, reduced in the proportion (if it is less than one) which the length of the chargeable period bears to the part unexpired, at the date of the making of the rebate, of the period of 25 years beginning with the time when the building or structure was first used.”

- (2) In subsection (3) of that section (sale of relevant interest: recalculation of future writing-down allowances) after the words “on a later sale” there shall be inserted the words “or under subsection (2B) or (2C) above”.

*Balancing allowances and balancing charges*

- 4 (1) In section 4 of that Act, in subsection (1) (events which give rise to balancing allowances and balancing charges), after paragraph (d) there shall be inserted the words “or

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- (e) an additional VAT rebate in respect of any of the capital expenditure is made to the person entitled to the relevant interest.”.
- (2) In subsection (2) of that section (no balancing allowance or charge on second or subsequent events when the building or structure is not an industrial building or structure) after the words “and where two or more events” there shall be inserted the words “falling within paragraphs (a) to (d) of subsection (1) above”.
- (3) After that subsection there shall be inserted—
  - “(2A) No balancing allowance shall be made by reason of an event falling within paragraph (e) of subsection (1) above; and no balancing charge shall be made by reason of such an event unless—
    - (a) the amount of the additional VAT rebate exceeds the residue of expenditure immediately before the making of that rebate, or
    - (b) there is no such residue,and in any such case a balancing charge shall be made on an amount equal to that by which the rebate exceeds the residue of expenditure immediately before the making of the rebate or, where there is no such residue, to the amount of the rebate.”
- (4) In subsection (9) of that section, in the definition of “the capital expenditure” there shall be added at the end of paragraph (a) the words “reduced by an amount equal to that of any balancing charge made in relation to that expenditure on the occurrence of an event falling within subsection (1)(e) above;”
- (5) At the end of subsection (10) of that section (balancing charge not to exceed allowances made) there shall be added the words “reduced by the amounts (if any) on which balancing charges in respect of the expenditure have been made on him for any such chargeable periods”.

*Writing off of expenditure and meaning of “residue of expenditure”*

- 5 (1) In section 8 of that Act, for subsection (2) (initial allowances to be treated as written off when building or structure first used) there shall be substituted—
  - “(2) Where an initial allowance is made in respect of any of the expenditure, then—
    - (a) if that allowance is made in respect of an additional VAT liability incurred after the building or structure is first used, the amount of that allowance shall be treated as written off as at the time at which the liability is incurred; and
    - (b) in any other case, the amount of the allowance shall be treated as written off as at the time when the building or structure is first used.”
- (2) After subsection (12) of that section there shall be inserted—
  - “(12A) Where an additional VAT rebate is made in respect of any of the expenditure, there shall be treated as written off as at the time at which the rebate is made an amount equal to the rebate.”
- (3) In subsection (13) (application of subsections (1) to (12) to the Crown) for “(12)” there shall be substituted “(12A)”.

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## PART II

### MACHINERY AND PLANT

#### *Transitional relief for regional projects*

- 6 (1) In section 22 of that Act (first-year allowances: transitional relief for regional projects) after subsection (1) there shall be inserted—

“(1A) Subsection (1B) below applies in any case where a person—

- (a) has at any time incurred, as mentioned in paragraphs (a) and (b) of subsection (1) above, capital expenditure to which this section applies, and
- (b) subsequently incurs an additional VAT liability in respect of that capital expenditure at a time when the machinery or plant is provided wholly and exclusively for the purposes of the trade.

(1B) Where this subsection applies, then, for the purposes of this Act—

- (a) the additional VAT liability shall be regarded as capital expenditure incurred by the person on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, and
- (b) that capital expenditure shall be regarded as expenditure in consequence of the incurring of which the machinery or plant belongs, or has belonged, to him at some time during the chargeable period related to the incurring of the capital expenditure,

and, subject to the following provisions of this Act, a first-year allowance shall accordingly be made to him under subsection (1) above for the chargeable period related to the incurring of that liability.”

- (2) After subsection (3) of that section there shall be inserted—

“(3A) This section also applies to any additional VAT liability incurred in respect of expenditure certified under subsection (2) or (3) above.”

#### *Writing-down allowances and balancing adjustments*

- 7 (1) In section 24 of that Act, after subsection (1) (expenditure on machinery or plant qualifying for writing-down allowances) there shall be inserted—

“(1A) If, in a case where the circumstances are as mentioned in paragraphs (a) and (b) of subsection (1) above, the person there mentioned incurs an additional VAT liability in respect of the capital expenditure at a time when the machinery or plant is provided wholly and exclusively for the purposes of the trade, then, for the purposes of this Act—

- (a) that liability shall be regarded as capital expenditure incurred by him on the provision of the machinery or plant wholly and exclusively for the purposes of the trade, and
- (b) that capital expenditure shall be regarded as expenditure in consequence of the incurring of which the machinery or plant belongs, or has belonged, to him,

and, subject to the following provisions of this Act, subsection (1) above shall have effect accordingly in relation to the capital expenditure constituted by that liability.”

