

*Status: Point in time view as at 27/07/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1993, SCHEDULE 12. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 12

Section 114.

#### INITIAL ALLOWANCES FOR AGRICULTURAL BUILDINGS

1 The <sup>M1</sup>Capital Allowances Act 1990 shall be amended as follows.

#### Marginal Citations

M1 1990 c. 1.

- 2 (1) In subsection (1) of section 124 (expenditure qualifying for allowances)—
- (a) for “this Part, including” there shall be substituted “ writing-down allowances or ”; and
  - (b) in paragraph (b), for “this Part” there shall be substituted “ writing-down allowances or, as the case may be, section 122 ”.
- (2) In subsection (2) of that section, for “this Part” there shall be substituted “ writing-down allowances ”.

3 After section 124 there shall be inserted the following sections—

#### **“124A Initial allowances: contracts entered into between October 1992 and November 1993.**

- (1) Subject to the following provisions of this Part, if a person having a major interest in any agricultural land incurs any expenditure to which this section applies, there shall be made to him, for the chargeable period which is that related to the incurring of the expenditure, an allowance (“an initial allowance”) equal to 20 per cent. of the amount of that expenditure.
- (2) This section applies to any expenditure falling within section 123 which is incurred under a contract which—
  - (a) is entered into either—
    - (i) in the period beginning with 1st November 1992 and ending with 31st October 1993; or
    - (ii) for the purpose of securing that obligations under a contract entered into in that period are complied with;
  - but
  - (b) is not entered into for the purpose of securing that obligations under a contract entered into before the beginning of that period are complied with.

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- (3) No expenditure on the construction of any building, fence or other works shall be taken into account for the purposes of any initial allowance under this Part unless it is incurred for the purposes of husbandry on the agricultural land in question; and no initial allowance shall be made under this Part in respect of expenditure on the construction of any building, fence or other works unless the building, fence or other works is or is to be first used for the purposes of husbandry on or before 31st December 1994.
- (4) Where expenditure is incurred on a farmhouse or any asset (other than a farmhouse) which is to serve partly the purposes of husbandry and partly other purposes, the same apportionment of that expenditure shall be made for the purposes of any initial allowance under this Part as is required by section 124(1)(a) or (b) to be made for the purposes of writing-down allowances.
- (5) In a case where—
- (a) any expenditure to which this section applies is incurred on the construction of any building, fence or other works; and
  - (b) either—
    - (i) when the building, fence or other works comes to be used it is not used for the purposes of husbandry; or
    - (ii) it has not come to be so used by the end of 31st December 1994,
 the expenditure shall be left out of account for the purposes of initial allowances under this Part and, accordingly, any initial allowance made in respect of the expenditure under this section shall be withdrawn and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to that withdrawal.
- (6) Subject to subsection (7) below, a person making a claim by virtue of this section as it applies for income tax purposes may require the initial allowance to be reduced to a specified amount; and a company may by notice given to the inspector not later than two years after the end of the chargeable period for which the allowance falls to be made disclaim the initial allowance or require it to be reduced to a specified amount.
- (7) Subsection (6) above shall have effect as respects allowances falling to be made for accounting periods ending after the day appointed for the purposes of section 10 of the principal Act (pay and file) with the omission of the words “as it applies for income tax purposes” and the words from “and a company” onwards.

#### **124B Restriction on writing-down allowance where initial allowance made.**

Where an initial allowance under this Part is made for any chargeable period in respect of any expenditure on the construction of a building, fence or other works, a writing-down allowance in respect of that expenditure shall be made under this Part for the same chargeable period only if the building, fence or other works has come to be used for the purposes of husbandry before the end of that period.”

