



Capital Allowances Act 1990 (repealed)

1990 CHAPTER 1

PART II

MACHINERY AND PLANT

CHAPTER II

SHIPS

30 First-year allowances.

- (1) Where for any chargeable period a first-year allowance falls to be made to a person carrying on a trade in respect of expenditure incurred by him on the provision of a ship, that person may, by notice given to [^{F1}an officer of the Board within the period specified in subsection (1A) below]—
- (a) require the postponement of the whole allowance ^{F2}... , or
 - (b) require that the amount of the allowance be reduced to an amount specified in the notice, or
 - (c) require the postponement of so much of the allowance as is so specified,
- and a notice which contains a requirement under paragraph (b) above may also contain a requirement under paragraph (c) above with respect to the reduced amount of the allowance.

[^{F3}(1A) The period mentioned in subsection (1) above is—

- (a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the period of account for which the allowance mentioned in that subsection falls to be made;
- (b) for the purposes of corporation tax, the period of two years beginning at the end of the accounting period for which the allowance mentioned in that subsection falls to be made.]

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Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Chapter II. (See end of Document for details)

- (2) Where a notice has been given under subsection (1) above requiring the postponement of the whole or part of any first-year allowance—
- (a) the allowance shall, as the case may require, be withheld or withdrawn, or partially withheld or withdrawn, and
 - (b) so much of the expenditure as is equal to the whole allowance shall be disregarded for all the purposes of sections 24, 25 and 26 except for the purposes of sections 24(6) and 26(1) and (2), and
 - (c) subject to ^{F4}sections 46(8)(e) and] 47(7)(a), the person giving the notice may claim the amount withheld or withdrawn as a first-year allowance for any subsequent chargeable period in which he carries on the trade, or may claim first-year allowances not exceeding that amount in the aggregate for any two or more such periods.
- (3) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of this section.
- (4) An allowance which is postponed by virtue of this section shall not by reason only of the postponement fall within the references to allowances or amounts carried forward from an earlier year or period in sections 383(5)(d), 388(7) and 403(3) of the principal Act (loss relief and group relief).
- (5) In any case where a notice under subsection (1) above contains requirements under both paragraphs (b) and (c) of that subsection, any reference in subsections (2) to (4) above to the first-year allowance is a reference to the reduced amount of that allowance as specified in the notice.

Textual Amendments

- F1** Words in s. 30(1) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 27\(2\)](#)
- F2** Words repealed by [Finance Act 1990 \(c. 29\)](#), s. 103(1)(2), 132, [Sch. 17 para. 7](#), [Sch. 19 Pt. V](#), Note 6
- F3** S. 30(1A) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 27\(3\)](#)
- F4** Words in s. 30(2)(c) substituted (27.7.1993 with effect as mentioned in s. 115(5) of the amending Act) by [1993 c. 34](#), s. 115, [Sch. 13 para. 3](#)

31 Writing-down allowances.

- (1) This section and sections 32 and 33 apply in any case where—
- (a) a person (“the shipowner”) carrying on a trade incurs expenditure on the provision of a ship for the purposes of that trade (the “actual trade”);
 - (b) the ship is not provided for leasing or letting on charter otherwise than by way of lease, or is so provided but it appears that the ship will be used for a qualifying purpose in the requisite period and will not at any time in that period be used for any other purpose, and the expenditure does not fall within section 42(1); and
 - (c) the actual trade is not a separate trade which the shipowner is treated as carrying on by virtue of section 61(1).
- (2) Subject to sections 32 and 33, it shall be assumed for the purposes of sections 24, 25 and 26 and subsections (3) to (10) below—

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- (a) that the shipowner incurred the expenditure on the provision of the ship wholly and exclusively for the purposes of a trade (“a single ship trade”) carried on by him separately from his actual trade and from any other trade which he may in fact carry on or is assumed for any purpose to carry on; and
- (b) that, without prejudice to section 24(6)(c)(i) to (iii), the single ship trade is permanently discontinued when the ship begins to be used wholly or partly for purposes other than those of the actual trade or, if it is earlier, at a time within the requisite period when the ship begins to be used otherwise than for a qualifying purpose;

and subject to subsections (3) to (10) below, any allowance or charge which, on those assumptions, would fall to be made for any chargeable period in the case of the single ship trade shall be made for that period in the case of the actual trade.

[^{F5}(3) Where the shipowner has qualifying expenditure for a chargeable period in respect of his single ship trade, he may by notice given to an officer of the Board require the postponement of—

- (a) the whole of the writing-down allowance to be made to him for that chargeable period, or
- (b) so much of it as is specified in the notice.

