These notes refer to the Capital Allowances Act 2001 (c.2) which received Royal Assent on 22nd March 2001

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 2: Plant and machinery allowances

Chapter 10: Long-life assets

Overview

399. This Chapter provides rules for long-life assets. Expenditure on long-life assets must be allocated to a separate class pool. It is subject to a special rate of writing-down allowances of 6%.

400. Section 90 defines "long-life asset expenditure". Section 91 defines "long-life asset". Section 92 provides for this Chapter to apply to only part of the capital expenditure on plant or machinery.

401. Sections 93 to 96 provide that some fixtures, ships, railway assets and cars are not long-life assets.

402. Sections 97 to 100 provide, very broadly, that this Chapter does not apply to expenditure on long-life assets up to £100,000. Some types of expenditure are excluded from this.

403. Section 101 requires a class pool for long-life assets unless the expenditure is allocated to a single asset pool.

404. Section 102 limits writing-down allowances for long-life asset expenditure to 6% a year.

405. Sections 103 and 104 provide anti-avoidance rules. Section 103 provides that long-life assets do not cease to be treated as such when they are second-hand. Section 104 prevents avoidance by artificial acceleration of allowances.

Background

406. Legislation for long-life assets was introduced by Schedule 14 to FA 1997. That inserted Chapter IVA of CAA 1990. At the time of the Budget in 1996 it was stated that the intention was to bring the tax treatment of long-life assets more closely into line with normal accountancy practice.

407. The new rules applied only to assets bought under contracts made on or after Budget day in 1996. Section 38H of CAA 1990 provided the necessary legislation to exclude expenditure incurred before 26 November 1996 or expenditure incurred before 1 January 2001 on contracts entered into before 26 November 1996. The effect of section 38H is maintained in paragraph 20 of Schedule 3 to this Act.

Section 90: Long-life asset expenditure

408. This section is based on section 38A(1) of CAA 1990. It defines "long-life asset expenditure".

Section 91: Meaning of "long-life asset"

409. This section is based on section 38A(2) and (3) of CAA 1990. It defines "long-life asset". A long-life asset is an asset with a useful economic life of 25 years or more when new.

Section 92: Application of Chapter to part of expenditure

410. This section is based on section 38A(4) and (5) of CAA 1990. It deals with circumstances in which this Chapter only applies to part of the capital expenditure on plant or machinery. If that happens then the expenditure within this Chapter is treated as expenditure on a separate asset from the expenditure outside it. If necessary, apportionments are made between that part to which this Chapter applies and that part to which it does not.

Section 93: Fixtures etc.

411. This section is based on section 38B(1) of CAA 1990. It excludes expenditure on fixtures in certain types of building from being long-life asset expenditure.

412. The types of buildings are broadly those which do not usually qualify for industrial buildings allowances. So the long-life asset rules in general only apply to fixtures in industrial buildings.

Section 94: Ships

413. This section is based on section 38B(3) of CAA 1990. It excludes expenditure on ships incurred before 1 January 2011 from being long-life asset expenditure.

414. *Subsection (2)* defines "ship" for these purposes. It covers cruise liners as they are not ships designed primarily for sport or recreation.

415. *Subsection (3)* takes the definitions of "offshore installation" and "controlled waters" from the Mineral Workings (Offshore Installations) Act 1971. The text of these definitions is given in the explanatory note on section 153.

Section 95: Railway assets

416. This section is based on section 38B(4) of CAA 1990. It excludes expenditure on railway assets incurred before 1 January 2011 and used for a railway business from being long-life asset expenditure.

417. *Subsections (2)* and *(3)* define "railway asset" and "railway business".

418. *Subsection (4)* extends the exemption to trains used to travel between the UK and another country.

419. *Subsections (5)* gives "railway" the same meaning as in section 81(2) of the Railways Act 1993. The text of this definition is:

"(2) Where it is stated for the purposes of any provision of this Part that railway has its wider meaning, "railway" shall be taken, for the purposes of that provision, to mean:

> a railway;
>
> a tramway; or

a transport system which uses another mode of guided transport but which is not a trolley vehicle system, and cognate expressions shall be construed accordingly.

(3) In paragraphs (a) to (c) of subsection (2) above “guided transport, “railway”, “tramway” and “trolley vehicle system” have the meaning given by section 67(1) of the Transport and Works Act 1992.

420. Section 67(1) of the Transport and Works Act 1992 gives the following further definitions:

““guided transport system” means transport by vehicles guided by means external to the vehicles (whether or not the vehicles are also capable of being operated in some other way)

“railway” means a system of transport employing parallel rails which-

provide support and guidance for vehicles carried on flanged wheels

form a track which either is of a gauge of at least 350 millimetres or crosses a carriageway (whether or not on the same level)

“tramway” means a system of transport used wholly or mainly for the carriage of passengers and employing parallel rails which-

provide support and guidance for vehicles carried on flanged wheels, and

are laid wholly or mainly along a street or in any other place to which the public has access (including a place to which the public only has access on making a payment)

“trolley vehicle system” means a system of transport by vehicles constructed or adapted for use on roads without rails under electric power transmitted to them by overhead wires (whether or not there is in addition a source of power on board the vehicles).

