

Rented residential accommodation: deduction for certain expenditure on conversion. FA97 s152 335.—(1) In this section—

“conversion expenditure” means, subject to subsection (2), expenditure incurred on—

(a) refurbishment in the course of the conversion into a house of a building in the Temple Bar Area which has not been previously in use as a dwelling, and

(b) refurbishment in the course of the conversion into 2 or more houses of a building in the Temple Bar Area which before the conversion had not been in use as a dwelling or had been in use as a single dwelling,

and references in this section and in section 338 to “conversion”, “conversion into a house” and “expenditure incurred on conversion” shall be construed accordingly;

“qualifying lease”, in relation to a house, means, subject to section 338 (2), a lease of the house the consideration for the grant of which consists—

(a) solely of periodic payments all of which are or are to be treated as rent for the purposes of Chapter 8 of Part 4, or

(b) of payments of the kind mentioned in paragraph (a), together with a payment by means of a premium which does not exceed 10 per cent of the market value of the house at the time the conversion is completed and, in the case of a house which is a part of a building and is not saleable apart from the building of which it is a part, the market value of the house at the time the conversion is completed shall for the purposes of this paragraph be taken to be an amount which bears to the market value of the building at that time the same proportion as the total floor area of the house bears to the total floor area of the building;

“qualifying premises” means, subject to subsections (3), (4)(b) and (5) of section 338, a house—

(a) which is used solely as a dwelling,

(b) the total floor area of which—

(i) is not less than 30 square metres and not more than—

(I) 125 square metres, or

(II) as respects expenditure incurred before the 26th day of January, 1994, 90 square metres,

in the case where the house is a separate self-contained flat or maisonette in a building of 2 or more storeys, or

(ii) in any other case, is not less than 35 square metres and not more than 125 square metres,

(c) in respect of which there is in force a certificate of reasonable cost the amount specified in which in respect of the cost of conversion in relation to the house is not less than the expenditure actually incurred on such conversion, and

(d) which without having been used subsequent to the incurring of the expenditure on the conversion is first let in its entirety under a qualifying lease and thereafter throughout the remainder of the relevant period (except for reasonable periods of temporary disuse between the ending of one qualifying lease and the commencement of another such lease) continues to be let under such a lease;

“relevant period”, in relation to a qualifying premises, means the period of 10 years beginning on the date of the first letting of the premises under a qualifying lease.

(2) For the purposes of this section, expenditure incurred on the conversion of a building shall be deemed to include expenditure incurred in the course of the conversion on either or both of the following—

(a) the carrying out of any works of construction, reconstruction, repair or renewal, and

(b) the provision or improvement of water, sewerage or heating facilities,

in relation to the building or any outoffice appurtenant to or usually enjoyed with the building, but shall not be deemed to include—

(i) any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts, or

(ii) any expenditure attributable to any part (in this section referred to as a “non-residential unit”) of the building which on completion of the conversion is not a house.

(3) For the purposes of subsection (2)(ii), where expenditure is attributable to a building in general and not directly to any particular house or non-residential unit comprised in the building on completion of the conversion, such an amount of that expenditure shall be deemed to be attributable to a non-residential unit as bears to the whole of that expenditure the same proportion as the total floor area of the non-residential unit bears to the total floor area of the building.

(4) Subject to subsection (5), where a person, having made a claim in that behalf, proves to have incurred conversion expenditure in relation to a house which is a qualifying premises—

(a) such person shall be entitled, in computing for the purposes of section 97 (1) the amount of a surplus or deficiency in respect of the rent from the qualifying premises, to a deduction of so much (if any) of the expenditure as is to be treated under section 338 (7) or under this section as having been incurred by such person in the qualifying period, and

(b) Chapter 8 of Part 4 shall apply as if that deduction were a deduction authorised by section 97 (2).