(3A) A notice under subsection (3) above—

- (a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period mentioned in that subsection;
- (b) for the purposes of corporation tax, shall be given no later than two years after the end of the chargeable period mentioned in that subsection.]

(4) Where notice has been given under subsection (3) above in respect of a chargeable period—

- (a) the writing-down allowance which would otherwise have been made to the shipowner for that period in respect of his single ship trade shall not be made or, as the case may be, shall be made only to the extent that the notice does not require it to be postponed; and
- (b) the amount of any writing-down allowance falling to be made to the shipowner for any subsequent chargeable period of his single ship trade shall be determined as if the writing-down allowance referred to in paragraph (a) above had been made (or, as the case may be, had been made in full) for the chargeable period concerned; and
- (c) on a claim made by the shipowner, the whole or part of the amount of that allowance or, as the case may be, of so much of it as was not made to him shall be treated as a writing-down allowance to be made to him for any subsequent chargeable period in which his actual trade is carried on (whether or not his single ship trade is treated as carried on in that period),

and, where a claim under paragraph (c) above relates to only part of the amount postponed, a further claim or claims may be made under that paragraph in relation to the balance or any part thereof until the aggregate of the amounts claimed equals the amount postponed.

(5) A claim under subsection (4)(c) above shall not affect any right of the shipowner to (or the determination of the amount of) any writing-down allowance to which, apart from the claim, he is entitled for the chargeable period to which the claim relates.

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- [^{F6}(6) For any chargeable period of the single ship trade for which the amount of a writing-down allowance is reduced by virtue of a requirement in a claim made by virtue of section 24(3), any reference in subsections (3) to (5) above to the writing-down allowance is a reference to the reduced amount of the allowance, as specified in the claim.]
- (7) For any chargeable period of the single ship trade for which the disposal value of the ship falls to be brought into account in accordance with sections 24, 25 and 26, no balancing allowance or balancing charge shall be made to or on the shipowner in respect of that trade but, in such a case—
- (a) if, apart from this subsection, a balancing allowance would have fallen to be made to the shipowner, an amount equal to that allowance shall for the purposes of sections 24, 25 and 26 be added to the shipowner's qualifying expenditure for that period in respect of his actual trade; and
 - (b) if, apart from this subsection, a balancing charge would have fallen to be made on the shipowner, an amount equal to that on which the charge would have been made shall be brought into account for that chargeable period as an item of disposal value referable to machinery or plant which, in respect of that chargeable period, falls within section 24(6).
- (8) In relation to old expenditure, in any case where subsection (7) above applies by reason of the ship beginning to be used otherwise than for a qualifying purpose—
- (a) any reference in that subsection to sections 24, 25 and 26 shall be construed as a reference to those sections as they have effect in accordance with section 41; and
 - (b) any reference in that subsection to the shipowner's actual trade shall be construed as a reference to the separate trade referred to in section 41(2).
- (9) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of this section and sections 32 and 33.
- (10) An allowance which is postponed by virtue of this section shall not by reason of the postponement fall within the references to allowances or amounts carried forward from an earlier year or period in sections 383(5)(d), 388(7) and 403(3) of the principal Act (loss relief and group relief).
- (11) In this section “requisite period”, “qualifying purpose” and “old expenditure” have the same meanings as they have for the purposes of Chapter V of this Part.
- (12) In relation to expenditure incurred before 27th July 1989, subsection (1) shall have effect with the substitution for paragraph (b) of the following paragraph—
- “(b) the expenditure is not such that section 22(4)(c) precludes the making of a first-year allowance in respect of it and is not expenditure falling within section 42(1);”.

Textual Amendments

F5 S. 31(3)(3A) substituted for s. 31(3) (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 28](#)

F6 S. 31(6) substituted by [Finance Act 1990 \(c. 29\)](#), s. 103(1)(2), [Sch. 17 para. 8](#)

Modifications etc. (not altering text)

C1 S. 31(3) modified (for the year of assessment 1988-1989) by [S.I. 1991/851](#), [regs. 1, 9](#), [Sch.2](#)

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- C2** S. 31(3) modified (for the year of assessment 1989-1990) by [S.I. 1992/511](#), regs. 1, 9, **Sch.2**.
- C3** S. 31(3) applied (with modifications) (for the year of assessment 1990–91) by [S.I. 1993/415](#), reg. 9, **Sch.2**.
- C4** S. 31(3) modified (for the year of assessment 1991-92) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), regs. 1(1), 9, **Sch. 2**.
- C5** S. 31(3) modified (for the years of assessment 1992-93 and 1993-94) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), 14(1), **Sch.**.
- C6** S. 31(3) modified (for the year of assessment 1994-95) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), 15(1), **Sch.**.

