



Finance Act 2021

2021 CHAPTER 26

PART 1 **U.K.**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Capital allowances: super-deductions etc

9 Super-deductions and other temporary first-year allowances **U.K.**

(1) Part 2 of CAA 2001 has effect as if—

- (a) in section 39 (first-year allowances available for certain types of qualifying expenditure only) a reference to this section were included in the list of provisions describing first-year qualifying expenditure, and
- (b) in the Table in section 52(3) (amount of first-year allowances), at the end there were inserted—

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|---|--------|
| “Expenditure qualifying under section 9(2) of FA 2021 | 130% |
| Expenditure qualifying under section 9(3) of that Act | 50% |
| Expenditure qualifying under section 9(4) of that Act | 100%”. |

(2) Expenditure is qualifying under this subsection if—

- (a) it is incurred on or after 1 April 2021 but before 1 April 2023,
- (b) it is incurred by a company within the charge to corporation tax,
- (c) it is expenditure on plant or machinery which is unused and not second-hand,
- (d) it is not within any of the general exclusions in section 46(2) of CAA 2001,
- (e) it is not special rate expenditure, and
- (f) it is not expenditure on the provision of plant or machinery for use wholly or partly for the purposes of a ring fence trade.

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Expenditure qualifying under this subsection is referred to as “super-deduction expenditure” and a first-year allowance made as a result of expenditure qualifying under this subsection is referred to as a “super-deduction”.

- (3) Expenditure is qualifying under this subsection if—
- (a) it is special rate expenditure,
 - (b) it is incurred on or after 1 April 2021 but before 1 April 2023,
 - (c) it is incurred by a company within the charge to corporation tax,
 - (d) it is expenditure on plant or machinery which is unused and not second-hand, and
 - (e) it is not within any of the general exclusions in section 46(2) of CAA 2001.

Expenditure qualifying under this subsection is referred to as “SR allowance expenditure” and a first-year allowance made as a result of expenditure qualifying under this subsection is referred to as an “SR allowance”.

- (4) Expenditure is qualifying under this subsection if—
- (a) it is expenditure on the provision of plant or machinery for use partly for the purposes of a ring fence trade and partly for the purposes of another qualifying activity,
 - (b) it is incurred on or after 1 April 2021 but before 1 April 2023,
 - (c) it is incurred by a company within the charge to corporation tax,
 - (d) it is not within any of the general exclusions in section 46(2) of CAA 2001, and
 - (e) it is not special rate expenditure.
- (5) A first-year allowance made as a result of expenditure qualifying under subsection (4) is to be allocated between the ring fence trade and the other qualifying activity on a just and reasonable basis.
- (6) This section has effect as if it were contained in Chapter 4 of Part 2 of CAA 2001 (which, among other things, means that sections 5 and 50 of that Act are relevant for the purpose of determining when expenditure is incurred).
- (7) For the purpose of determining when expenditure is incurred for the purpose of subsection (2)(a) or (3)(b), if an amount of expenditure is incurred as a result of a contract entered into before 3 March 2021—
- (a) section 5 of CAA 2001 does not apply, and
 - (b) the expenditure is instead treated for that purpose as incurred when the contract was entered into (whether or not an unconditional obligation to pay it arises on or after that date).
- (8) For the purpose of determining whether a person is entitled to a super-deduction or an SR allowance, section 67 of CAA 2001 (plant or machinery treated as owned by person entitled to benefit of contract, etc) applies as if for subsection (1)(b) of that section there were substituted—
- “(b) the expenditure is incurred under a contract in respect of which Conditions A and B in section 1129 of CTA 2010 (definition of hire-purchase agreement) are met on the basis that—
 - (i) the “goods” referred to in those conditions are the plant or machinery, and

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- (ii) the person to whom they are bailed or hired is the person who incurs the expenditure.”
- (9) General exclusion 6 in section 46(2) of CAA 2001 (expenditure on provision of plant or machinery for leasing) does not prevent expenditure being super-deduction expenditure or SR allowance expenditure if the plant or machinery is provided for leasing under an excluded lease of background plant or machinery for a building (as defined by section 70R of that Act).
- (10) Section 130(1) of CAA 2001 (postponement of first-year allowances on the provision of a ship) does not apply in relation to a super-deduction or an SR allowance.
- (11) In this section “ring fence trade” means a ring fence trade in respect of which tax is chargeable under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades).

