

Wear and tear allowances deemed to have been made in certain cases. FA 1970 s 14(1),(2) and (3); CTA76 s21(1) and Sch1 par56; FA97 s146(1) and Sch9 Ptl par4 (1) 287.—(1) In this section—

“wear and tear allowance” means an allowance made under section 284 otherwise than by virtue of section 285;

“normal wear and tear allowance” means such wear and tear allowance or greater wear and tear allowance, if any, as would have been made to a person in respect of any machinery or plant used by such person during any chargeable period if all the conditions specified in subsection (3) had been fulfilled in relation to that chargeable period.

(2) Where for any chargeable period during which any machinery or plant has been used by a person no wear and tear allowance or a wear and tear allowance less than the normal wear and tear allowance is made to such person in respect of the machinery or plant, the normal wear and tear allowance shall be deemed for the purposes of subsections (3) and (4) of section 284 to have been made to such person in respect of the machinery or plant for that chargeable period.

(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 such person acquired the machinery or plant and had been so carried on by such 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 such person solely for the purposes of the trade since that date,

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

(e) that no question arose in connection with any chargeable period as to there being payable to such person directly or indirectly any sums in respect of, or taking account of, the wear and tear of the machinery or plant.

(4) In the case of a company, subsection (3)(a) shall not alter the periods which are to be taken as chargeable periods but if, during any time after the year 1975-76 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.