

Rented residential accommodation: deduction for certain expenditure on refurbishment. FA96 s68; FA97 s146(1) and Sch9 Ptl par20 363.—(1) In this section—

“qualifying lease”, in relation to a house, means, subject to section 365 (1), a lease of the house the duration of which is not less than 12 months and the consideration for the grant of which consists—

(a) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

(b) of payments of the kind mentioned in paragraph (a), together with a payment by means of a premium—

(i) which is payable on or subsequent to the date of the completion of the refurbishment to which the relevant expenditure relates or which, if payable before that date, is so payable by reason of or otherwise in connection with the carrying out of the refurbishment, and

(ii) which does not exceed 10 per cent of the market value of the house on the date of completion of the refurbishment to which the relevant expenditure relates and, in the case of a house which is part of a building and is not saleable apart from the building of which it is a part, the market value of the house on that date shall for the purposes of this subparagraph be taken to be an amount which bears to the market value of the building on that date the same proportion as the total floor area of the house bears to the total floor area of the building;

“qualifying premises” means, subject to subsections (2), (3)(b) and (4) of section 365, a house—

(a) which is used solely as a dwelling,

(b) the total floor area of which—

(i) is not less than 30 square metres and not more than 125 square metres in the case where the house is a separate self-contained flat or maisonette in a building of 2 or more storeys, or

(ii) in any other case, is not less than 35 square metres and not more than 125 square metres,

(c) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of refurbishment in relation to the house is not less than the relevant expenditure actually incurred on such refurbishment, and

(d) which on the date of completion of the refurbishment to which the relevant expenditure relates is let (or, if not let on that date, is, without having been used after that date, first let) in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

“refurbishment”, in relation to a building, means either or both of the following—

- (a) the carrying out of any works of construction, reconstruction, repair or renewal, and
- (b) the provision or improvement of water, sewerage or heating facilities,

where the carrying out of such works or the provision of such facilities is certified by the Minister for the Environment and Local Government, in any certificate of reasonable cost granted by that Minister in relation to any house contained in the building, to have been necessary for the purposes of ensuring the suitability as a dwelling of any house in the building and whether or not the number of houses in the building, or the shape or size of any such house, is altered in the course of such refurbishment;

“relevant expenditure” means expenditure incurred on the refurbishment of a specified building, other than expenditure attributable to any part (in this section referred to as a “non-residential unit”) of the building which on completion of the refurbishment is not a house, and for the purposes of this definition where expenditure is attributable to the specified building in general (and not directly to any particular house or non-residential unit comprised in the building on completion of the refurbishment), such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building;

“relevant period”, in relation to a qualifying premises, means the period of 10 years beginning on the date of the completion of the refurbishment to which the relevant expenditure relates or, if the premises was not let under a qualifying lease on that date, the period of 10 years beginning on the date of the first such letting after the date of such completion;

“specified building” means a building—

- (a) the site of which is on a designated island,
- (b) in which before the refurbishment to which the relevant expenditure relates there is one or more than one house, and
- (c) which on completion of that refurbishment contains (whether in addition to any non-residential unit or not) one or more than one house.

(2) Subject to subsection (3), where a person, having made a claim in that behalf, proves to have incurred relevant expenditure in relation to a house which is a qualifying premises—

(a) such person shall be entitled, in computing for the purposes of section 97 (1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of the expenditure as is to be treated under section 365 (5) or under this section as having been incurred by such person in the qualifying period, and

(b) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97 (2).

(3) (a) This subsection shall apply to any premium or other sum which—

(i) is payable, directly or indirectly, under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor, and

(ii) is payable on or subsequent to the date of completion of the refurbishment to which the relevant expenditure relates or, if payable before that date, is so payable by reason of or otherwise in connection with the carrying out of the refurbishment.

(b) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes section 97, the relevant expenditure to be treated as having been incurred in the qualifying period in relation to the qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (2) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the relevant expenditure actually incurred in relation to the qualifying premises which is to be treated under section 365 (5) as having been incurred in the qualifying period bears to the whole of the relevant expenditure incurred in relation to the qualifying premises.

(4) Where a qualifying premises forms a part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the relevant expenditure incurred on that building or those buildings for the purposes of determining the relevant expenditure incurred in relation to the qualifying premises.

(5) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs—

(a) the house ceases to be a qualifying premises, or

(b) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

then, the person who before the occurrence of the event received or was entitled to receive a deduction under subsection (2) in respect of relevant expenditure incurred in relation to the qualifying premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from the qualifying premises equal to the amount of the deduction.

(6) Where the event mentioned in subsection (5)(b) occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of

relevant expenditure in relation to the house equal to the amount of the relevant expenditure which under section 365 (5) or under this section (apart from subsection (3)(b)) the lessor was treated as having incurred in the qualifying period in relation to the house; but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

(a) the net price paid by such person on the purchase, or

(b) in case only a part of the relevant expenditure incurred in relation to the house is to be treated under section 365 (5) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the relevant expenditure incurred in relation to the house.

(7) Where relevant expenditure is incurred in relation to a house and before the house is used subsequent to the incurring of that expenditure it is sold, the person who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period relevant expenditure in relation to the house equal to the lesser of—

(a) the amount of such expenditure which is to be treated under section 365 (5) as having been incurred in the qualifying period, and

(b) (i) the net price paid by such person on the purchase, or

(ii) in case only a part of the relevant expenditure incurred in relation to the house is to be treated under section 365 (5) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the relevant expenditure incurred in relation to the house;

but, where the house is sold more than once before it is used subsequent to the incurring of the relevant expenditure in relation to the house, this subsection shall apply only in relation to the last of those sales.

(8) This section shall not apply in the case of any refurbishment unless planning permission, in so far as it is required, in respect of the work carried out in the course of the refurbishment has been granted under the Local Government (Planning and Development) Acts, 1963 to 1993.

(9) Expenditure in respect of which a person is entitled to relief under this section shall not include any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts.

(10) Section 365 shall apply for the purposes of supplementing this section.