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- (2) At the beginning of subsection (6) of that section (disposal value) there shall be inserted the words “Subject to subsection (7) below,” and after that subsection there shall be inserted—

“(7) This subsection applies to all machinery and plant—

- (a) on the provision of which for the purposes of the trade a person has incurred capital expenditure;
- (b) which belongs to him at some time in a chargeable period or its basis period; and
- (c) in respect of which the following event occurs, namely, the making of an additional VAT rebate to him in that chargeable period or its basis period in respect of the capital expenditure incurred by him on the provision of the machinery or plant;

and where this subsection applies to any machinery or plant the amount that is to be brought into account by virtue of subsection (6) above by that person for the chargeable period related to the making of the rebate shall be increased by the addition of (or, if there would not otherwise be a disposal value for that chargeable period, shall be) the disposal value of the machinery or plant in respect of which that rebate is made.

- (8) Except in subsection (7) above, any reference in this Act to subsection (6) above (but not a reference to any specific provision of it) shall be taken to include a reference to subsection (7) above.”

#### *The disposal value*

- 8 (1) In section 26 of that Act (which defines the disposal value by reference to the event giving rise to it) in subsection (1), after paragraph (e) there shall be inserted—

“(ee) if that event is the making of an additional VAT rebate in respect of capital expenditure incurred on the provision of the machinery or plant, equals the amount of that rebate; and”.

- (2) At the end of subsection (2) of that section (disposal value not to exceed expenditure on the provision of the machinery or plant for the purposes of the trade) there shall be added the words—

“reduced by the aggregate amount of any additional VAT rebates made to him in respect of any of that capital expenditure.

(2A) If the event by reason of which a disposal value is to be brought into account is the making of an additional VAT rebate to a person, subsection (2) above shall have effect as if the capital expenditure referred to in that subsection were reduced (or further reduced) by the amount of any disposal value brought into account by that person in respect of the machinery or plant by reason of any earlier event (other than the making of an additional VAT rebate).”

- (3) At the end of that section there shall be added—

“(4) Where an additional VAT rebate has been made to any of the persons mentioned in subsection (3) above in respect of the capital expenditure incurred by him as there mentioned, that capital expenditure shall, in his case,

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be treated as reduced by the amount of the rebate, but no further reduction shall be made under subsection (2) above.”

*Short-life assets*

- 9 (1) In section 37 of that Act, after subsection (4) (allowances for the notional trade to be given for the corresponding period of the actual trade) there shall be inserted—

“(4A) In any case where—

- (a) a balancing allowance that would, on the assumptions in subsection (3) above, fall to be made to the trader for a chargeable period in the case of the notional trade has, by virtue of subsection (4) above, been made to him for a chargeable period in the case of the actual trade,
- (b) after the chargeable period of the notional trade related to its permanent discontinuance for the purposes of sections 24, 25 and 26, he incurs an additional VAT liability in respect of the capital expenditure incurred on the provision of the machinery or plant, and
- (c) that liability was not brought into account in determining the amount of the balancing allowance,

a further balancing allowance, of an amount equal to the liability, shall be made to him for the chargeable period of the actual trade related to the incurring of the liability (and the liability shall not be brought into account for any chargeable period in the case of the notional trade).”

- (2) In subsection (5) of that section (no disposal value brought into account before fourth anniversary) after the word “If” there shall be inserted the words “disregarding section 24(7)”.

*Fixtures*

- 10 In section 54(1)(c) of that Act (which refers to a person being required to bring the disposal value of a fixture into account under section 24) after the words “section 24” there shall be inserted the words “otherwise than by virtue of subsection (7) of that section”.

*Further restrictions on allowances*

- 11 (1) In section 75 of that Act (connected persons etc) in subsection (1) (provision by purchase of machinery or plant)—

- (a) after the words “in respect of the expenditure” there shall be inserted the words “or any additional VAT liability incurred in respect of it”; and
- (b) for the words “so much (if any) of the expenditure” there shall be substituted the words “so much (if any) of the aggregate of the expenditure and any such additional VAT liability”.

