



Finance Act 1981

1981 CHAPTER 35

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

CAPITAL ALLOWANCES

73 Industrial buildings etc.: increase of initial allowances

- (1) In section 1(2) of the Capital Allowances Act 1968 (rate of initial allowances) for "one-half" there shall be substituted "three-quarters" and the same amendment shall be made in paragraph 1 of Schedule 6 to the Finance Act 1978 and paragraph 1 of Schedule 13 to the Finance Act 1980 (which contain references to the rate specified in the said section 1 (2)).
- (2) A person other than a company may, in making a claim to an initial allowance at the rate applying by virtue of this section, require the initial allowance to be reduced to a specified amount; and a company may, by notice in writing given to the inspector not later than two years after the end of the chargeable period for which an initial allowance at that rate falls to be made, disclaim the allowance or require it to be reduced to a specified amount.
- (3) This section has effect in relation to expenditure incurred after 10th March 1981 and to expenditure which by virtue of section 5(1) of the said Act of 1968 (purchase of unused buildings or structures) is deemed to have been incurred after that date; but expenditure shall not be treated for the purposes of this section as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of that Act (expenditure incurred before trade begins).

74 Industrial buildings etc.: sales after cessation of use for qualifying purpose

- (1) Chapter I of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) shall have effect with the following amendments, being amendments with respect to the calculation of writing-down allowances and the making of balancing allowances and charges where a building or structure has ceased to be an industrial building or structure.
- (2) In section 2(3) of that Act (calculation of writing-down allowance where the relevant interest is sold while the building or structure is an industrial building or structure) for the words " while the building or structure is an industrial building or structure " there shall be substituted the words " and the sale is an event to which section 3(1) of this Act applies ".
- (3) In section 3(1) of that Act (balancing allowance or charge on occurrence of certain events while the building or structure is an industrial building or structure)—
 - (a) after the words " while the building or structure is an industrial building or structure " there shall be inserted the words " or after it has ceased to be one ";
 - (b) at the end of the proviso there shall be inserted the words " and where two or more events occur during a period when the building or structure is not an industrial building or structure no balancing allowance or balancing charge shall be made on the occurrence of any of those events except the first. ".
- (4) In section 6 of that Act (manner of making allowances and charges) after subsection (6) there shall be inserted—

“(7) Where a balancing allowance or balancing charge falls to be made in the case of a building or structure which has ceased to be an industrial building or structure and the circumstances are such as are mentioned in paragraph (a) and (b) of subsection (2) of section 12 of this Act, the allowance or charge shall be made as provided in that subsection.”.
- (5) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.
- (6) This section has effect where the sale referred to in section 2(3) of the said Act of 1968 or, as the case may be, the event referred to in paragraph (a), (b), (c) or (d) of section 3(1) of that Act occurs after 17th December 1980 but not where the sale is pursuant to a contract of sale made on or before that date or the event is a sale pursuant to such a contract.

75 Industrial buildings etc.: balancing adjustments in cases of use for non-qualifying purpose

- (1) Chapter I Of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) shall have effect with the following amendments, being amendments with respect to the calculation of balancing allowances and charges where a building or structure has at any time been used otherwise than as an industrial building or structure or for scientific research.
- (2) For section 3(4) and (5) of that Act (calculation of balancing allowance and charge where no writing-down allowance has been made for part of the relevant period) there shall be substituted—

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- “(4) If for any part of the relevant period the building or structure was neither an industrial building or structure nor used for scientific research, subsections (4A) to (5) below shall have effect instead of subsections (2) and (3) above.
- (4A) Subject to subsection (4C) below, where the sale, insurance, salvage or compensation moneys are not less than the capital expenditure, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the allowances given.
- (4B) Subject to subsection (4C) below, where there are no sale, insurance, salvage or compensation moneys or where those moneys are less than the capital expenditure, then—
- (a) if the adjusted net cost of the building or structure exceeds the allowances given, a balancing allowance shall be made and the amount thereof shall be an amount equal to the excess;
- (b) if the adjusted net cost of the building or structure is less than the allowances given, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the shortfall.
- (4C) No balancing charge or allowance shall be made under subsection (4A) or (4B) above on the occasion of a sale if by virtue of paragraph 4 of Schedule 7 to this Act the building or structure is treated as having been sold for a sum equal to the residue of the expenditure on its construction immediately before the sale.
- (5) In subsections (4) to (4B) above and in this subsection—
- “ the relevant period ” means the period beginning at the time when the building or structure was first used for any purpose and ending with the event giving rise to the balancing allowance or balancing charge except that where there has been a sale of the building or structure after that time and before that event the relevant period shall begin on the day following that sale or, if there has been more than one such sale, the last such sale ;
- “ the capital expenditure ” means—
- (a) where paragraph (b) of this definition does not apply, the capital expenditure incurred (or by virtue of section 5 of this Act deemed to have been incurred) on the construction of the building or structure ;
- (b) where the person to or on whom the balancing allowance or balancing charge falls to be made is not the person who incurred (or is deemed to have incurred) that expenditure, the residue of that expenditure at the beginning of the relevant period,
- together (in either case) with any amount to be added to the residue of that expenditure by virtue of section 4(11) of this Act;
- “ the allowances given ” means the allowances referred to in subsection (6) of this section ;
- “ the adjusted net cost ” means—
- (a) where there are no sale, insurance, salvage or compensation moneys, the capital expenditure ;
- (b) where those moneys are less than that expenditure, the amount by which they are less, reduced (in either case) in the proportion that the part, or the aggregate of the parts, of the relevant period