10 Further provision about super-deductions etc **U.K.**

- (1) Sections 11 to 14 contain further provision in connection with super-deductions and SR allowances.
- (2) Section 11 contains provision that modifies the percentage that as a result of section 9(1)(b) would otherwise apply to—
- (a) super-deduction expenditure incurred in a chargeable period that ends on or after 1 April 2023;
 - (b) an additional VAT liability accruing in a chargeable period that ends on or after 1 April 2023 that is regarded as super-deduction expenditure as a result of section 236(2) of CAA 2001 (additional VAT liability generates first-year allowance).
- (3) Section 12 contains provision about the disposal of plant or machinery in respect of which a super-deduction was made and section 13 contains similar provision in relation to plant or machinery in respect of which an SR allowance was made.
- (4) Section 14 contains provision about counteracting tax advantages in connection with super-deductions and SR allowances (but see also Chapter 17 of Part 2 of CAA 2001 which contains other provisions about anti-avoidance).
- (5) Sections 11, 12 and 13 have effect as if they were contained in Chapter 5 of Part 2 of CAA 2001 (allowances and charges).
- (6) In this section, and in sections 11 to 14—
- “super-deduction expenditure” and “super-deduction” are to be construed in accordance with section 9(2);
 - “SR allowance expenditure” and “SR allowance” are to be construed in accordance with section 9(3);
 - “additional VAT liability” has the meaning given by section 547(1) of CAA 2001.

11 Reduced super-deduction **U.K.**

- (1) Subsection (2) applies where a person incurs super-deduction expenditure in a chargeable period (“the relevant period”) that ends on or after 1 April 2023.

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- (2) Where this subsection applies, section 9(1)(b) applies as if for “130%” there were substituted the relevant percentage.
- (3) Subsection (4) applies where a person becomes entitled in a chargeable period (“the relevant period”) that ends on or after 1 April 2023 to a super-deduction as a result of section 236(2) in respect of an additional VAT liability that is regarded (as a result of that section) as super-deduction expenditure.
- (4) Where this subsection applies, section 9(1)(b) applies as if for “130%” there were substituted—
 - (a) where the person becomes entitled to the super-deduction before 1 April 2023, the relevant percentage, or
 - (b) otherwise, “100%”.
- (5) For the purposes of subsections (2) and (4)(a), the relevant percentage is X% where X is determined by—
 - (a) dividing the number of days in the relevant period before 1 April 2023 by the total number of days in that period,
 - (b) multiplying that amount by 30, and
 - (c) adding 100 to the result.

12 Disposal of assets where super-deduction made **U.K.**

- (1) This section applies to plant or machinery in respect of which a person incurred super-deduction expenditure if a super-deduction was made in respect of some or all of that expenditure.
- (2) Where a disposal event occurs in relation to plant or machinery to which this section applies, the person who incurred relevant super-deduction expenditure in respect of it is liable to a balancing charge for the chargeable period in which the event occurs (whether or not the person is also liable to any other balancing charge for that period).
- (3) The amount of the balancing charge is, subject to subsection (6), the relevant proportion of the disposal value of the plant or machinery (see sections 61 to 63 of CAA 2001 which, among other provisions of Part 2 of that Act, contain provision about disposal values).
- (4) The relevant proportion is determined by dividing the amount of relevant super-deduction expenditure incurred in respect of the plant or machinery by the amount of total relevant expenditure in relation to it.
- (5) For the purposes of this section—

super-deduction expenditure is “relevant” if a super-deduction was made in respect of it;

“total relevant expenditure” in relation to plant or machinery means the sum of the following expenditure incurred in respect of it—

 - (a) relevant super-deduction expenditure;
 - (b) any expenditure in respect of which any other first-year allowance was made;
 - (c) any expenditure that was allocated to a pool for any chargeable period (including for the period in which the disposal event occurs).

