



Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Capital allowances

113 Initial allowances: industrial buildings and structures

- (1) In Chapter I of Part I of the Capital Allowances Act 1990, after section 2 there shall be inserted the following section—

“2A Initial allowances: contracts entered into between October 1992 and November 1993

- (1) In relation to expenditure to which this section applies, section 1 shall have effect with the following modifications, that is to say—
- (a) so much of that section as relates to the requirement that the site in question is at a material time in an enterprise zone, namely—
 - (i) paragraph (b) of subsection (1) and the reference to that paragraph in subsection (1A);
 - (ii) paragraph (b) of subsection (1A); and
 - (iii) subsection (11),shall be omitted;
 - (b) for the reference in subsection (1) to 100 per cent. there shall be substituted a reference to 20 per cent.; and

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- (c) subsection (2) shall have effect with the omission of the words “and to a commercial building or structure”.
- (2) No initial allowance shall be made under this section in respect of any expenditure on the construction of a building or structure unless it is or is to be first used on or before 31st December 1994; and in a case where—
- (a) an initial allowance is granted under this section in respect of any expenditure on the construction of a building or structure; and
 - (b) by the end of that day that building or structure has not come to be used,
- that allowance shall be withdrawn and all such assessments and adjustments of assessments to tax shall be made as may be necessary in consequence of its being withdrawn.
- (3) Subject to subsection (5) below, this section applies to any capital expenditure incurred under a contract which—
- (a) is entered into either—
 - (i) in the period beginning with 1st November 1992 and ending with 31st October 1993; or
 - (ii) for the purpose of securing that obligations under a contract entered into in that period are complied with;
 - but
 - (b) is not entered into for the purpose of securing that obligations under a contract entered into before the beginning of that period are complied with.
- (4) Subject to subsection (5) below, this section also applies to any additional VAT liability incurred in respect of expenditure falling within subsection (3) above.
- (5) This section does not apply to—
- (a) any expenditure incurred, or incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone;
 - (b) expenditure falling in relation to expenditure so incurred within section 1(1A); or
 - (c) expenditure to which section 2 applies.
- (6) Subsection (5) above shall have effect subject to sections 10C and 17A.”
- (2) In section 4(9) of that Act, in the definition of “capital expenditure”, for “or 10B” there shall be substituted “10B or 10C”.
- (3) In section 10(3A) of that Act (provisions not to apply in cases falling within section 10A)—
- (a) after “apply” there shall be inserted “for the purpose of determining whether any expenditure is expenditure to which section 2A applies or”; and
 - (b) after “10A” there shall be inserted “or 10C”.
- (4) After section 10B of that Act there shall be inserted the following section—

“10C Purchases of buildings and structures: allowances under section 2A

- (1) This section shall apply (subject to subsection (2) below) where—
- (a) expenditure is incurred on the construction of a building or structure (“actual expenditure”);
 - (b) some or all of that expenditure is expenditure to which section 2A applies or would be such expenditure if it were capital expenditure; and
 - (c) before the building or structure is used, the relevant interest in it is sold.
- (2) In relation to any case in which the relevant interest is sold in pursuance of a contract entered into in the period beginning with 1st November 1992 and ending with 31st October 1993 by a person who—
- (a) carries on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale; and
 - (b) has been entitled to that interest since before 1st November 1992,
- section 2A(3) above shall have effect for the purposes of subsection (1)(b) above and subsections (6) and (11) below as if for the words from “capital expenditure” onwards there were substituted “capital expenditure incurred under a contract entered into either before 1st November 1993 or for the purpose of securing that obligations under a contract entered into before that date are complied with.”
- (3) Where this section applies—
- (a) the actual expenditure shall be left out of account for the purposes of sections 1 to 8; but
 - (b) subject to subsections (9) to (11) below, the person who buys the relevant interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure (“deemed expenditure”) equal to the actual expenditure or to the net price paid by him for that interest, whichever is the less.
- (4) The deemed expenditure shall be regarded as comprising a section 2A element and a residual element.
- (5) The section 2A element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

- (6) In subsection (5) above—
- A is the deemed expenditure;
 - B is so much of the actual expenditure as is expenditure to which section 2A applies or expenditure that would be such expenditure if it were capital expenditure; and
 - C is the actual expenditure.

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- (7) The residual element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the section 2A element.
- (8) Notwithstanding the provisions of subsection (3)(b) above—
- (a) the section 2A element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as expenditure to which that section applies; and
 - (b) the residual element of the deemed expenditure shall be treated for that purpose as expenditure which is not expenditure to which that section applies.
- (9) Where the relevant interest in the building or structure is sold more than once before the building or structure is used, subsections (2) and (3)(b) above shall have effect only in relation to the last of those sales.
- (10) Where the actual expenditure was incurred by a person carrying on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale and, before the building or structure is used, he sells the relevant interest in it in the course of that trade or, as the case may be, of that part of that trade, then—
- (a) if that sale is the only sale of the relevant interest before the building or structure is used, paragraph (b) of subsection (3) above shall have effect as if the words “the actual expenditure or to” and “whichever is the less” were omitted; and
 - (b) in any other case, that paragraph shall have effect as if the reference to the actual expenditure were a reference to the price paid on that sale.
- (11) Where some of the actual expenditure is expenditure falling within subsection (1)(b) of section 10A and some or all of the remainder is expenditure to which section 2A applies or to which section 2A would apply if it were capital expenditure, section 10A and this section shall both have effect but as if—
- (a) subsections (3), (9) and (10) of this section were omitted;
 - (b) references in this section to the deemed expenditure were references to the expenditure which, in accordance with subsections (2), (8) and (9) of section 10A, is the deemed expenditure for the purposes of that section; and
 - (c) the section 2A element of the deemed expenditure were comprised in the non-enterprise zone element of that expenditure.”
- (5) In section 17A of that Act (exclusion of expenditure incurred more than 20 years after a site is included in an enterprise zone), after “sections 1(1)(b)” there shall be inserted “2A(5)(a)”.
- (6) In section 18(14) of that Act (application of section 18(13) to certain buildings), for “qualifying hotels to which this Part applies by virtue of section 7” there shall be substituted “any qualifying hotel”.
- (7) This section shall have effect in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

