

Capital allowances: room ownership schemes. FA97 s24(1) to (3), (4)(a) and (b) and (5) 409.—(1) In this section—

“hotel investment” means capital expenditure incurred either on the construction of, or the acquisition of a relevant interest in, a building or structure which is to be regarded as an industrial building or structure within the meaning of subsection (1)(d) of section 268, other than a building or structure to which subsection (3) of that section relates;

“hotel partnership” includes any syndicate, group or pool of persons, whether or not a partnership, through or by means of which a hotel investment is made;

“market value” shall be construed in accordance with section 548;

“member”, in relation to a hotel partnership, includes every person who participates in that partnership or who has contributed capital, directly or indirectly, to that partnership;

“preferential terms”, in relation to the acquisition of an interest referred to in subsection (3)(a)(i), means terms under which such interest is acquired for a consideration which, at the time of the acquisition, is or may be other than its market value.

(2) This section is for the purpose of counteracting any room ownership scheme entered into in connection with a hotel investment by a hotel partnership.

(3) For the purposes of this section—

(a) a scheme shall be a room ownership scheme in connection with a hotel investment if, at the time a hotel investment is made by a hotel partnership, there exists any agreement, arrangement, understanding, promise or undertaking (whether express or implied and whether or not enforceable or intended to be enforceable by legal proceedings) under or by virtue of which any member of that hotel partnership, or a person connected with such member, may—

(i) acquire on preferential terms an interest in, or

(ii) retain for use other than for the purposes of the trade of hotel-keeping,

any room or rooms in, or any particular part of, the building or structure which is the subject of the hotel investment, and

(b) where a hotel investment is made by one or more than one member of a hotel partnership, it shall be deemed to be made by the hotel partnership.

(4) Subject to subsection (5), no allowance shall be made under Chapter 1 of Part 9 in respect of a hotel investment by a hotel partnership where, in connection with any such investment, there exists a room

ownership scheme.

(5) (a) Except where provided for in paragraph (b), this section shall apply to a hotel investment the capital expenditure in respect of which is incurred on or after the 26th day of March, 1997.

(b) This section shall not apply to a hotel investment if, before the 26th day of March, 1997, in respect of a building or structure which is the subject of such investment—

(i) a binding contract in writing was entered into for the construction of, or the acquisition of a relevant interest in, the building or structure, or

(ii) an application for planning permission for the construction of the building or structure was received by a planning authority.