

Balancing allowances and balancing charges. ITA67 s272(1) to (4), (5)(a) and (b) and (6) and definition of “scientific research allowance” in ITA67 s271; CTA76 s21(1) and Sch1 par28 and par29; FA94 s24(b); FA95 s25(1) 288.—(1) Subject to this section, where any of the following events occurs in the case of any machinery or plant in respect of which an initial allowance or a wear and tear allowance has been made for any chargeable period to a person carrying on a trade—

(a) any event occurring after the setting up and before the permanent discontinuance of the trade whereby the machinery or plant ceases to belong to the person carrying on the trade (whether on a sale of the machinery or plant or in any other circumstances of any description),

(b) any event occurring after the setting up and before the permanent discontinuance of the trade whereby the machinery or plant (while continuing to belong to the person carrying on the trade) permanently ceases to be used for the purposes of a trade carried on by the person,

(c) the permanent discontinuance of the trade, the machinery or plant not having previously ceased to belong to the person carrying on the trade,

(d) in the case of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software, any event whereby the person grants to another person a right to use or otherwise deal with the whole or part of the computer software concerned in circumstances where the consideration in money for the grant constitutes (or, if there were consideration in money for the grant, would constitute) a capital sum,

an allowance or charge (in this Chapter referred to as a “balancing allowance” or a “balancing charge”) shall, in the circumstances mentioned in this section, be made to or, as the case may be, on that person for the chargeable period related to that event.

(2) Where there are no sale, insurance, salvage or compensation moneys or where the amount of the capital expenditure of the person in question on the provision of the machinery or plant still unallowed as at the time of the event exceeds those moneys, a balancing allowance shall be made, and the amount of the allowance shall be the amount of the expenditure still unallowed as at that time or, as the case may be, of the excess of that expenditure still unallowed as at that time over those moneys.

(3) Where the sale, insurance, salvage or compensation moneys exceed the amount, if any, of that expenditure still unallowed as at the time of the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to—

(a) the excess, or

(b) where the amount still unallowed is nil, those moneys.

(4) (a) In this subsection, “scientific research allowance” means—

(i) in relation to any expenditure incurred before the 6th day of April, 1965, the total amount of any allowances made in respect of that expenditure under section 244 (3) of the Income Tax Act, 1967 , increased by the amount of any allowance made under section 244(4)(b) of that Act or, as the case may be, reduced by any amount treated as a trading receipt in accordance with section 244(4)(c) of that Act, and

(ii) in relation to any expenditure incurred on or after the 6th day of April, 1965, the amount of any allowance made in respect of that expenditure under subsection (1) or (2) of section 765, reduced by any amount treated as a trading receipt in accordance with section 765 (3)(a).

(b) Notwithstanding anything in subsection (3), in no case shall the amount on which a balancing charge is made on a person exceed the aggregate of the following amounts—

(i) the amount of the initial allowance, if any, made to the person in respect of the expenditure in question,

(ii) the amount of any wear and tear allowance made to the person in respect of the machinery or plant in question,

(iii) the amount of any scientific research allowance made to the person in respect of the expenditure, and

(iv) the amount of any balancing allowance previously made to the person in respect of the expenditure.

(5) (a) Where the aggregate amount of initial allowances and wear and tear allowances made to any person in respect of any machinery or plant exceeds the actual amount of the expenditure incurred by that person on the provision of that machinery or plant, the amount of such excess (in this paragraph referred to as “the excess amount”) shall, on the occurrence of an event within paragraph (a), (b), (c) or (d) of subsection (1), be deemed to be a payment of an equal amount received by that person on account of sale, insurance, salvage or compensation moneys and shall be added to any other such moneys received in respect of that machinery or plant, and a balancing charge shall be made and the amount on which it is made shall be an amount equal to—

(i) where there are no sale, insurance, salvage or compensation moneys, the excess amount, or

(ii) where there are sale, insurance, salvage or compensation moneys, the aggregate of such moneys and the excess amount.

(b) Where as respects any machinery or plant an event within paragraph (a), (b), (c) or (d) of subsection (1) is followed by another event within any of those paragraphs, any balancing allowance or balancing charge made to or on the person by virtue of the happening of the later event shall take account of any balancing allowance or balancing charge previously made to or on that person in respect of the expenditure incurred by the person on the provision of that machinery or plant.

(6) (a) Where—

(i) the sale, insurance, salvage or compensation moneys consist of a payment or payments to a person

under the scheme for compensation in respect of the decommissioning of fishing vessels implemented by the Minister for the Marine and Natural Resources in accordance with Council Regulation (EC) No. 3699/93 of 21 December 1993, 1 and

(ii) on account of the receipt by the person of such payment or payments, a balancing charge is to be made on the person for any chargeable period other than by virtue of paragraph (b),

then, the amount on which the balancing charge is to be made for that chargeable period shall be an amount equal to one-third of the amount (in this subsection referred to as "the original amount") on which the balancing charge would but for this subsection have been made.

(b) Notwithstanding paragraph (a), there shall be made on the person for each of the 2 immediately succeeding chargeable periods a balancing charge, and the amount on which that charge is made for each of those periods shall be an amount equal to one-third of the original amount.

1O.J. No. L 346, 31.12.1993, p.1.