



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 1

#### INTRODUCTION

#### CHAPTER 1

##### CAPITAL ALLOWANCES: GENERAL

### **1 Capital allowances**

- (1) This Act provides for allowances in respect of capital expenditure (and for charges in connection with those allowances).
- (2) The allowances for which this Act provides are those under—
  - (a) Part 2 (plant and machinery allowances);
  - (b) Part 3 (industrial buildings allowances);
  - (c) Part 4 (agricultural buildings allowances);
  - (d) Part 5 (mineral extraction allowances);
  - (e) Part 6 (research and development allowances);
  - (f) Part 7 (know-how allowances);
  - (g) Part 8 (patent allowances);
  - (h) Part 9 (dredging allowances);
  - (i) Part 10 (assured tenancy allowances).
- (3) This Act also provides for allowances in respect of contributions to expenditure incurred on plant or machinery, industrial buildings or agricultural buildings, for the purposes of a mineral extraction trade or on dredging (see Part 11).

### **2 General means of giving effect to capital allowances**

- (1) Allowances and charges are to be given effect—

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- (a) for income tax purposes, in calculating income for a chargeable period, and
  - (b) for corporation tax purposes, in calculating profits for a chargeable period.
- (2) For the meaning of “chargeable period”, see section 6.
- (3) Subsection (1) needs to be read with the following provisions about giving effect to allowances and charges—
- sections 247 to 262 (plant and machinery allowances);
  - sections 352 to 355 (industrial buildings allowances);
  - sections 391 and 392 (agricultural buildings allowances);
  - section 432 (mineral extraction allowances);
  - section 450 (research and development allowances);
  - section 463 (know-how allowances);
  - sections 478 to 480 (patent allowances);
  - section 489 (dredging allowances);
  - section 529 (assured tenancy allowances).
- (4) In subsection (1)(b) “profits” has the same meaning as in section 6 of ICTA.

### **3 Claims for capital allowances**

- (1) No allowance is to be made under this Act unless a claim for it is made.
- (2) The claim must be included in a tax return.
- (3) In this Act “tax return” means—
- (a) for income tax purposes, a return required to be made under TMA 1970, and
  - (b) for corporation tax purposes, a company tax return required to be made under Schedule 18 to FA 1998 (company tax returns, assessments and related matters).
- (4) Subsection (2) does not apply for income tax purposes to a claim for an allowance under—
- (a) section 258 (claim for allowance in respect of special leasing of plant or machinery),
  - (b) section 355 (claim to carry back balance of allowance in respect of buildings for miners etc.), or
  - (c) section 479 (claim for patent allowance in respect of non-trading expenditure),
- which is instead subject to section 42 of TMA 1970 (procedure for making claims and claims not included in returns).
- (5) Subsection (2) does not apply for corporation tax purposes to a claim for an allowance under—
- (a) section 260(3)(b) (claim to carry back allowance in respect of special leasing of plant or machinery), or
  - (b) section 355 (claim to carry back balance of allowance in respect of buildings for miners etc.),
- which is instead subject to paragraphs 54 to 60 of Schedule 18 to FA 1998 (general provisions as to claims).
- (6) This section is subject to section 42(6) and (7) of TMA 1970 (special provisions relating to partnerships).

#### **4 Capital expenditure**

- (1) In this Act “capital expenditure” and “capital sums” are used in the sense given in this section.
- (2) “Capital expenditure” and “capital sums” do not include, in relation to a person incurring the expenditure or paying the sums—
  - (a) any expenditure or sum that may be deducted in calculating the profits or gains of a trade, profession or vocation or property business carried on by the person, or
  - (b) any expenditure or sum that may be deducted in calculating the emoluments of an employment or office held by the person.
- (3) “Capital expenditure” and “capital sums” do not include, in relation to a recipient of the expenditure or sums—
  - (a) any amounts that are to be added in calculating the profits or gains of a trade, profession or vocation or property business carried on by the recipient, or
  - (b) any amounts that are emoluments of an employment or office held by the recipient.
- (4) “Capital expenditure” and “capital sums” do not include, in relation to—
  - (a) a person incurring the expenditure or paying the sums, or
  - (b) a recipient of the expenditure or sums,any expenditure or sum in the case of which a deduction of income tax falls or may fall to be made under section 348 or 349(1) of ICTA (annual payments).
- (5) Subsection (4) does not apply to any expenditure or sum in the case of which a deduction of income tax falls or may fall to be so made as a result of section 524(3)(b) of ICTA (receipts from sale of patent rights by person not resident in the UK).

#### **5 When capital expenditure is incurred**

- (1) For the purposes of this Act, the general rule is that an amount of capital expenditure is to be treated as incurred as soon as there is an unconditional obligation to pay it.
- (2) The general rule applies even if the whole or a part of the expenditure is not required to be paid until a later date.
- (3) There are the following exceptions to the general rule.
- (4) If under an agreement—
  - (a) the capital expenditure is expenditure on the provision of an asset,
  - (b) an unconditional obligation to pay an amount of the expenditure comes into being as a result of the giving of a certificate or any other event,
  - (c) the giving of the certificate, or other event, occurs within the period of one month after the end of a chargeable period, and
  - (d) at or before the end of that chargeable period, the asset has become the property of, or is otherwise under the agreement attributed to, the person subject to the unconditional obligation to pay,the expenditure is to be treated as incurred immediately before the end of that chargeable period.

