



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### PART 2

#### PLANT AND MACHINERY ALLOWANCES

#### CHAPTER 12

#### SHIPS

#### *Deferment of balancing charges*

#### **134 Deferment of balancing charges: introduction**

- (1) Sections 135 to 156 enable a balancing charge that arises when there is a disposal event in respect of a ship to be deferred and attributed to qualifying expenditure on another ship.
- (2) In this Chapter “the deferment rules” means sections 135 to 156.

#### **135 Claim for deferment**

- (1) A person (“the shipowner”) who is liable to a balancing charge for a chargeable period may claim deferment of all or part of the charge if—
  - (a) in the chargeable period there is a disposal event (“the relevant disposal event”) in respect of a ship (“the old ship”),
  - (b) the old ship—
    - (i) was provided for the purposes of a qualifying activity carried on by the shipowner, and
    - (ii) was owned by the shipowner at some time in the chargeable period, and
  - (c) the conditions in section 136 are met.

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- (2) The amount which may be deferred is subject to the limit in section 138.
- (3) For income tax purposes, a claim for deferment must be made on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends.
- (4) “The relevant chargeable period” means the chargeable period for which the shipowner is liable to the balancing charge.
- (5) For corporation tax purposes, Part IX of Schedule 18 to FA 1998 applies in relation to the making of a claim for deferment as it applies in relation to the making of a claim for an allowance.

### **136 Further conditions for deferment**

The conditions referred to in section 135(1)(c) are that—

- (a) the relevant disposal event is of a kind mentioned in section 61(1)(a) to (d) (cessation of ownership, loss, abandonment, destruction etc. of ship),
- (b) the old ship was a qualifying ship immediately before the relevant disposal event,
- (c) the shipowner has not incurred a loss in respect of the qualifying activity for the chargeable period for which he is liable to the balancing charge, and
- (d) no amount in respect of the old ship has been allocated to—
  - (i) the overseas leasing pool,
  - (ii) a single asset pool under section 206 (plant or machinery provided or used partly for purposes other than those of the qualifying activity),
  - (iii) a single asset pool under section 211 (payment of partial depreciation subsidy), or
  - (iv) a pool for a qualifying activity consisting of special leasing.

### **137 Effect of deferment**

A claim for deferment is given effect by allocating the amount deferred, for the chargeable period in respect of which the claim is made, to the appropriate non-ship pool.

### **138 Limit on amount deferred**

- (1) The amount deferred must not exceed the smallest of the following amounts—
  - (a) the amount of any balancing charge which, if the claim for deferment had not been made, would have been made for the chargeable period for which deferment is claimed in the appropriate non-ship pool;
  - (b) the amount given by section 139 (amount taken into account in respect of the old ship);
  - (c) the amount which is, or is expected to be, the amount of expenditure on new shipping incurred—
    - (i) by the shipowner or, if the shipowner is a company, by another company which is a member of the same group at the time when the expenditure is incurred, and

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- (ii) within the period of 6 years beginning with the relevant disposal event;
  - (d) the amount of the shipowner's profits or income from the qualifying activity for the chargeable period for which deferment is claimed.
- (2) In determining profits or income for the purposes of subsection (1)(d)—
- (a) any other amounts deferred under section 135 are to be taken into account, and
  - (b) any amounts brought forward under section 385 or 393 of ICTA (losses) are to be disregarded.

### **139 Amount taken into account in respect of old ship**

- (1) The amount taken into account in respect of the old ship for the purposes of section 138(1)(b) is—
- (a) amount A, if no election has been made under section 129 (election to use appropriate non-ship pool) in respect of any of the qualifying expenditure incurred on the provision of the ship, or
  - (b) amount B, in any other case.
- (2) Amount A is the amount which falls to be brought into account as a disposal value in the appropriate non-ship pool under section 132(2)(b) as a result of the relevant disposal event, less the available qualifying expenditure allocated to the appropriate non-ship pool under section 132(2)(a).

- (3) Amount B is—

$$DV - (QE - WDA - FYA)$$

where—

DV is the amount of the disposal value required to be brought into account in respect of the old ship,

QE is all the qualifying expenditure incurred in respect of the old ship,

WDA is the maximum amount of any writing-down allowances which (on the assumptions in subsection (4)) could have been made in respect of that qualifying expenditure for chargeable periods up to (but not including) the one in respect of which the claim for deferment is made, and

FYA is the total of any first-year allowances actually made or postponed in respect of the old ship.

- (4) The assumptions are that—
- (a) all the qualifying expenditure in respect of the old ship is (and has always been) allocated to the appropriate non-ship pool, and
  - (b) no other qualifying expenditure has been allocated to that pool.
- (5) If an election is made under section 129 (election to use appropriate non-ship pool) after the determination under this section of the amount taken into account in respect of the old ship, the amount is, and is treated as always having been, amount B and not amount A.