

Capital allowances in relation to construction or refurbishment of certain commercial premises. FA97 s149  
332.—(1) In this section—

“multi-storey car park” means a building or structure consisting of 3 or more storeys wholly or mainly in use for the purpose of providing, for members of the public generally without preference for any particular class of person, on payment of an appropriate charge, parking space for mechanically propelled vehicles;

“qualifying premises” means a building or structure which—

(a) (i) is constructed in the Temple Bar Area in the qualifying period, or

(ii) is an existing building or structure in the Temple Bar Area as on the 1st day of January, 1991, and is the subject of refurbishment in the qualifying period,

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

(c) (i) is in use for the purposes of a trade or profession, or

(ii) whether or not it is so used, is let on bona fide commercial terms for such consideration as might be expected to be paid in a letting of the building or structure 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.

(2) (a) Subject to subsections (3) to (8), the provisions of the Tax Acts relating to the making of allowances or charges in respect of capital expenditure incurred on the construction or refurbishment of an industrial building or structure shall, notwithstanding anything to the contrary in those provisions, apply—

(i) as if a 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 Chapter 1 of Part 9 by reason of its use for a purpose specified in section 268 (1)(a), and

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

(b) An allowance shall be given by virtue of this subsection in respect of any capital expenditure incurred on the construction or refurbishment of a qualifying premises only in so far as that expenditure is incurred in the qualifying period.

(3) Section 271 shall apply in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying premises as if—

- (a) in subsection (1) of that section the definition of “industrial development agency” were deleted,
- (b) in subsection (2)(a)(i) of that section “to which subsection (3) applies” were deleted,
- (c) subsections (3) and (5) of that section were deleted, and
- (d) the following subsection were substituted for subsection (4) of that section:

“(4) An industrial building allowance shall be of an amount equal to 50 per cent of the capital expenditure mentioned in subsection (2).”.

(4) Section 273 shall apply in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying premises as if—

(a) in subsection (1) of that section the definition of “industrial development agency” were deleted, and

(b) subsections (2)(b) and (3) to (7) of that section were deleted.

(5) For the purposes of this section, where capital expenditure is incurred in the qualifying period on the refurbishment of a qualifying premises, such expenditure shall be deemed to include the lesser of—

(a) any expenditure incurred on the purchase of the building or structure, other than expenditure incurred on the acquisition of, or of rights in or over, any land, and

(b) an amount which is equal to the value of the building or structure as on the 1st day of January, 1991, other than any amount of such value as is attributable to, or to rights in or over, any land,

if the expenditure referred to in paragraph (a) or the amount referred to in paragraph (b), as the case may be, is not greater than the amount of the capital expenditure actually incurred in the qualifying period on the refurbishment of the qualifying premises.

(6) 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—

(a) more than 13 years after the qualifying premises was first used, or

(b) in a case where section 276 applies, more than 13 years after the capital expenditure on refurbishment of the qualifying premises was incurred.

(7) (a) Notwithstanding subsections (2) to (4), any allowance or charge which apart from this subsection would be made by virtue of subsection (2) in respect of capital expenditure incurred on the construction of a qualifying premises, other than a qualifying premises which is a multi-storey car park, shall be reduced to one-half of the amount which apart from this subsection would be the amount of that allowance or charge.

(b) For the purposes of paragraph (a), the amount of an allowance or charge to be reduced to one-half shall be computed as if—

(i) this subsection had not been enacted, and

(ii) effect had been given to all allowances taken into account in so computing that amount.

(c) Nothing in this subsection shall affect the operation of section 274 (8).

(8) For the purposes only of determining, in relation to a claim for an allowance by virtue of subsection (2), whether and to what extent capital expenditure incurred on the construction or refurbishment of a qualifying premises is incurred or not incurred in the qualifying period, only such an amount of that capital expenditure as is properly attributable to work on the construction or, as the case may be, refurbishment of the premises actually carried out during the qualifying period shall (notwithstanding any other provision of the Tax Acts as to the time when any capital expenditure is or is to be treated as incurred) be treated as having been incurred in that period; but nothing in this subsection shall affect the operation of subsection (5).

(9) Where, in relation to capital expenditure incurred in the qualifying period on the construction or refurbishment of a qualifying premises, any allowance or charge has been made under the provisions of the Tax Acts relating to the making of allowances and charges in respect of capital expenditure incurred on the construction or refurbishment of an industrial building or structure by virtue of section 42 of the Finance Act, 1986 , as applied by section 55 of the Finance Act, 1991 , that allowance or charge shall be deemed to have been made under those provisions by virtue of this section.