

Balancing allowances and balancing charges: wear and tear allowances deemed to have been made in certain cases. ITA67 s279; CTA76 s21(1) and Sch1 par32 296.—(1) In determining whether any, and if so what, balancing allowance or balancing charge is to be made to or on any person for any chargeable period in taxing a trade, there shall be deemed to have been made to that person, for every previous chargeable period in which the machinery or plant belonged to that person and which is a chargeable period to be taken into account for the purpose of this section, such wear and tear allowance or greater wear and tear allowance, if any, in respect of the machinery or plant as would have been made to that person if all the conditions specified in subsection (3) had been fulfilled in relation to every such previous chargeable period.

(2) There shall be taken into account for the purposes of this section every previous chargeable period in which the machinery or plant belonged to the person and—

(a) during which the machinery or plant was not used by the person for the purposes of the trade,

(b) during which the trade was not carried on by the person,

(c) during which the trade was carried on by the person in such circumstances that, otherwise than by virtue of Chapter I of Part XXV of the Income Tax Act, 1967 , or Part V of the Corporation Tax Act, 1976 , the full amount of the profits or gains of the trade was not liable to be charged to tax,

(d) for which the whole or a part of the tax chargeable in respect of the profits of the trade was not payable by virtue of Chapter II of Part XXV of the Income Tax Act, 1967 , or

(e) for which the tax payable in respect of the profits of the trade was reduced by virtue of Chapter III or IV of Part XXV of the Income Tax Act, 1967 , or Part IV of the Corporation Tax Act, 1976 .

(3) The conditions referred to in subsection (1) are—

(a) that the trade had been carried on by the person in question since the date on which that person acquired the machinery or plant and had been so carried on by that person in such circumstances that the full amount of the profits or gains of the trade was liable to be charged to tax,

(b) that the trade had at no time consisted wholly or partly of exempted trading operations within the meaning of Chapter I of Part XXV of the Income Tax Act, 1967 , or Part V of the Corporation Tax Act, 1976 ,

(c) that the machinery or plant had been used by that person solely for the purposes of the trade since that date, and

(d) that a proper claim had been duly made by that person for wear and tear allowance in respect of the machinery or plant for every relevant chargeable period.

(4) In the case of a company (1)), subsection (3)(a) shall not alter the periods which are to be taken as chargeable periods but, if during any time after the 5th day of April, 1976, and after the company

acquired the machinery or plant, the company has not been within the charge to corporation tax, any year of assessment or part of a year of assessment falling within that time shall be taken as a chargeable period as if it had been an accounting period of the company.

(5) Nothing in this section shall affect section 288 (4).