421. *Subsection (6)* gives other terms the same meaning as in the Railways Act 1993. These definitions are:

““goods” includes mail, parcels, animals, plants and any other creature, substance or thing capable of being transported, but does not include passengers;

“light maintenance depot” means any land or other property which is normally used for or in connection with the provision of light maintenance services, whether or not it is also used for other purposes;

“station” means any land or other property which consists of premises used as, or for the purposes of, or otherwise in connection with, a railway passenger station or railway passenger terminal (including any approaches, forecourt, cycle store or car park), whether or not the land or other property is, or the premises are, also used for other purposes;

“track” means any land or other property comprising the permanent way of any railway, taken together with the ballast, sleepers and metals laid thereon, whether or not the land or other property is also used for other purposes; and any reference to track includes a reference to–

any level crossings, bridges, viaducts, tunnels, culverts, retaining walls, or other structures used or to be used for the support of, or otherwise in connection with, track; and

any walls, fences or other structures bounding the railway or bounding an adjacent or adjoining property;

Section 96: Cars

422. This section is based on section 38B(2) of CAA 1990. It excludes expenditure on cars from being long-life asset expenditure.

423. The definition of a car in section 82 means expenditure on cars (and motorbikes) is excluded from this Chapter whether or not the car would be within Chapter 8.

Sections 97 to 100: Monetary limit

424. These four sections are based on sections 38C and 38D of CAA 1990. They provide a *de minimis* limit. Expenditure is not usually long-life asset expenditure if a person's total expenditure on long-life assets is less than £100,000 a year. If the limit is exceeded all the relevant expenditure is long-life asset expenditure.

425. Section 98 means the limit is available to:

- individuals and partnerships within subsections (1) and (2); and
- any company, for the purposes of corporation tax.

426. There is a minor change in section 98(1)(a). It refers to any qualifying activity carried on by an individual. Section 38C(3)(a) of CAA 1990 only refers to trades and professions. See *Change 19* in Annex 1.

427. Section 99 gives the £100,000 limit. It also:

- increases or reduces the limit if a chargeable period is more or less than a year; and
- reduces the limit if a company has associated companies. This reduction is done in the same way that the limit for small companies relief is reduced in section 13 of ICTA.

428. Section 100 sets out when the limit is exceeded. It also provides that all the expenditure on an item of plant or machinery is looked at to see if the limit is exceeded – not just the expenditure which is incurred (or treated as incurred) in a particular chargeable period.

Section 101: Long-life asset pool

429. This section is based on section 38E(1) and (2) of CAA 1990. It requires a separate pool for long-life asset expenditure. If the expenditure does not have to be allocated to a single asset pool this is the class pool for long-life asset expenditure. A separate pool is necessary to apply the 6% rate of writing-down allowances for long-life assets.

430. The rule in section 38E(2)(c) of CAA 1990 which provides that the class pool for long-life assets only ends when the trade ends is in section 65(1).

431. *Subsection (2)* is drafted on the basis that a qualifying activity of special leasing can have a long-life asset pool. See *Note 22* in Annex 2.

Section 102: Writing-down allowances at 6%

432. This section is based on section 38F of CAA 1990. It provides writing-down allowances at 6% a year for long-life asset expenditure. This rate applies to the class pool for long-life assets and to any long-life asset expenditure in a single asset pool.

433. *Subsection (2)* is drafted on the basis that a qualifying activity of special leasing can have a long-life asset pool. See *Note 22* in Annex 2. The 6% rate can also apply to a contributor's single asset pool. See *Note 23* in Annex 2.

Section 103: Later claims

434. This section is based on section 38F(3) and (4) of CAA 1990. It provides that plant or machinery which has been treated as a long-life asset by one person must be treated as a long-life asset by anyone who subsequently incurs qualifying expenditure on it. This broadly means second-hand assets are treated in the same way as they were when new.

435. There is an exception to this. This applies for expenditure that is excluded from being long-life asset expenditure simply by sections 93 to 96. For example, an asset could be a railway asset to a new owner but not the former owner. In such a situation, the new owner's expenditure would be long-life asset expenditure.

Section 104: Disposal value of long-life assets

436. This section is based on section 38G of CAA 1990. It prevents tax avoidance arrangements designed to accelerate allowances.

437. Subsection (1)(d) refers to "tax advantage". This is defined in section 577(4).

438. Subsection (3) deals with the "notional written-down value". This is handled in a different way from section 38G(2) and (3). See *Note 24* in Annex 2.