114 Initial allowances: agricultural buildings etc

- (1) Schedule 12 to this Act (which makes provision, which broadly corresponds to that made in relation to industrial buildings and structures by section 113 above, for the making of initial allowances in respect of expenditure on the construction of agricultural buildings, fences and other works) shall have effect.
- (2) This section and the amendments made by Schedule 12 to this Act shall have effect in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

115 First year allowances: machinery and plant

- (1) In subsection (1) of section 22 of the Capital Allowances Act 1990 (first-year allowances), in the words after paragraph (b), after “which” there shall be inserted “, in the case of expenditure to which this section applies by virtue only of subsection (3B) below, shall be of an amount equal to 40 per cent. of that expenditure and, in any other case,”.
- (2) After subsection (3A) of that section there shall be inserted the following subsection—

“(3B) This section applies to—

 - (a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by any person in the period beginning with 1st November 1992 and ending with 31st October 1993; and
 - (b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above.”
- (3) In subsection (4)(c) of that section (no first-year allowance on the provision of machinery or plant for leasing), after “(6)” there shall be inserted “(6A)”; and after subsection (6) of that section there shall be inserted the following subsection—

“(6A) Paragraph (c) of subsection (4) above does not apply to expenditure to which this section applies by virtue only of subsection (3B) above; but (subject to section 43) no first-year allowance shall be made by virtue of subsection (3B) above in respect of any expenditure on the provision of machinery or plant for leasing if—

 - (a) it appears that the expenditure is such that section 42 would have effect with respect to it; or
 - (b) each of the following conditions is satisfied, that is to say—
 - (i) the expenditure is incurred on or after 14th April 1993;
 - (ii) the expenditure is expenditure in respect of which paragraph (c) of subsection (4) above would, if it applied, prevent the making of any first year allowance; and
 - (iii) the person to whom the machinery or plant is to be or is leased, or a person who (within the meaning of section 839 of the principal Act) is connected with that person, used the machinery or plant for any purpose at any time before its provision for leasing.”
- (4) Schedule 13 to this Act (which makes further amendments of that Act of 1990 in connection with the first-year allowances for which provision is made by this section) shall have effect.

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- (5) This section and the amendments made by Schedule 13 to this Act shall have effect (subject to paragraph 12(3) of that Schedule) in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

116 Leasing

- (1) In the second sentence in section 40(4) of the Capital Allowances Act 1990 (shortening of “requisite period” while assets used for qualifying purpose), after “effect” there shall be inserted “for the purposes of sections 31(2) and 37(6)”.
- (2) In section 42(1) of that Act (assets leased to non-residents), for paragraph (b) there shall be substituted the following paragraph—
 “(b) does not use the machinery or plant exclusively for earning such profits or gains as are chargeable to tax (whether as profits or gains arising from a trade carried on in the United Kingdom or by virtue of section 830(4) of the principal Act).”
- (3) In section 50 of that Act (interpretation of Chapter V), after subsection (3) there shall be inserted the following subsection—
 “(3A) References in this Chapter to profits or gains chargeable to tax shall not include any of those arising to a person who, under arrangements specified in an Order in Council making any such provisions as are referred to in section 788 of the principal Act (double taxation arrangements), is afforded, or is entitled to claim, any relief from the tax chargeable thereon.”
- (4) This section shall have effect in relation to the use of machinery or plant for leasing under leases entered into on or after 16th March 1993.

117 Transactions between connected persons etc

- (1) Section 158 of the Capital Allowances Act 1990 (election exercisable in the case of transactions between connected persons etc.) shall be amended as follows.
- (2) In paragraph (a) of subsection (2) (sum at which industrial building or structure is treated as sold)—
 (a) after the word “structure,” in the first place where it occurs, there shall be inserted “a qualifying hotel or a commercial building or structure,”; and
 (b) for the words “or structure”, in the second place where they occur, there shall be substituted “structure or hotel”.
- (3) After paragraph (c) of that subsection there shall be inserted the following paragraph—
 “(d) in the case of an asset representing allowable scientific research expenditure of a capital nature—
 (i) if the expenditure is expenditure in respect of which an allowance is made under section 137, nil; and
 (ii) in any other case, the amount of the expenditure.”
- (4) In subsection (3) (cases where election may not be made), for paragraph (a) there shall be substituted the following paragraph—
 “(a) if the circumstances of the sale (including those of the parties to it) are such that an allowance or charge under Part I, III, IV, VI or VII which (apart from those circumstances) would or might fall, in consequence

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of the sale, to be made to or on any of those parties will not be capable of so falling;”.

- (5) This section shall have effect in relation to sales and other transfers on or after 16th March 1993 other than one which is in pursuance of—
- (a) a contract entered into before that date; or
 - (b) a contract entered into for the purpose of securing that obligations under a contract entered into before that date are complied with.