

Farming; allowances for capital expenditure on construction of buildings and other works. FA74 s22(1) to (3) and (5) to (11); CTA76 s21(1) and Sch1 par70; FA83 s15; FA93 s34(2); FA94 s23 658.—(1) This section shall apply to any person carrying on farming, the profits or gains of which are chargeable to tax in accordance with section 655.

(2) (a) Where a person to whom this section applies incurs, for the purpose of a trade of farming land occupied by such person, any capital expenditure on the construction of farm buildings (excluding a building or part of a building used as a dwelling), fences, roadways, holding yards, drains or land reclamation or other works, there shall be made to such person during a writing-down period of 7 years beginning with the chargeable period related to that expenditure, writing-down allowances (in this section referred to as “farm buildings allowances”) in respect of that expenditure and such allowances shall be made in taxing the trade.

(b) As respects each of the first 6 years of the writing-down period, the farm buildings allowance to be made under this subsection shall be 15 per cent of the capital expenditure referred to in paragraph (a) and, as respects the last year of the writing-down period, the farm buildings allowance to be made under this subsection shall be 10 per cent of that expenditure.

(c) Where the capital expenditure referred to in paragraph (a) was incurred before the 27th day of January, 1994, this section shall apply subject to paragraph 23 of Schedule 32.

(3) For the purposes of the application to this section of section 321, “basis period” has the meaning assigned to it by section 306.

(4) Where for any year of assessment an individual is not chargeable to income tax in respect of profits or gains from farming in accordance with Chapter 3 of Part 4, and that year is a year of assessment in respect of which, if the individual had been so chargeable, he or she could have claimed a farm buildings allowance under this section, that allowance shall for the purposes of this section be deemed to have been made for that year of assessment and shall not be carried forward and set off against profits or gains chargeable for any subsequent year of assessment.

(5) Any capital expenditure incurred by a person about to carry on farming but before commencing farming shall for the purposes of this section be treated as if it had been incurred on the first day on which the person commences farming.

(6) Any claim for a farm buildings allowance to be made to a person under this section shall be included in the annual statement required to be delivered by the person under the Income Tax Acts of the profits or gains from farming, and section 304 (4) shall apply in relation to the allowance as it applies in relation to allowances to be made under Part 9.

(7) Any claim for a farm buildings allowance under this section shall be made to and determined by the inspector, but any person aggrieved by any decision of the inspector on any such claim may, on giving notice in writing to the inspector within 21 days after the notification to that person of the decision, appeal to the Appeal Commissioners.

(8) The Appeal Commissioners shall hear and determine an appeal to them made under subsection (7) as if it were an appeal against an assessment to tax, and the provisions of the Income Tax Acts relating to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law shall apply accordingly with any necessary modifications.

(9) Subject to subsection (10), where a person who is entitled to a farm buildings allowance under this section in respect of capital expenditure incurred for the purpose of farming farm land transfers such person's interest in that farm land or any part of that farm land to another person, that other person shall, to the exclusion of the first-mentioned person, be entitled to the allowances under this section for the chargeable periods following the chargeable period in which the transfer of interest took place.

(10) Where the transfer of interest to which subsection (9) refers takes place in relation to part of the farm land, subsection (9) shall apply to so much of the allowance as is properly referable to that part of the land as if it were a separate allowance.

(11) Where expenditure is incurred partly for the purposes of farming and partly for other purposes, subsection (2) shall apply to so much only of that expenditure as on a just apportionment ought fairly to be treated as incurred for the purposes of farming.

(12) No farm buildings allowance shall be made by virtue of this section in respect of any expenditure if for the same or any other chargeable period an allowance is or has been made in respect of that expenditure under Chapter 1 of Part 9.

(13) Expenditure shall not be regarded for the purposes of this section as having been incurred by a person in so far as it has been or is to be met directly or indirectly by the State or by any person other than the first-mentioned person.