32 Ships not used in the actual trade.

- (1) If the ship ceases to belong to the shipowner without having in fact been brought into use for the purposes of his actual trade, then—
 - (a) on that event, the single ship trade shall be treated as permanently discontinued but section 25(5) and (6) shall not apply,
 - (b) any writing-down allowances which, by virtue of section 31, have previously been made to the shipowner or have been postponed by him shall be withdrawn; and
 - (c) without prejudice to the operation of section 31(7), an amount equal to any writing-down allowances withdrawn by virtue of paragraph (b) above shall be added to the shipowner’s qualifying expenditure in respect of his actual trade for the chargeable period related to that event.
- (2) In this section “the shipowner”, “actual trade” and “single ship trade” have the same meanings as in section 31.

33 Exclusion of section 31.

- ^{F7}(1) The shipowner may by notice given to an officer of the Board require that, with effect from the beginning of a chargeable period of a single ship trade, not being the chargeable period relating to the permanent discontinuance of that trade, section 31 shall not, or as the case may be, shall no longer apply.]
- (2) Where a notice under subsection (1) above is given before any writing-down allowance has been made to the shipowner in respect of the expenditure referred to in section 31(1), the provisions of that section shall be deemed never to have applied with respect to that expenditure.
- (3) If a notice under subsection (1) above is given after any writing-down allowance has been so made, then, for the purposes of sections 24, 25, 26 and 31—
 - (a) the single ship trade shall be treated as permanently discontinued in the chargeable period to which the notice relates ^{F8}... , but no balancing allowance or charge shall be made to or on the shipowner by reason thereof; and
 - (b) the amount which, apart from this section, would be the shipowner’s qualifying expenditure for that chargeable period in respect of the single ship trade shall be added to his qualifying expenditure for that period in respect of his actual trade.
- ^{F9}(4) The shipowner may by notice given to an officer of the Board require that an amount of expenditure specified in the notice, being less than the amount which, apart from

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this subsection, would be his qualifying expenditure in respect of a single ship trade for a chargeable period of that trade, shall be attributed to his actual trade.]

(5) If a notice is given under subsection (4) above, then, for the purposes of sections 24, 25, 26 and 31—

- (a) the shipowner's qualifying expenditure for that period in respect of the single ship trade shall be reduced by deducting therefrom the amount specified in the notice; and
- (b) the amount specified in the notice shall be added to his qualifying expenditure for that period in respect of his actual trade.

[^{F10}(5A) A notice under subsection (1) or (4) above—

- (a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period mentioned in that subsection;
- (b) for the purposes of corporation tax, shall be given no later than two years after the end of the chargeable period mentioned in that subsection.]

(6) In this section “the shipowner”, “actual trade” and “single ship trade” have the same meanings as in section 31.

Textual Amendments

- F7** S. 33(1) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 29\(2\)](#)
- F8** Words in Act repealed (with effect in accordance with s. 211(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 213\(1\)](#), [Sch. 26 Pt. 5\(24\)](#)
- F9** S. 33(4) substituted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 29\(3\)](#)
- F10** S. 33(5A) inserted (with effect in accordance with s. 135(3) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 21 para. 29\(4\)](#)

Modifications etc. (not altering text)

- C7** S. 33(1) modified (for the year of assessment 1988-1989) by [S.I. 1991/851](#), [regs. 1, 9](#), [Sch.2](#).
- C8** S. 33(1) modified (for the year of assessment 1989-1990) by [S.I. 1992/511](#), [regs. 1, 9](#), [Sch.2](#).
- C9** S. 33(1) applied (with modifications) (for the year of assessment 1990-91) by [S.I. 1993/415](#), [reg. 9](#), [Sch.2](#)
- C10** S. 33(1) modified (for the year of assessment 1991-92) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), [regs. 1\(1\), 9](#), [Sch. 2](#)
- C11** S. 33(1) modified (for the years of assessment 1992-93 and 1993-94) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\), 14\(1\)](#), [Sch.](#)
- C12** S. 33(1) modified (for the year of assessment 1994-95) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\), 15\(1\)](#), [Sch.](#)

[^{F11}Balancing charges in respect of ship disposals etc.

Textual Amendments

- F11** S. 33A and cross-heading inserted (with effect in accordance with s. 98(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 94](#) (with s. 98(2)-(6)); [S.I. 1996/1323](#), [art. 2](#)

Status: Point in time view as at 29/04/1996.

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33A Deferment of balancing charge.