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- (6) If the disposal event occurs in a chargeable period that commenced before 1 April 2023 the amount of the balancing charge is the amount determined under subsection (3) multiplied by the relevant factor.
- (7) The relevant factor is 1.3 if the chargeable period ends before 1 April 2023.
- (8) If the chargeable period ends on or after 1 April 2023, the relevant factor is determined by—
 - (a) dividing the number of days in the period before 1 April 2023 by the total number of days in that period,
 - (b) multiplying that amount by 0.3, and
 - (c) adding 1 to the result.
- (9) The balance of an amount of super-deduction expenditure in respect of which a super-deduction is made after deducting that super-deduction is to be treated as nil for the purposes of section 58(5)(b) and (6) of CAA 2001 (allocation of balance of first-year qualifying expenditure to a pool).
- (10) In relation to the chargeable period in which the disposal event occurred, TDR (see section 55(1)(b) of CAA 2001) for the pool to which the relevant super-deduction expenditure was allocated is to be reduced by the relevant proportion of the disposal value of the plant or machinery.
- (11) Section 135(1) of CAA 2001 (claim for deferment of balancing charges) does not apply in relation to a disposal event in respect of a ship to which this section applies.
- (12) This section has effect in relation to disposals occurring on or after 1 April 2021.

13 Disposal of assets where SR allowance made U.K.

- (1) This section applies to plant or machinery in respect of which a person incurred SR allowance expenditure in a chargeable period (“the allowance period”) if an SR allowance was made in respect of some or all of that expenditure.
- (2) Where a disposal event occurs in relation to plant or machinery to which this section applies, the person who incurred relevant SR expenditure in respect of it is liable to a balancing charge for the chargeable period in which the event occurs (whether or not the person is also liable to any other balancing charge for that period).
- (3) The amount of the balancing charge is the relevant proportion of the disposal value of the plant or machinery (see sections 61 to 63 of CAA 2001 which, among other provisions of Part 2 of that Act, contain provision about disposal values).
- (4) The relevant proportion is determined by—
 - (a) dividing the amount of relevant SR allowance expenditure incurred in respect of the plant or machinery by 2, and
 - (b) dividing that amount by the amount of total relevant expenditure in relation to the plant or machinery.
- (5) For the purposes of this section—

SR allowance expenditure is “relevant” if an SR allowance was made in respect of it;

“total relevant expenditure” in relation to plant or machinery means the sum of the following expenditure incurred in respect of it—

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- (a) relevant SR allowance expenditure,
 - (b) any expenditure in respect of which any other first-year allowance was made, and
 - (c) any expenditure that is not relevant SR allowance expenditure that was allocated to a pool for any chargeable period (including for the period in which the disposal event occurs).
- (6) In relation to the chargeable period in which the disposal event occurred, TDR (see section 55(1)(b) of CAA 2001) for the pool to which the SR allowance expenditure in respect of the plant or machinery was allocated is to be reduced by the amount of the balancing charge.
- (7) Section 135(1) of CAA 2001 (claim for deferment of balancing charges) does not apply in relation to a disposal event in respect of a ship to which this section applies.
- (8) This section has effect in relation to disposals occurring on or after 1 April 2021.

14 Counteraction where arrangements are contrived etc **U.K.**

- (1) Any relevant tax advantage that would (in the absence of this section) be obtained as a result of relevant arrangements is to be counteracted by the making of such adjustments as are just and reasonable.
- (2) A tax advantage is “relevant” if that advantage is connected with a super-deduction or an SR allowance (for example, the obtaining of such a first-year allowance or the avoidance of a balancing charge under section 12 or 13).
- (3) Arrangements are “relevant” if—
- (a) the purpose, or one of the main purposes, of the arrangements is to obtain a relevant tax advantage, and
 - (b) it is reasonable, taking account of all the relevant circumstances—
 - (i) to conclude that the arrangements are, or include steps that are, contrived, abnormal or lacking a genuine commercial purpose, or
 - (ii) to regard the arrangements as circumventing the intended limits of relief under CAA 2001 or otherwise exploiting shortcomings in that Act.
- (4) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of—
- (a) an assessment,
 - (b) the modification of an assessment,
 - (c) amendment or disallowance of a claim (whether a claim for a first-year allowance or otherwise),
- or otherwise.
- (5) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
 - “tax advantage” is to be construed in accordance with section 577(4) of CAA 2001.
- (6) This section has effect in relation to any relevant arrangements entered into on or after 3 March 2021.

Changes to legislation:

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