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- (5) If under an agreement an amount of capital expenditure is not required to be paid until a date more than 4 months after the unconditional obligation to pay has come into being, the amount is to be treated as incurred on that date.
- (6) If under an agreement—
- (a) there is an unconditional obligation to pay an amount of capital expenditure on a date earlier than accords with normal commercial usage, and
  - (b) the sole or main benefit which might have been expected to be obtained thereby is that the amount would be treated, under the general rule, as incurred in an earlier chargeable period,
- the amount is to be treated as incurred on the date on or before which it is required to be paid.
- (7) This section—
- (a) is subject to any provision of this Act which has the effect that expenditure is to be treated as incurred on a date later than would result from the application of this section, and
  - (b) does not apply to expenditure treated as incurred as a result of a person incurring an additional VAT liability.

## **6 Meaning of “chargeable period”**

- (1) In this Act “chargeable period” means—
- (a) for income tax purposes, a period of account, or
  - (b) for corporation tax purposes, an accounting period of a company.
- (2) “Period of account” means—
- (a) in the case of a person entitled to an allowance or liable to a charge in calculating the profits of his trade, profession or vocation, a period for which accounts are drawn up for the purposes of the trade, profession or vocation, and
  - (b) in the case of any other person entitled to an allowance or liable to a charge, a tax year.
- (3) Subsection (2)(a) is subject to subsections (4) to (6).
- (4) If—
- (a) two periods of account overlap, or
  - (b) one period of account includes another,
- the period common to both is to be treated as part of the first period of account only.
- (5) If there is a gap between two periods of account, the gap is to be treated as part of the first period of account.
- (6) If a period of account would (apart from this subsection) be longer than 18 months, that period must be treated as divided into separate periods of account—
- (a) the first beginning with the start date of the original period, and
  - (b) each subsequent one beginning with an anniversary of that date,
- so as to ensure that none of the periods of account is longer than 12 months.

## CHAPTER 2

### EXCLUSION OF DOUBLE RELIEF

#### **7 No double allowances**

- (1) If an allowance is made under any Part of this Act to a person in respect of capital expenditure, no allowance is to be made to him under any other Part in respect of—
  - (a) that expenditure, or
  - (b) the provision of any asset to which that expenditure related.
- (2) This section does not apply in relation to Parts 7 and 8 (know-how and patent allowances).

#### **8 No double relief through pooling under Part 2 (plant and machinery allowances)**

- (1) Subsection (2) applies if, under Part 2—
  - (a) any capital expenditure has been allocated to a pool, and
  - (b) an allowance or charge has been made to or on any person in respect of the pool.
- (2) The person to or on whom the allowance or charge has been made is not entitled to an allowance under any Part other than Part 2 in respect of—
  - (a) the expenditure allocated to the pool, or
  - (b) the provision of any asset to which the allocated expenditure related.
- (3) Subsection (4) applies if under any Part other than Part 2 an allowance has been made to a person in respect of any capital expenditure.
- (4) The person to whom the allowance has been made is not entitled to allocate to any pool—
  - (a) that expenditure, or
  - (b) any expenditure on the provision of any asset to which the expenditure mentioned in paragraph (a) related.
- (5) This section does not apply in relation to Parts 7 and 8 (know-how and patent allowances).

#### **9 Interaction between fixtures claims and other claims**

- (1) A person is not entitled to make a fixtures claim in respect of any capital expenditure relating to an asset if—
  - (a) any person entitled to do so has at any previous time claimed an allowance under any Part other than Part 2, and
  - (b) the claim was for an allowance in respect of capital expenditure relating, in whole or part, to the asset.
- (2) Subsection (1) does not prevent a person making a fixtures claim in respect of capital expenditure if—
  - (a) the only previous claim was under Part 3 or 6 (industrial buildings and research and development allowances), and

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- (b) section 186(2) or 187(2) (limit on amount of expenditure that may be taken into account) applies to that expenditure.
- (3) If a person entitled to do so has made a fixtures claim in respect of capital expenditure relating to an asset, no one is entitled to an allowance on a later claim under any Part other than Part 2 in respect of any capital expenditure relating to the asset.
- (4) A person makes a fixtures claim in respect of expenditure if he makes a claim (in the sense given in section 202(3)) under Chapter 14 of Part 2 in respect of the expenditure as expenditure on the provision of a fixture.

## **10 Interpretation**

- (1) In this Chapter “capital expenditure” includes any contribution to capital expenditure.
- (2) For the purposes of this Chapter—
  - (a) expenditure relates to an asset only if it relates to its provision, and
  - (b) the provision of an asset includes its construction or acquisition.