(1) This section applies in any case where—

- (a) a balancing charge of any amount would, apart from this section, be made for any chargeable period (“the relevant period”) on any person (“the shipowner”) in respect of a trade carried on by him (his “actual trade”);
- (b) there is, in the relevant period, an event falling within section 24(6)(c)(i) to (iii);
- (c) that event is one occurring on or after 21st April 1994 with respect to a ship (“the old ship”) provided by the shipowner for the purposes of his actual trade and belonging to him at some time in the relevant period;
- (d) the old ship was a qualifying ship immediately before that event;
- (e) the shipowner’s expenditure on the provision of the old ship is not expenditure treated for any purposes by virtue of section 41(2), 61(1), 79(2) or 80(5) as expenditure incurred for the purposes of a trade carried on separately from his actual trade; and
- (f) the old ship has not begun, and is not treated as having begun, before the event mentioned in paragraph (b) above, to be used partly, but not wholly, for purposes other than those of the shipowner’s actual trade.

(2) If—

- (a) the shipowner makes a claim in respect of the event mentioned in subsection (1)(b) above for the deferment under this section of the whole or part of the charge which would be made on him, and
- (b) none of the amounts specified in subsection (3) below is nil,

the amount for which deferment is claimed, so far as it does not exceed the smallest of those amounts, shall for the purposes of sections 24, 25 and 26 be added to the shipowner’s qualifying expenditure for the relevant period in respect of his actual trade.

(3) Subject to the following provisions of this section, those amounts are—

- (a) the amount which, in accordance with section 33B, is treated as brought into account in respect of the old ship;
- [^{F12}(b) the amount of any expenditure incurred or to be incurred by qualifying persons in the period of six years beginning with the day on which the event mentioned in subsection (1)(b) above occurs, so far as that expenditure is, or (when incurred) will be, expenditure to which an addition made under this section in respect of that event may be attributed in accordance with subsection (5) below;]
- (c) the amount of the balancing charge which, apart only from the claim in question, would be made on the shipowner for the relevant period in respect of his actual trade; and
- (d) the amount which, on the assumption—
 - (i) that any other additions under this section to the shipowner’s qualifying expenditure for the relevant period are taken into account, but
 - (ii) that amounts carried forward under section 385 or 393 of the principal Act (losses carried forward) are disregarded,

would have the effect of reducing to nil the amount (if any) falling to be taken into account, in computing the shipowner’s total profits or total income for

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that period, as the trading income of that trade or, as the case may be, as profits or gains arising from that trade.

(4) If—

(a) an addition is made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade, but

[^{F13}(b) circumstances arise in which the whole or any part of the addition ceases (otherwise than by being attributed) to be an amount that may be attributed, in accordance with subsection (5) below, to expenditure on new shipping incurred by qualifying persons in the period of six years mentioned in subsection (3)(b) above,

the shipowner shall be assumed not to have been entitled to so much of the addition as will not be so attributed.]

[^{F14}(5) Subject to subsection (5A) below and to section 33D(6), where—

(a) an addition is made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade, and

(b) expenditure on new shipping is incurred by a qualifying person in the period of six years mentioned in subsection (3)(b) above,

the shipowner may, by notice to an officer of the Board, attribute to that expenditure so much of the addition as is equal to so much of the expenditure as is not already the subject of an attribution under this subsection.

(5A) A notice under subsection (5) above shall not have effect in a case where the shipowner and the qualifying person to whose expenditure the notice relates are not the same person unless that person joins with the shipowner in the giving of that notice.]

(6) A balancing charge falling by virtue of section 41(2), 79(5) or 80(5) to be made for the relevant period in the case of the shipowner's actual trade shall be disregarded in determining the amount referred to in subsection (3)(c) above.

(7) In consequence of paragraph (d) of subsection (3) above, no addition shall be made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade if—

(a) the amount falling (after disregarding any amounts carried forward under section 385 or 393 of the principal Act) to be taken into account as mentioned in that paragraph would have been nil even apart from this section, or

(b) he has, apart from this section, incurred a loss in that trade for the relevant period.

[In this section and the following provisions of this Chapter references to a qualifying ^{F15}(8) person, in relation to any expenditure, are references to—

(a) the shipowner; and

(b) where the shipowner is a company, any company which, at the time when the expenditure is or is to be incurred, is or (as the case may be) would be a member of the same group of companies as the shipowner;

and for the purposes of this subsection two companies are members of the same group of companies at any time if, at that time, they are treated as members of the same group of companies for the purposes of Chapter IV of Part X of the principal Act (group relief).]]

