

Capital allowances in relation to construction of certain commercial premises. FA86 s42(1), (2), proviso to (4), and (7); FA92 s29(b)(ii); FA93 s30(1)(a)(ii); FA95 s32(1)(b) 323.—(1) In this section, “qualifying premises” means a building or structure the site of which is wholly within the Custom House Docks Area and which—

(a) apart from this section is not an industrial building or structure within the meaning of section 268 (1), and

(b) (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 building or structure in use as or as part of a dwelling house.

(2) (a) Subject to subsections (3) to (5), the provisions of the Tax Acts 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—

(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 of a qualifying premises only in so far as that expenditure is incurred in the specified period.

(3) (a) For the purposes of the application, by subsection (2), of sections 271 and 273 in relation to capital expenditure incurred in the specified period on the construction of a qualifying premises—

(i) section 271 shall apply as if—

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

(II) in subsection (2)(a)(i) of that section “to which subsection (3) applies” were deleted,

(III) subsections (3) and (5) of that section were deleted, and

(IV) 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).”,

and

(ii) section 273 shall apply as if—

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

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

(b) Notwithstanding paragraph (a), as respects any capital expenditure incurred on or after the 25th day of January, 1998, on the construction of any qualifying premises—

(i) any allowance made under section 272 and increased under section 273 (2)(a) in respect of that expenditure, whether claimed for one chargeable period or more than one such period, shall not in the aggregate exceed 54 per cent of the amount of that expenditure, and

(ii) where any allowance made under section 272 in respect of that expenditure is increased under section 273 for any chargeable period, no allowance shall be made in respect of that expenditure under section 271.

(4) 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.

(5) 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 of a qualifying premises is incurred in the specified period, only such an amount of that capital expenditure as is determined by the inspector, according to the best of the inspector's knowledge and judgment, to be properly attributable to work on the construction of the premises actually carried out during the specified 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, and any amount which by virtue of this subsection is determined by the inspector may be amended by the Appeal Commissioners or by the Circuit Court on the hearing or the rehearing of an appeal against that determination.