

Balancing allowances and balancing charges. ITA67 s265; FA69 s64(3) and (4); FA75 s34(2)(a)(iii); CTA76 s21(1) and Sch1 pars24 and 72; FA80 s58; FA88 s45 and s51(1)(d) and (5); FA90 s78; FA94 s22(1)(d) and (2); FA95 s24; FA96 s28(2); FA97 s23(1)(a) and (2) 274.—(1) (a) Where any capital expenditure has been incurred on the construction of a building or structure in respect of which an allowance has been made under this Chapter, and any of the following events occurs—

(i) the relevant interest in the building or structure is sold,

(ii) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled to the leasehold interest acquiring the interest which is reversionary on the leasehold interest,

(iii) the building or structure is demolished or destroyed or, without being demolished or destroyed, ceases altogether to be used, or

(iv) subject to subsection (2), where consideration ) is received by the person entitled to the relevant interest in respect of an interest which is subject to that relevant interest,

an allowance or charge (in this Chapter referred to as a “balancing allowance” or a “balancing charge”) shall, in the circumstances mentioned in this section, be made to or on, as the case may be, the person entitled to the relevant interest immediately before that event occurs, for the chargeable period related to that event.

(b) Notwithstanding paragraph (a), no balancing allowance or balancing charge shall be made by reason of any event referred to in that paragraph occurring more than—

(i) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (a) or (b) of section 268 (1)—

(I) 50 years after the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure was incurred before the 16th day of January, 1975, or

(II) 25 years after the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure is incurred on or after the 16th day of January, 1975,

(ii) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (c) or (e) of section 268 (1), 10 years after the building or structure was first used,

(iii) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268 (1)(d), other than a building or structure to which subparagraph

(iv) relates—

(I) 10 years after the building or structure was first used, in the case where the capital expenditure

on the construction of the building or structure was incurred before the 27th day of January, 1994, or

(II) 7 years after the building or structure was first used, in the case where the capital expenditure on the construction of the building or structure is incurred on or after the 27th day of January, 1994,

(iv) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268 (1)(d) by reason of its use as a holiday cottage, 10 years after the building or structure was first used, and

(v) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268 (1)(f), 25 years after the building or structure was first used.

(2) Subsection (1)(a)(iv) shall not apply as respects the relevant interest in a building or structure in use for the purposes of a trade or part of a trade of hotel-keeping where a binding contract for the provision of the building or structure was entered into after the 27th day of January, 1988, and before the 1st day of June, 1988.

(3) Where there are no sale, insurance, salvage or compensation moneys, or consideration of the type referred to in subsection (1)(a)(iv), or where the residue of the expenditure immediately before the event exceeds those moneys or that consideration, a balancing allowance shall be made, and the amount of that allowance shall be the amount of that residue or, as the case may be, of the excess of that residue over those moneys or that consideration.

(4) Where the sale, insurance, salvage or compensation moneys, or consideration of the type referred to in subsection (1)(a)(iv), exceed the residue, if any, of the expenditure immediately before the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to the excess or, where the residue is nil, to those moneys or that consideration.

(5) (a) In this subsection, “the relevant period” means the period beginning when the building or structure was first used for any purpose and ending—

(i) if the event giving rise to the balancing allowance or balancing charge occurs on the last day of a chargeable period or its basis period, on that day, or

(ii) in any other case, on the latest date before that event which is the last day of a chargeable period or its basis period;

but where before that event the building or structure has been sold while an industrial building or structure, the relevant period shall begin on the day following that sale or, if there has been more than one such sale, the last such sale.

(b) Where a balancing allowance or a balancing charge is to be made to or on a person, and any part of the relevant period is not comprised in a chargeable period for which a writing-down allowance has been made to such person or is not comprised in the basis period for such chargeable period, the amount of the balancing allowance or, as the case may be, the amount on which the balancing charge is to be made shall be

reduced in the proportion which the part or parts so comprised bears to the whole of the relevant period.

(c) Notwithstanding paragraph (b), where but for section 272 (6) or 321 (5) a writing-down allowance would have been made to a person for any chargeable period, the part of the relevant period comprised in that chargeable period or its basis period shall be deemed for the purposes of this subsection to be comprised in a chargeable period for which a writing-down allowance was made to the person.

(6) Where a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268 (1)(d) by reason of its use as a holiday cottage ceases to be comprised in premises registered in a register referred to in section 268 in such circumstances that apart from this subsection this section would not apply in relation to the building or structure, the relevant interest in the building or structure shall for the purposes of this Chapter (4)) be deemed on such cesser to have been sold while the building or structure was an industrial building or structure and the net proceeds of the sale shall be deemed for those purposes to be an amount equal to the capital expenditure incurred on the construction of the building or structure.

(7) Where a balancing charge is made under this section by virtue of subsection (6) and the relevant interest in the building or structure is not subsequently sold by the person on whom the charge is made while the building or structure is not an industrial building or structure, such person shall, if the building or structure again becomes comprised in a premises registered in a register referred to in section 268, be treated for the purposes of this Chapter as if, at the time of the cesser referred to in subsection (6), such person were the buyer of the relevant interest deemed under that subsection to have been sold.

(8) Notwithstanding any other provision of this section, in no case shall the amount on which a balancing charge is made on a person in respect of any expenditure on the construction of a building or structure exceed the amount of the industrial building allowance, if any, made to such person in respect of that expenditure together with the amount of any writing-down allowances made to such person in respect of that expenditure for chargeable periods which end on or before the date of the event giving rise to the charge or, as the case may be, for chargeable periods for which the basis periods end on or before that date.