- (2) In subsection (2) of that section (contracts under which a person will or may become the owner of machinery or plant)—

- (a) after the words “so far as relating to that machinery or plant” there shall be inserted the words “or in respect of any additional VAT liability incurred by him in respect of any such expenditure”; and

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- (b) for the words “so much (if any) of the expenditure” there shall be substituted the words “so much (if any) of the aggregate of the expenditure and any such additional VAT liability”.
- (3) In subsection (3) of that section (assignment of benefit of such contracts)—
- (a) after the words “consideration for the assignment” there shall be inserted the words “or in respect of any additional VAT liability incurred by him in respect of any such expenditure”; and
  - (b) for the words “so much (if any) of the assignee’s expenditure” there shall be substituted the words “so much (if any) of the aggregate of the assignee’s expenditure and any such additional VAT liability”.
- (4) In section 76 of that Act (extension of section 75) after subsection (2) (provision for open market value etc to be brought into account where there is no disposal value) there shall be inserted—
- “(2A) In any case where—
- (a) section 75(1) has effect with the modification specified in paragraph (a) of subsection (2) above, but
  - (b) the open market value of the machinery or plant in question is determined for the purposes of those provisions inclusive of value added tax,
- section 75(1) as so modified shall have effect with the omission of the words “the aggregate of” and “and any such additional VAT liability”.
- (2B) For the purposes of paragraphs (b) and (c) of subsection (2) above—
- (a) any additional VAT liability incurred by the seller or, as the case may be, any person connected with him in respect of capital expenditure incurred on the provision of the machinery or plant shall be regarded as capital expenditure incurred on the provision of the machinery or plant, and
  - (b) any additional VAT rebate made to the seller or, as the case may be, any person connected with him in respect of any such expenditure shall be regarded as reducing the amount of capital expenditure so incurred by him,
- to the extent that the liability or rebate in question would not, apart from this subsection, fall to be so regarded.”
- (5) In subsection (4) of that section (application of subsections (2) and (3) in relation to section 75(2) and (3)) for the words “Subsections (2) and (3)” there shall be substituted the words “Subsections (2), (2A), (2B) and (3)”.

### PART III

#### SCIENTIFIC RESEARCH

##### *Deduction for additional VAT liability on capital expenditure*

- 12 (1) In section 137 of that Act (deductions for capital expenditure on scientific research) after subsection (1) there shall be inserted—
- “(1A) Where a person—

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- (a) has incurred allowable scientific research expenditure of a capital nature as mentioned in paragraph (a) or (b) of subsection (1) above, and
- (b) incurs an additional VAT liability in respect of that expenditure at any time before the relevant event (as defined in section 138(1)) occurs in relation to the asset in question,

that liability shall, subject to the following provisions of this section, be regarded for the purposes of this Act as expenditure of a capital nature incurred on the scientific research.”

- (2) In subsection (3) of that section (relief where scientific building contains a dwelling to which not more than one quarter of the cost is referable) after the words “consists of a dwelling and” there shall be inserted the words “,disregarding any additional VAT liability or rebate,”.

*Charge in respect of additional VAT rebate on capital expenditure*

- 13 (1) In section 138 of that Act, after subsection (2) (charge where asset ceases to belong to trader) there shall be inserted—

“(2A) Where one or more additional VAT rebates have been made in respect of the expenditure at any time before the relevant event, the amount of the allowance and the amount of the expenditure shall each be treated for the purposes of subsection (2)(a) and (b) above as reduced by the aggregate amount of such of those rebates as fell, or fall, to be treated as trading receipts under subsection (3A) below.”

- (2) After subsection (3) of that section there shall be inserted—

“(3A) In any case where—

- (a) a person carrying on a trade has incurred allowable scientific research expenditure of a capital nature as mentioned in paragraph (a) or (b) of section 137(1), and
- (b) an additional VAT rebate in respect of that expenditure is made to him at any time before the relevant event occurs in relation to the asset in question,

then, unless that rebate falls to be brought into account for the purpose of making allowances and charges under Part I or Part II, an amount equal to the rebate shall be treated as a trading receipt of the trade accruing for the chargeable period related to the making of the rebate or, if the rebate is made on or after the date on which the trade is permanently discontinued, accruing immediately before the discontinuance.”

- (3) At the end of that section there shall be added—

“(8) For the purposes of subsections (2) and (3) above, any question arising whether the relevant event occurred in or after, or (as the case may be) before, the chargeable period for which an allowance is given in respect of the expenditure there mentioned shall be determined without reference to the making of any allowance by virtue of section 137(1A); but this subsection is without prejudice to any question as to the amount of the expenditure or of the allowance for the purposes of those subsections.”

