

PART 9 Principal Provisions Relating to Relief for Capital Expenditure

CHAPTER 1 Industrial buildings or structures: industrial building allowances, writing-down allowances, balancing allowances and balancing charges

Meaning of “industrial building or structure”. ITA67 s255(1) to (5), s257 and s263(4); FA69 s64(1), (2) and (5), FA75 s34(1) and (3); FA84 s36; FA92 s27; FA96 s29 268.—(1) In this Part, “industrial building or structure” means a building or structure in use—

(a) for the purposes of a trade carried on in—

(i) a mill, factory or other similar premises, or

(ii) a laboratory the sole or main function of which is the analysis of minerals (including oil and natural gas) in connection with the exploration for, or the extraction of, such minerals,

(b) for the purposes of a dock undertaking,

(c) for the purposes of growing fruit, vegetables or other produce in the course of a trade of market gardening within the meaning of section 654,

(d) for the purposes of the trade of hotel-keeping,

(e) for the purposes of the intensive production of cattle, sheep, pigs, poultry or eggs in the course of a trade other than the trade of farming within the meaning of section 654, or

(f) for the purposes of a trade which consists of the operation or management of an airport and which is an airport runway or an airport apron used solely or mainly by aircraft carrying passengers or cargo for hire or reward,

and in particular, in relation to capital expenditure incurred on or after the 6th day of April, 1969, includes any building or structure provided by the person carrying on such a trade or undertaking for the recreation or welfare of workers employed in that trade or undertaking and in use for that purpose.

(2) In this section, “dock” includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers, not being a pier or jetty primarily used for recreation, and “dock undertaking” shall be construed accordingly.

(3) For the purpose of this Part, a building or structure in use as a holiday camp or, in relation to capital expenditure incurred on or after the 1st day of July, 1968, a building or structure in use as a holiday cottage and comprised in premises registered in any register of holiday cottages established by Bord Fáilte Éireann under any Act of the Oireachtas passed on or after the 29th day of July, 1969, shall be deemed to be a building or structure in use for the purposes of the trade of hotel-keeping.

(4) Where capital expenditure is incurred on preparing, cutting, tunnelling or levelling land for the purposes of preparing the land as a site for the installation of machinery or plant, the machinery or plant shall, as regards that expenditure, be treated for the purposes of this Chapter as a building or structure.

(5) For the purposes of this Part, expenditure incurred by a person on or after the 23rd day of April, 1996, either on the construction of, or on the acquisition of the relevant interest in, a building or structure not situated in the State shall not be treated as expenditure on a building or structure within the meaning of this section unless, being a building or structure not situated in the State—

(a) it is a building or structure which is to be constructed or which is in the course of construction and in respect of which it can be shown that—

(i) the person has either entered into a binding contract in writing for the acquisition of the site for the building or structure or has entered into an agreement in writing in relation to an option to acquire that site on or before the 23rd day of April, 1996,

(ii) the person has entered into a binding contract in writing for the construction of the building or structure on or before the 1st day of July, 1996, and

(iii) the construction of the building or structure had commenced on or before the 1st day of July, 1996, and had been completed before the 31st day of December, 1997,

and

(b) it is a building or structure to be constructed or which is being constructed which will be used for the purposes of a trade the profits or gains from which are taxable in the State.

(6) Subsection (1) shall apply in relation to a part of a trade as it applies in relation to a trade but, where part only of a trade complies with the conditions set out in that subsection, a building or structure shall not by virtue of this subsection be an industrial building or structure unless it is in use for the purposes of that part of that trade.

(7) (a) In this subsection, “retail shop” includes any premises of a similar character where retail trade or business (including repair work) is carried on.

(b) Notwithstanding anything in subsections (1) to (6) but subject to subsection (8), in this Part, “industrial building or structure” does not include any building or structure in use as, or as part of, a dwelling house (other than a holiday cottage referred to in subsection (3)), retail shop, showroom or office or for any purpose ancillary to the purposes of a dwelling house (other than a holiday cottage referred to in subsection (3)), retail shop, showroom or office.

(8) Where part of the whole of a building or structure is, and part of the whole of the building or structure is not, an industrial building or structure, and the capital expenditure incurred on the construction of the second-mentioned part is not more than 10 per cent of the total capital expenditure incurred on the construction of the whole building or structure, the whole building or structure and every

part of the whole of the building or structure shall be treated as an industrial building or structure.

(9) Subsection (1) shall apply—

(a) by reference to paragraph (a)(ii), as respects capital expenditure incurred on or after the 25th day of January, 1984,

(b) by reference to paragraph (e), as respects capital expenditure incurred on or after the 6th day of April, 1971, and

(c) by reference to paragraph (f), as respects capital expenditure incurred on or after the 24th day of April, 1992.