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Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Chapter II. (See end of Document for details)

Textual Amendments

- F12** S. 33A(3)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 2(1)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F13** Words in s. 33A(4) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 2(2)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F14** S. 33A(5)(5A) substituted for s. 33A(5) (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 2(3)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F15** S. 33A(8) inserted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 2(4)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2

[^{F16}33B Amount brought into account in respect of the old ship.

- (1) For the purposes of section 33A where—
- the old ship is, by virtue of section 31(2), assumed for the purposes of sections 24, 25 and 26 to have been provided wholly and exclusively for the purposes of a single ship trade,
 - in consequence of the event mentioned in section 33A(1)(b), a disposal value of the old ship falls for the purposes of section 31(7) to be brought into account for the chargeable period of the single ship trade which corresponds to the relevant period, and
 - no notice has been given in relation to the single ship trade under section 33(1) or (4),

the amount treated as brought into account in respect of the old ship shall be the amount which under section 31(7)(b) falls to be brought into account for the relevant period of the shipowner's actual trade as an item of disposal value referable to machinery or plant.

- (2) In any other case, the amount treated as brought into account in respect of the old ship shall be the amount equal to the amount which, on the assumptions specified in subsection (3) below, would have been the balancing charge for the relevant period in respect of the shipowner's actual trade.
- (3) Those assumptions are—
- that section 31(2) did not apply with respect to expenditure on the provision of the old ship;
 - that the old ship was the only item of machinery or plant in respect of which sections 24, 25 and 26 have effect for chargeable periods of the shipowner's actual trade; and
 - that the allowances made to the shipowner in respect of the provision of the old ship are—
 - the first-year allowance (if any) which was actually made to the shipowner;
 - any first-year allowance falling to be made to him that was postponed under section 30(1)(a) or (c); and
 - the maximum amount of any writing-down allowances which, on the preceding assumptions, could have been made for the chargeable periods of that trade ending with the relevant period.

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- (4) Where a notice under section 33(1) or (4) is given in the case of a single ship trade after the determination for the purposes of section 33A of the amount treated as brought into account in respect of the old ship, subsection (2) above, instead of subsection (1), shall apply, and be deemed always to have applied, in relation to that ship.
- (5) In this section and the following provisions of this Chapter “single ship trade” has the same meaning as in section 31.]

Textual Amendments

- F16** S. 33B inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 94](#) (with s. 98(2)-(6))

[^{F17}33C Reimposition of deferred charge.

- (1) Notwithstanding anything in section 31(2), the assumption specified in subsection (2) below shall apply, for the purposes of sections 24, 25 and 26 wherever—
- (a) an addition is made under section 33A to the shipowner’s qualifying expenditure for the relevant period;
 - (b) [^{F18}a qualifying person] incurs expenditure on new shipping within the period mentioned in section 33A(3)(b); and
 - [^{F19}(c) the expenditure is expenditure the whole or any part of which is expenditure to which the whole or any part of the addition is attributed in accordance with section 33A(5).]
- (2) That assumption is that an amount equal to so much of the expenditure incurred on new shipping as is expenditure to which the whole or any part of the addition is ^{F20}... attributed is to be brought into account—
- (a) for the chargeable period in which that expenditure is incurred, and
 - (b) in respect of the single ship trade in respect of which that expenditure falls to be taken into account in determining qualifying expenditure of [^{F21}the qualifying person in question],
- as an item of disposal value referable to machinery or plant which in respect of that chargeable period and that trade falls within section 24(6).]

Textual Amendments

- F17** S. 33C inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 95](#) (with s. 98(2)-(6))
- F18** Words in s. 33C(1)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 3\(1\)\(a\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2
- F19** S. 33C(1)(c) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 3\(1\)\(b\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2
- F20** Words in s. 33C(2) repealed (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 3\(2\)\(a\), Sch. 41 Pt. V\(33\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2
- F21** Words in s. 33C(2)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 3\(2\)\(b\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); S.I. 1997/133, art. 2

Status: Point in time view as at 29/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Chapter II. (See end of Document for details)

[^{F22}33D Expenditure to which deferrals attributed.

(1) Subject to the following provisions of this section, expenditure is expenditure on new shipping for the purposes of sections 33A to 33C in so far as it is both—

- (a) capital expenditure incurred on the provision, wholly and exclusively for the purposes of [^{F23}a trade carried on by the person who incurs that expenditure], of a ship which it appears—
 - (i) will be brought into use for the purposes of that trade as a qualifying ship, and
 - (ii) will continue to be a qualifying ship throughout a period of at least three years after that; and
- (b) expenditure falling, by virtue of section 31(2), to be taken into account for the purposes of sections 24, 25 and 26, in determining qualifying expenditure, as an amount of expenditure incurred by [^{F24}that person] wholly and exclusively for the purposes of a single ship trade.