(5) (a) This subsection shall apply to any premium or other sum which is payable, directly or

indirectly, under a qualifying lease or otherwise under the terms subject to which the lease is granted, to or for the benefit of the lessor or to or for the benefit of any person connected with the lessor.

(b) Where any premium or other sum to which this subsection applies, or any part of such premium or such other sum, is not or is not treated as rent for the purposes of section 97, the conversion expenditure to be treated as having been incurred in the qualifying period in relation to the qualifying premises to which the qualifying lease relates shall be deemed for the purposes of subsection (4) to be reduced by the lesser of—

(i) the amount of such premium or such other sum or, as the case may be, that part of such premium or such other sum, and

(ii) the amount which bears to the amount mentioned in subparagraph (i) the same proportion as the amount of the conversion expenditure actually incurred in relation to the qualifying premises which is to be treated under section 338 (7) as having been incurred in the qualifying period bears to the whole of the conversion expenditure incurred in relation to the qualifying premises.

(6) Where a qualifying premises forms a part of a building or is one of a number of buildings in a single development, or forms a part of a building which is itself one of a number of buildings in a single development, there shall be made such apportionment as is necessary of the expenditure incurred on the conversion of that building or those buildings for the purposes of determining the conversion expenditure incurred in relation to the qualifying premises.

(7) Where a house is a qualifying premises and at any time during the relevant period in relation to the premises either of the following events occurs—

(a) the house ceases to be a qualifying premises, or

(b) the ownership of the lessor's interest in the house passes to any other person but the house does not cease to be a qualifying premises,

then, the person who before the occurrence of the event received or was entitled to receive a deduction under subsection (4) in respect of conversion expenditure incurred in relation to the qualifying premises shall be deemed to have received on the day before the day of the occurrence of the event an amount as rent from the qualifying premises equal to the amount of the deduction.

(8) Where the event mentioned in subsection (7)(b) occurs in the relevant period in relation to a house which is a qualifying premises, the person to whom the ownership of the lessor's interest in the house passes shall be treated for the purposes of this section as having incurred in the qualifying period an amount of conversion expenditure in relation to the house equal to the amount of the conversion expenditure which under section 338 (7) or under this section (apart from subsection (5)(b)) the lessor was treated as having incurred in the qualifying period in relation to the house; but, in the case of a person who purchases such a house, the amount so treated as having been incurred by such person shall not exceed—

(a) the net price paid by such person on the purchase, or

(b) in case only a part of the conversion expenditure incurred in relation to the house is to be treated under section 338 (7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the conversion expenditure incurred in relation to the house.

(9) Where conversion expenditure is incurred in relation to a house and before the house is used subsequent to the incurring of that expenditure it is sold, the person who purchases the house shall be treated for the purposes of this section as having incurred in the qualifying period conversion expenditure in relation to the house equal to the lesser of—

(a) the amount of such expenditure which is to be treated under section 338 (7) as having been incurred in the qualifying period, and

(b) (i) the net price paid by such person on the purchase, or

(ii) in case only a part of the conversion expenditure incurred in relation to the house is to be treated under section 338 (7) as having been incurred in the qualifying period, the amount which bears to that net price the same proportion as that part bears to the whole of the conversion expenditure incurred in relation to the house;

but, where the house is sold more than once before it is used subsequent to the incurring of the conversion expenditure in relation to the house, this subsection shall apply only in relation to the last of those sales.

(10) This section shall not apply in the case of a conversion unless planning permission in respect of the conversion has been granted under the Local Government (Planning and Development) Acts, 1963 to 1993.

(11) This section shall apply as if a deduction given to a person under section 23 of the Finance Act, 1981 , by virtue of section 24 of that Act or section 22 of the Finance Act, 1985 , as respectively applied by sections 56 and 58 of the Finance Act, 1991 (in so far as those sections applied to the Temple Bar Area), were a deduction given to such person under this section in respect of conversion expenditure incurred in the qualifying period in relation to a house which is a qualifying premises.

(12) Section 338 shall apply for the purposes of supplementing this section.