

Capital allowances for buildings used for third level educational purposes. FA97 s25 843.—(1) In this section—

“approved institution” means an institution in the State in receipt of public funding which provides courses to which a scheme approved by the Minister for Education and Science under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992, applies;

“qualifying expenditure” means capital expenditure incurred on—

(a) the construction of a qualifying premises, or

(b) the provision of machinery or plant,

which, following receipt of the advice of An tÚdarás, is approved for that purpose by the Minister for Education and Science with the consent of the Minister for Finance;

“qualifying premises” means a building or structure which—

(a) apart from this section is not an industrial building or structure within the meaning of section 268, and

(b) (i) is in use for the purposes of third level education provided by an approved institution,

(ii) is let to an approved institution on bona fide commercial terms for such consideration as might be expected to be paid in a letting of the building or structure which was negotiated on an arm's length basis, but does not include any part of a building or structure in use as or as part of a dwelling-house;

“An tÚdarás” means the Body established by section 2 of the Higher Education Authority Act, 1971 .

(2) Subject to subsections (3) to (7), the provisions of the Tax Acts (2)) relating to the making of allowances or charges in respect of capital expenditure incurred on the construction of an industrial building or structure shall, notwithstanding anything to the contrary in those provisions, apply in relation to qualifying expenditure on a qualifying premises—

(a) as if the qualifying premises were, at all times at which it is a qualifying premises, a building or structure in respect of which an allowance is to be made for the purposes of income tax or corporation tax, as the case may be, under Part 9 by reason of its use for a purpose specified in section 268 (1) (a), and

(b) where any activity carried on in the qualifying premises is not a trade, as if it were a trade.

(3) In relation to qualifying expenditure on a qualifying premises section 272 shall apply as if—

(a) in subsection (3) (a) (ii) of that section the reference to 4 per cent were a reference to 15 per

cent, and

(b) in subsection (4) (a) (ii) of that section the reference to 25 years were a reference to 7 years.

(4) No allowance shall be made under subsection (2) unless, before the commencement of construction of a qualifying premises, the Minister for Finance certifies that—

(a) an approved institution has procured or otherwise secured a sum of money, none of which has been met directly or indirectly by the State, which sum is not less than 50 per cent of the qualifying expenditure to be incurred on the qualifying premises, and

(b) such sum is to be used solely by the approved institution for the following purposes—

(i) paying interest on money borrowed for the purpose of funding the construction of the qualifying premises,

(ii) paying any rent on the qualifying premises during such times as the qualifying premises is the subject of a letting on such terms as are referred to in paragraph (b) (ii) of the definition of “qualifying premises”, and

(iii) purchasing the qualifying premises following the termination of the letting referred to in subparagraph (ii).

(5) Notwithstanding section 274 (1), no balancing charge shall be made in relation to a qualifying premises by reason of any of the events specified in that section which occurs more than 7 years after the qualifying premises was first used.

(6) This section shall come into operation on the 1st day of July, 1997.

(7) The Minister for Finance may not give a certificate under subsection (4) at any time later than the 1st day of July, 2000.