## PART IV

### SUPPLEMENTARY PROVISIONS

#### *General provisions about additional VAT liabilities and rebates*

- 14 In section 159 of that Act, in subsection (2) (time when capital expenditure is incurred) after the words “capital expenditure” there shall be inserted the words “(other than that constituted by an additional VAT liability)” and after that section there shall be inserted—

#### “159A Additional VAT liabilities and rebates

- (1) Subject to subsections (3) and (4) below, any additional VAT liability or rebate arising is to be regarded for the purposes of this Act as incurred or made on the last day of the relevant VAT interval.
- (2) For the purposes of subsection (1) above “the relevant VAT interval”, in relation to an additional VAT liability or rebate, means that one of the periods of which, under the VAT capital items legislation, the VAT period of adjustment applicable to the asset in question consists, in which occurred the increase or decrease in use which gave rise to the liability or rebate.
- (3) An additional VAT liability or rebate shall, for the purpose only of determining the chargeable period—
  - (a) for which an allowance or charge under this Act may be made in respect of that liability or rebate, or
  - (b) in which the amount of that liability or rebate is to be brought into account in connection with the making of such allowances or charges,be regarded as incurred or made at a time determined in accordance with subsection (4) below and, except for that purpose, any such liability or rebate shall not be treated as incurred or made otherwise than on the day on which it is to be regarded as incurred or made by virtue of subsection (1) above.
- (4) For the purpose of determining the chargeable period referred to in subsection (3) above—
  - (a) where a return for the purposes of value added tax is made to the Commissioners of Customs and Excise in which the liability or rebate is accounted for, the liability or rebate shall be regarded as incurred or made in the chargeable period or its basis period which includes the last day of the period to which that return relates; but
  - (b) if, before any such return is made, those Commissioners assess the liability or rebate as due or repayable, then, notwithstanding paragraph (a) above, the liability or rebate shall be regarded as incurred or made on the day on which that assessment is made; and
  - (c) if the additional VAT liability or rebate has not been accounted for on a return for the purposes of value added tax to those Commissioners, or assessed by them for those purposes, before the trade in question has been permanently discontinued or treated by any provision of the Tax Acts as permanently discontinued, then, notwithstanding paragraphs (a) and (b) above, the liability or rebate shall be regarded

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as incurred or made on the last day of the chargeable period related to the discontinuance.

- (5) Where, disregarding any additional VAT liability or rebate, any allowance or charge falling to be made under this Act in respect of any capital expenditure falls, under any provision of this Act, to be determined by reference to—
- (a) a proportion only of that expenditure, or
  - (b) a proportion only of what that allowance or charge would have been apart from that provision,

then, to the extent that so much of any allowance or charge as falls to be so made in respect of any additional VAT liability or rebate in respect of that expenditure would not (apart from this subsection) fall to be determined by reference to that proportion of the liability or rebate or, as the case may be, of what that portion of the allowance or charge would otherwise have been, it shall be so determined.

- (6) In this Act—

“additional VAT liability”, in relation to any capital expenditure (or any expenditure of a capital nature), means an amount which a person becomes liable to pay by way of adjustment under any VAT capital items legislation in respect of input tax on an asset on the construction or provision of which the expenditure in question was incurred in whole or in part;

“additional VAT rebate”, in relation to any capital expenditure (or any expenditure of a capital nature), means an amount which a person becomes entitled to deduct by way of adjustment under any VAT capital items legislation in respect of input tax on an asset on the construction or provision of which the expenditure in question was incurred in whole or in part;

“VAT capital items legislation” means any provisions of any Act or instrument (whenever passed or made) which provide, in relation to value added tax—

- (a) for the proportion of input tax on an asset of a specified description which may be deducted by a person from his output tax to be adjusted from time to time in consequence of any increase or decrease in the extent to which the asset is used by him for the making of taxable supplies, or taxable supplies of a specified class or description, over a specified period (a “VAT period of adjustment”) applicable to the asset, or
- (b) otherwise for the purpose of giving effect to Article 20(2) to (4) of the Sixth Directive of the Council of the European Communities on Value Added Tax, dated 17th May 1977,

and for this purpose “taxable supply” has the same meaning as it has in the Value Added Tax Act 1983 by virtue of section 2(2) of that Act;

“VAT period of adjustment” has the meaning given in the definition of VAT capital items legislation.

- (7) In this section—

- (a) “input tax” and “output tax” have the meaning given by section 14 of the Value Added Tax Act 1983; and

- (b) in the application of subsection (4)(c) above for the purposes of Part II, the reference to the trade in question shall be construed in accordance with section 27 as that section would apply if this section were included in that Part.”