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for which the building or structure was an industrial building or structure or used for scientific research bears to the whole of that period ;

" scientific research " has the same meaning as in Part II of this Act”

(3) After section 4(10) of that Act there shall be inserted—

“(10A) Where, on the occasion of a sale, a balancing charge is made under section 3(4B)(b) of this Act in respect of the expenditure and, apart from this subsection, the residue of the expenditure immediately after the sale would by virtue of subsection (10) above be deemed to be greater than the net proceeds of the sale, the residue immediately after the sale shall be deemed for the purposes of this Chapter to be equal to the net proceeds.”

- (4) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.
- (5) This section has effect where the event referred to in paragraph (a), (b), (c) or (d) of section 3(1) of the said Act of 1968 occurs after 17th December 1980 but not where that event is a sale pursuant to a contract of sale made on or before that date.

76 Transfers other than sales and transactions between connected persons

- (1) For the purposes of Chapter I of Part I of the Capital Allowances Act 1968 (industrial buildings and structures etc.) and the other provisions of that Act which are relevant to that Chapter any transfer of the relevant interest in a building or structure otherwise than by way of sale shall be treated as a sale of the interest for a price other than that which it would have fetched if sold on the open market.
- (2) If Schedule 7 to the said Act of 1968 (special provisions as to certain sales) would not apart from this subsection have effect in relation to a transfer treated as a sale by virtue of subsection (1) above, that Schedule shall have effect in relation to it as if it were a sale falling within paragraph 1(1)(a) of that Schedule.
- (3) In section 78(1) of the said Act of 1968 and paragraph 1(1) of Schedule 7 to that Act—
- (a) in paragraph (a) after the words " both of them " there shall be inserted the words " or the buyer and the seller are connected with each other within the meaning of section 533 of the principal Act ";
 - (b) in paragraph (b) after the words " the obtaining of an allowance or deduction " there shall be inserted the words " , the obtaining of a greater allowance or deduction or the avoidance or reduction of a charge ".
- (4) In section 38 of the Finance Act 1978 (application of the said Chapter I to qualifying hotels) and in section 74 of the Finance Act 1980 (application of that Chapter to commercial buildings and qualifying hotels in enterprise zones) references to that Chapter shall be construed as references to that Chapter as amended by this section.
- (5) This section has effect where the transfer or sale occurs after 10th March 1981 but not when the transfer or sale is pursuant to a contract for the carrying out of the transaction or sale made on or before that date.

77 Carry forward of unused allowances

- (1) Section 70 of the Capital Allowances Act 1968 (income tax allowances in taxing a trade etc.) shall be amended as follows.
- (2) In subsection (4) for the words following " as the case may be " there shall be substituted the words " shall be carried forward and, so far as may be, made as a deduction in charging the profits or gains of the trade in subsequent years of assessment. "
- (3) After that subsection there shall be inserted—
 - “(4A) Where the allowances in respect of which deductions can be made under this section for any year include allowances carried forward under subsection (4) above from a previous year the allowances shall, subject to paragraph 5 of Schedule 9 to the Finance Act 1981, be deducted in the following order—
 - (a) allowances other than those carried forward under subsection (4) above from an earlier year ;
 - (b) allowances carried forward as aforesaid from years of assessment not earlier than the year for which the basis period ended on or included 14th November 1980;
 - (c) allowances carried forward as aforesaid from years of assessment earlier than those referred to in paragraph (b) above.”
- (4) This section has effect for the year of assessment for which the basis period ended on or included 14th November 1980 and for subsequent years of assessment.