

Status: Point in time view as at 29/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 35. (See end of Document for details)

SCHEDULES

SCHEDULE 35

Section 179.

ROLL-OVER RELIEF IN RESPECT OF SHIPS

Preliminary

1 The ^{M1}Capital Allowances Act 1990 shall be amended as follows.

Marginal Citations

M1 1990 c. 1.

Amendment of provisions relating to roll-over relief in respect of ships

2 (1) In subsection (3) of section 33A (relief limited to expenditure on new shipping incurred or to be incurred by the shipowner), for paragraph (b) there shall be substituted the following paragraph—

“(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;”.

(2) In subsection (4) of that section (relief not to apply where expenditure on new shipping not incurred by the shipowner within six years), for the words from the beginning of paragraph (b) onwards there shall be substituted the following—

“(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.”

(3) For subsection (5) of that section (attribution of relief to expenditure on new shipping) there shall be substituted the following subsections—

“(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

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- (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.”
- (4) After subsection (7) of that section there shall be inserted the following subsection—
- “(8) In this section and the following provisions of this Chapter references to a qualifying 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).”
- 3 (1) In subsection (1) of section 33C (re-imposition of deferred charge)—
- (a) in paragraph (b), for “the shipowner” there shall be substituted “ a qualifying person ”; and
- (b) for paragraph (c) there shall be substituted the following paragraph—
- “(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) In subsection (2) of that section—
- (a) the words “to be”, in the first place where they occur, shall be omitted; and
- (b) in paragraph (b), for “the shipowner” there shall be substituted “ the qualifying person in question ”.
- 4 (1) In section 33D (definition of expenditure on new shipping), in subsection (1)—
- (a) in paragraph (a), for “the shipowner’s actual trade” there shall be substituted “ a trade carried on by the person who incurs that expenditure ”; and
- (b) in paragraph (b), for “the shipowner” there shall be substituted “ that person ”.
- (2) In subsection (2) of that section—
- (a) in paragraph (a), for “the shipowner” there shall be substituted “ the person who incurred the expenditure ”; and
- (b) in paragraph (c)(ii), for “the shipowner” there shall be substituted “ the person who incurred the expenditure ”.

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(3) After subsection (2) of that section there shall be inserted the following subsections—

“(2A) Subject to subsection (2B) below, expenditure incurred by a qualifying person other 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—

- (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.”

(4) In subsection (4) of that section—

- (a) in paragraphs (a) and (b), for the words “the shipowner”, in each place where they occur, there shall be substituted “ the person who incurred the expenditure ”; and
- (b) in paragraph (c)(i), for “the shipowner’s actual trade” there shall be substituted “a trade carried on by the person who incurred that expenditure”.

(5) In subsection (6) of that section, for “by the shipowner” there shall be substituted “ by a qualifying person ”.

(6) In subsection (7) of that section—

- (a) for “any trade previously carried on by the shipowner” there shall be substituted “ the shipowner’s actual trade ”; and
- (b) in paragraph (a), for the words “by the persons for the time being carrying on that trade” there shall be substituted “ for the purposes of that trade by the persons for the time being carrying it on ”.

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- (7) For subsection (8) of that section there shall be substituted the following subsection—
- “(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.”
- 5 (1) In section 33E (definition of a qualifying ship), after subsection (8) there shall be inserted the following subsection—
- “(9) Subsections (5), (6) and (8) above shall have effect for the purposes of section 33D 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.”
- 6 (1) In section 33F (procedural provisions), in subsection (4)—
- (a) for “An attribution made for the purposes of section 33A(5) or 33C” there shall be substituted “ Subject to subsection (4A) below, an attribution in accordance with section 33A(5) ”; and
 - (b) for “the person giving the notice” there shall be substituted “ the shipowner ”.
- (2) After that subsection there shall be inserted the following subsection—
- “(4A) A notice by the shipowner under subsection (4) 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.”

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Commencement

- 7 (1) Subject to sub-paragraph (2) below, this Schedule shall have effect in relation to any case in which the event mentioned in section 33A(1)(b) occurs on or after the day on which this Act is passed.
- (2) Subject to sub-paragraph (3) below, this Schedule shall not apply for the purposes of claims, assessments and adjustments made on or after the day on which this Act is passed but before such day as the Treasury may by order appoint.
- (3) Sub-paragraph (2) above shall not prevent the making on or after the day appointed under that sub-paragraph of any claims, assessments or adjustments in respect of the application of this Schedule, in accordance with sub-paragraph (1) above, in relation to times before that day; and nothing in any provision relating to the period within which any claim or assessment must be made shall prevent any such claim, assessment or adjustment from being made by reference to this Schedule if it is made no more than twelve months after the day so appointed.

Subordinate Legislation Made

P1 Sch. 35 para. 7(2) power exercised (23.1.1997): 31.1.1997 appointed by S.I. 1997/133, art. 2

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