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- 4 (1) In subsection (1) of section 126 (transfers of relevant interest), for “a writing-down allowance” there shall be substituted “an allowance under this Part”.
- (2) For subsection (2) of that section there shall be substituted the following subsection—
- “(2) If, in a case falling within subsection (1) above, the date of the acquisition occurs during a chargeable period of the former owner or its basis period, the former owner shall be entitled—
- (a) to the whole of any initial allowance for the chargeable period related to the acquisition; but
  - (b) only to an appropriate proportion of any writing-down allowance for the chargeable period so related;
- and, similarly, if the date of the acquisition occurs during a chargeable period of the new owner or its basis period, the new owner shall be entitled only to an appropriate proportion of any writing-down allowance for the chargeable period (of his) related to the acquisition.”
- (3) In subsection (6) of that section (balancing increase of last writing-down allowance in respect of allowance lost on transfers), after “total allowances” there shall be inserted “(including any initial allowance)”.
- 5 (1) After subsection (3) of section 127 (buildings etc. bought unused) there shall be inserted the following subsections—
- “(3A) The expenditure referred to in subsection (1) above includes neither—
- (a) expenditure which falls to be disregarded for the purposes of writing-down allowances by virtue of section 124(1); nor
  - (b) expenditure some or all of which is expenditure to which section 124A applies.
- (3B) Accordingly, any expenditure which is treated as incurred under subsection (2)(c) above shall be treated (without prejudice to section 124(2)) as incurred for the purposes mentioned in section 124(1).”
- (2) In subsection (4) of that section, for “and (3)” there shall be substituted “(3) and (3B)”.
- 6 After section 127 there shall be inserted the following section—
- “127A Purchases of buildings and structures: cases involving initial allowances.**
- (1) This section shall apply (subject to subsection (2) below) where—
- (a) there is expenditure on the construction of any building, fence or other works (“the actual expenditure”) which—
    - (i) is expenditure falling within section 123; and
    - (ii) is not expenditure which would fall to be disregarded for the purposes of writing-down allowances by virtue of section 124(1);

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- (b) some or all of the actual expenditure is expenditure to which section 124A applies or would be such expenditure if it were capital expenditure; and
  - (c) before the building, fence or other works comes to be used, the relevant interest is sold.
- (2) In relation to any case in which the relevant interest is sold in pursuance of a contract entered into in the period beginning with 1st November 1992 and ending with 31st October 1993 by a person who—
- (a) carries on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale; and
  - (b) has been entitled to that interest since before 1st November 1992,
- section 124A(2) above shall have effect for the purposes of subsection (1) (b) above and subsection (6) below as if for the words from “contract which” onwards there were substituted “contract entered into either before 1st November 1993 or for the purpose of securing that obligations under a contract entered into before that date are complied with.”
- (3) Where this section applies—
- (a) the actual expenditure shall be left out of account for the purposes of this Part and, accordingly—
    - (i) any initial allowance or writing-down allowance made in respect of the actual expenditure shall be withdrawn; and
    - (ii) all such assessments and adjustments of assessments shall be made as may be necessary to give effect to that withdrawal;
  - (b) section 126 shall not apply;
  - (c) the person who buys the relevant interest shall be treated for the purposes of this Part as having incurred, on the date when the purchase price becomes payable, expenditure falling within section 123 on the construction of the building, fence or other works (“the deemed expenditure”); and
  - (d) the deemed expenditure shall be treated (without prejudice to section 124(2) and 124A(5)) as incurred for the purposes of husbandry on the agricultural land in question.
- (4) The deemed expenditure—
- (a) shall be whichever is the lesser of the net price paid by the person concerned for the purchase of the relevant interest and the actual expenditure; and
  - (b) shall be regarded as comprising a section 124A element and a residual element.
- (5) The section 124A element of the deemed expenditure shall be calculated in accordance with the formula—

$$A \times \frac{B}{C}$$

- (6) In subsection (5) above—

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A is the deemed expenditure;  
B is so much of the actual expenditure as is expenditure to which section 124A applies or expenditure that would be such expenditure if it were capital expenditure; and  
C is the actual expenditure.

- (7) The residual element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the section 124A element.
- (8) Notwithstanding the provisions of subsection (3)(c) above—
- (a) the section 124A element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as expenditure to which that section applies; and
  - (b) the residual element of the deemed expenditure shall be treated for that purpose as expenditure which is not expenditure to which that section applies.
- (9) Where the relevant interest is sold more than once before the building, fence or other works is used, subsections (2) and (3)(c) and (d) above shall have effect only in relation to the last of those sales.”

- 7 (1) In subsection (1) of section 128 (balancing allowances and charges), for “a writing-down allowance” there shall be substituted “ an allowance under this Part ”.
- (2) In subsection (2) of that section, for “this Part less the aggregate of any writing-down allowances” there shall be substituted “ any allowances under this Part less the aggregate of any such allowances ”.
- (3) In subsection (3) of that section, after “purposes of” there shall be inserted “ allowances under ”.
- (4) In subsection (6) of that section, for “writing-down allowances” there shall be substituted “ allowances under this Part ”.
- 8 In section 129(1) (balancing events), for “a writing-down allowance” there shall be substituted “ an allowance under this Part ”.
- 9 In section 131(2) (application of Chapter I of Part V to forestry buildings etc.), in the words after paragraph (b), before “subject” there shall be inserted “ with the omission of sections 124A, 127(3A)(b) and 127A and ”.
- 10 In section 146(3) (allowances under Parts V and VI not to exceed expenditure), after “made under” there shall be inserted “ Part V or ”.

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