(2) Expenditure on the provision of a ship shall not be, and shall be deemed never to have been, expenditure on new shipping if the ship—

- (a) is brought into use for the purposes of any trade of [^{F25}the person who incurred the expenditure] or (without having been so brought into use) for the purposes of any trade of a person connected with him;
- (b) there is a time after it is first so brought into use when that ship is not a qualifying ship; and
- (c) that time is before whichever is the earlier of—
 - (i) the end of the period of three years beginning with the time when it is first so brought into use, and
 - (ii) the first occasion after the beginning of that period when neither [^{F26}the person who incurred the expenditure] nor any person connected with him is a person to whom the ship belongs.

[Subject to subsection (2B) below, expenditure incurred by a qualifying person other ^{F27}(2A) than the shipowner on the provision of a ship shall not be, and shall be deemed never to have been, expenditure on new shipping if—

- (a) at any time after the time when the ship first belongs to that person in consequence of that expenditure, it ceases to belong to that person without having been brought into use for the purposes of a trade of that person;
- (b) the ship is brought into use for the purposes of a trade of that person and an event falling within section 24(6)(c) occurs with respect to the ship before the end of the period of three years beginning with the time when it is first so brought into use; or
- (c) there is a time falling—
 - (i) after the expenditure is incurred, and
 - (ii) where the ship is brought into use for the purposes of a trade of that person, before the end of the period of three years beginning with the time when it is first so brought into use,

when the shipowner and that person do not fall to be treated as members of the same group of companies for the purposes of Chapter IV of Part X of the principal Act (group relief).

(2B) Subsection (2A) above shall not apply by virtue of paragraph (a) or (b) of that subsection in any case if the event by virtue of which the case falls within that paragraph is, or is the result of—

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- (a) the total loss of the ship; or
- (b) damage to the ship that puts it in a condition in which it is impossible, or not commercially worthwhile, for the repair required for restoring it to its previous use to be undertaken;

and that subsection shall have effect, where anything falling within paragraph (a) or (b) above occurs, as if times falling after the occurrence of the total loss or, as the case may be, after the occurrence of the damage were to be disregarded for the purposes of paragraph (c) of that subsection.]

(3) Where—

- (a) a notice under section 33(1) or (4) has the effect, in relation to any expenditure which satisfies the conditions in subsection (1)(a) and (b) above, of requiring any of that expenditure to be attributed for the purposes of sections 24, 25 and 26 to a trade which is not a single ship trade, or
- (b) section 42 has effect with respect to expenditure on the provision of a ship in a case where the expenditure would have fallen to be taken into account as mentioned in subsection (1)(b) above if the ship had not been leased as mentioned in section 42(1),

the expenditure which falls to be so attributed or, as the case may be, with respect to which section 42 has effect shall not be, and shall be deemed never to have been, expenditure on new shipping.

(4) Expenditure on the provision of a ship is not expenditure on new shipping if—

- (a) the ship had already belonged to ^{F28}the person who incurred the expenditure] at some time in the period of six years ending with the time when it first belongs to him in consequence of his incurring that expenditure;
- (b) the ship has at any time in that period belonged to a person who has, at a material time, been a person connected with ^{F29}the person who incurred the expenditure]; or
- (c) the main object, or one of the main objects, of—
 - (i) the transaction by which the ship was provided for the purposes of ^{F30}a trade carried on by the person who incurred that expenditure],
 - (ii) any series of transactions of which that transaction was one, or
 - (iii) any transaction in such a series,

was to secure the deferment of a charge under section 33A.

(5) In subsection (4)(b) above “a material time”, in relation to any expenditure, means the time when the expenditure is incurred or any earlier time in the period of six years which is applicable in the case in question for the purposes of section 33A(3)(b).

(6) An addition made under section 33A to the shipowner’s qualifying expenditure for any period shall not for the purposes of that section or section 33C be attributed to the whole or any part of any expenditure on new shipping if there is other expenditure incurred ^{F31}by a qualifying person] which—

- (a) was incurred before that expenditure in the period of six years which is applicable, in the case of that addition, for the purposes of section 33A(3)(b), and
- (b) is expenditure on new shipping or would fall to be treated as such expenditure but for any notice under section 33(1) or (4),

unless the whole amount of the other expenditure has been used for the purposes of attributions made in the case of that addition and of any other additions made under

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section 33A in respect of events occurring before the beginning of that period of six years.

