

Restriction on tax incentives on property investment. FA91 s24 408.—(1) In this section—

“property investment scheme” means any scheme or arrangement made for the purpose, or having the effect, of providing facilities, whether promoted by means of public advertisement or otherwise, for the public or a section of the public to share, either directly or indirectly and whether as beneficiaries under a trust or by any other means, in income or gains arising or deriving from the acquisition, holding or disposal of, or of an interest in, a building or structure or a part of a building or structure, but does not include a scheme or arrangement as respects which the Revenue Commissioners or, on appeal, the Appeal Commissioners, having regard to such information as may be produced to them, are of the opinion that—

(a) the manner in which persons share in the income or gains, and

(b) the number of persons who so share,

are in accordance with a practice which commonly prevailed in the State during the period of 5 years ending immediately before the 30th day of January, 1991, for the sharing of such income or gains by persons resident in the State and such that the persons so sharing qualified for relief under section 305 (1)(b) or 308 (4);

“specified interest” means an interest in or deriving from a building or structure held by a person pursuant to a property investment scheme.

(2) Where a person holds a specified interest, then, as respects expenditure incurred or deemed to be incurred on or after the 30th day of January, 1991, sections 305 (1)(b) and 308 (4) shall not apply as respects an allowance under section 271 or 272 which is to be made to the person by reason of the holding by the person of the specified interest.

(3) The Appeal Commissioners shall hear and determine an appeal made to them under this section as if it were an appeal against an assessment to income 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.