(7) Notwithstanding any changes in the persons engaged in carrying on [^{F32}the shipowner's actual trade], expenditure shall be treated for the purposes of this Chapter as incurred by the shipowner if—

- (a) it is incurred [^{F33}for the purposes of that trade by the persons for the time being carrying it on], and
- (b) the only changes in the persons so engaged, between the time when the trade was carried on by the shipowner and the time when the expenditure is incurred, are changes in respect of which that trade is to be treated by virtue of section 113(2) or 343(2) of the principal Act (continuity of trade) as not having been discontinued.

[^{F34}(8) For the purposes of this section a person is connected with another person at any time if, at that time—

- (a) he is, within the terms of section 839 of the principal Act, connected either with that other person or with a person who is connected with that other person by virtue of paragraph (b) below; or
- (b) he is carrying on a trade previously carried on by that other person in a case in which the only changes in the persons engaged in carrying on that trade between—

- (i) the time when it was previously carried on by that other person, and
- (ii) the time in question,

are changes in respect of which the trade is to be treated by virtue of section 113(2) or 343(2) of the principal Act as not having been discontinued;

and the persons who shall be taken for the purposes of this section, in relation to expenditure incurred by a person who is not the shipowner, to be connected at any time with the person by whom the expenditure is or has been incurred shall include every person who at that time is connected (in accordance with the preceding provisions of this subsection) with the shipowner.]

Textual Amendments

- F22** Ss. 33D, 33E inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 96](#) (with s. 98(2)-(6))
- F23** Words in s. 33D(1)(a) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 4\(1\)\(a\)](#) (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F24** Words in s. 33D(1)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 4\(1\)\(b\)](#) (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F25** Words in s. 33D(2)(a) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 4\(2\)\(a\)](#) (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F26** Words in s. 33D(2)(c)(ii) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 4\(2\)\(b\)](#) (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F27** S. 33D(2A)(2B) inserted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 4\(3\)](#) (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2

Status: Point in time view as at 29/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Chapter II. (See end of Document for details)

- F28** Words in s. 33D(4)(a) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(4)(a)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F29** Words in s. 33D(4)(b) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(4)(a)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F30** Words in s. 33D(4)(c)(i) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(4)(b)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F31** Words in s. 33D(6) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(5)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F32** Words in s. 33D(7) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(6)(a)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F33** Words in s. 33D(7)(a) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(6)(b)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F34** S. 33D(8) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 4(7)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2

33E Qualifying ships.

- (1) Subject to the following provisions of this section, a ship is a qualifying ship for the purposes of sections 33A to 33D if it is a ship of a sea-going kind and is registered, in any register of shipping established and maintained under the law of the United Kingdom or of any other country or territory, as a ship with a gross tonnage of or in excess of 100 tons.
- (2) In any case where the event mentioned in section 33A(1)(b) consists in or results from either—
- (a) the total loss of the old ship, or
 - (b) damage to the old ship that puts it in a condition in which it is impossible, or not commercially worthwhile, for the repair required for restoring it to its previous use to be undertaken,
- the references to a qualifying ship in section 33A(1)(d) and section 33D(1) and (2) shall have effect as if in subsection (1) above the words “as a ship with a gross tonnage of or in excess of 100 tons” were omitted.
- (3) A ship is not a qualifying ship if the primary use to which ships of the same kind as that ship are put by the persons to whom they belong or, where their use is made available to others, by those others is use for sport or recreation.
- (4) A ship is not a qualifying ship at any time when—
- (a) it is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971; or
 - (b) it would be such an installation if the activity for the carrying on of which it is or is to be established or maintained were carried on in or under controlled waters (within the meaning of that Act).
- (5) Where, in the case of any ship which has been brought into use for the purposes of a trade of the shipowner or a person connected with him but was not so brought into use before 20th July 1994—

Status: Point in time view as at 29/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Chapter II. (See end of Document for details)

- (a) there is a time in the qualifying period when the ship is not registered in a relevant register, and
- (b) that time is more than three months after that period began,
- the ship shall not, in relation to times after the time mentioned in paragraph (a) above, be a qualifying ship.
- (6) In subsection (5) above “the qualifying period” means the period between—
- (a) the time when the ship is first brought into use for the purposes of any trade of the shipowner or (without having been so brought into use) for the purposes of any trade of a person connected with him; and
- (b) whichever is the earlier of—
- (i) the end of the period of three years beginning with that time, and
- (ii) the first occasion after that time when neither the shipowner nor any person connected with him is a person to whom the ship belongs.
- (7) In subsection (5) above “relevant register”, in relation to any ship, means any register of shipping established and maintained under the law of any part of the British Islands or of any country or territory which, at a time in the period which in the case of that ship is the qualifying period for the purposes of that subsection, is a member State, another State within the European Economic Area or a colony.
- (8) References in subsections (5) and (6) above to a person connected with the shipowner shall be construed in accordance with section 33D(8) but shall have effect in relation to the old ship as if a trade carried on at any time by any person were carried on at that time by a person so connected wherever—
- (a) it was subsequently carried on by the shipowner or a person connected with him; and
- (b) it underwent, between that time and the time when it was carried on by the shipowner or a person connected with him, only such changes in the persons engaged in carrying it on as are changes in respect of which it is to be treated by virtue of section 113(2) or 343(2) of the principal Act as not having been discontinued.
- [Subsections (5), (6) and (8) above shall have effect for the purposes of section 33D^{F35}(9) in relation to any ship on the provision of which expenditure is incurred on or after the passing of the Finance Act 1996 as if the references in those subsections to the shipowner included references to the person incurring that expenditure.]]

Textual Amendments

- F22** Ss. 33D, 33E inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 96](#) (with s. 98(2)-(6))
- F35** S. 33E(9) inserted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 35 para. 5\(1\)](#) (with [Sch. 35 para. 7\(2\)\(3\)](#)); [S.I. 1997/133](#), art. 2

[^{F36}33F Procedural provisions relating to deferred charges.

- (1) Schedule A1 to this Act shall apply for the purposes of corporation tax in relation to the making of a claim under section 33A as it applies in relation to the making of a claim for an allowance.

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Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Chapter II. (See end of Document for details)

- (2) No claim under section 33A shall be allowed for the purposes of income tax unless it is made within twelve months from the 31st January next following the year of assessment in which the relevant period ends.
- (3) No claim under section 33A may be made at any time before such date as the Treasury may by order appoint; and where by virtue of anything in subsection (1) or (2) above the period for making any such claim would have expired (but for this subsection) before the end of the period of twelve months beginning with that date, it shall expire, instead, at the end of that period of twelve months.
- (4) [^{F37}Subject to subsection (4A) below, an attribution in accordance with section 33A(5)] may be varied by notice given by the shipowner to the inspector at any time before the end of the period for the making, by [^{F38}the shipowner], of claims under section 33A above in respect of events occurring in the earliest chargeable period affected; and for the purposes of this subsection a chargeable period is an affected chargeable period, in relation to a variation, if it is one in which expenditure to which the variation relates was incurred.
- [A notice by the shipowner under subsection (4) above shall not have effect in a case ^{F39}(4A) where the shipowner and the qualifying person to whose expenditure the notice relates are not the same person unless that person joins with the shipowner in the giving of that notice.]
- (5) Where—
- (a) a claim for the deferment of any charge has been made under section 33A, and
 - (b) circumstances subsequently arise that require the deferment claimed to be treated as one to which the shipowner was not entitled, either in whole or in part,
- the shipowner shall, no later than three months after the end of the chargeable period in which those circumstances first arise, give notice of that fact, specifying the circumstances, to the inspector.
- (6) All such assessments and adjustments shall be made as may be necessary to give effect to the provisions of sections 33A to 33C and subsection (4) above; and, notwithstanding any limitation on the time for making assessments, an assessment to tax chargeable in consequence of any such circumstances as are mentioned in subsection (5) above may be made at any time between—
- (a) the time when those circumstances arise, and
 - (b) the time 12 months after notice of the circumstances is given to the inspector by the shipowner.
- (7) In this section references to the shipowner, in relation to the giving of any notice, shall have effect where there have been any such changes as are mentioned in section 33D(7)(b) in the persons engaged in carrying on the shipowner's actual trade, as references to the persons who, in consequence of those changes, are carrying on that trade at the time of the giving of the notice or, as the case may be, when the notice is required to be given.]

Textual Amendments

F36 S. 33F inserted (with effect in accordance with s. 98(1)(2) of the amending Act) by [Finance Act 1995](#) (c. 4), [s. 97\(1\)](#) (with [s. 98\(2\)-\(6\)](#))

Status: Point in time view as at 29/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Chapter II. (See end of Document for details)

- F37** Words in s. 33F(4) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 6(1)(a)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F38** Words in s. 33F(4) substituted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 6(1)(b)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2
- F39** S. 33F(4A) inserted (with effect in accordance with Sch. 35 para. 7(1) of the amending Act) by Finance Act 1996 (c. 8), **Sch. 35 para. 6(2)** (with Sch. 35 para. 7(2)(3)); S.I. 1997/133, art. 2

Status:

Point in time view as at 29/04/1996.

Changes to legislation:

There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Chapter II.