

Industrial building allowances. ITA67 s254(1)(a), (b) and (c), (2A), (2B), (3) and (7); FA75 s34(2)(a)(i); CTA76 s 21(1) and Sch1 par17 and par72; FA81 s27; FA88 s51(1)(a) and (cc), (4)(a) and (6); FA89 s14; FA90 s74, s80 and s81(1)(a) and (4); FA91 s22(1); FA93 s33(1); FA95 s26 and s27; FA96 s27 and s43 271.—(1) In this section—

“industrial development agency” means the Industrial Development Authority, the Shannon Free Airport Development Company Limited or Údarás na Gaeltachta;

“appropriate chargeable period”, in relation to any person who has incurred expenditure on the construction of a building or structure, means the chargeable period related to the expenditure or, if it is later, the chargeable period related to the event (2)(b)), where such event is—

(a) the commencement of the tenancy in a case in which the first use to which the building or structure is put is a use by a person occupying it by virtue of a tenancy to which the relevant interest is reversionary, or

(b) in a case to which subsection (2)(b)(ii) refers, the commencement of the tenancy to which the relevant interest is reversionary;

“relevant lease” means a lease to which the relevant interest is reversionary.

(2) (a) Subject to the Tax Acts, where a person incurs capital expenditure on the construction of a building or structure—

(i) which is to be an industrial building or structure to which subsection (3) applies, and

(ii) which is to be occupied for the purposes of a trade carried on either by the person or by a lessee mentioned in paragraph (b),

there shall be made to the person who incurred the expenditure, for the appropriate chargeable period, an allowance (in this Chapter referred to as an “industrial building allowance”).

(b) The lessee referred to in paragraph (a) is a lessee occupying the building or structure on the construction of which the expenditure was incurred and who so occupies it—

(i) under a relevant lease, or

(ii) under a lease to which a relevant lease granted to an industrial development agency is reversionary.

(3) This subsection shall apply to—

(a) an industrial building or structure provided—

(i) before the 23rd day of April, 1996, for use for the purposes of trading operations, or

(ii) on or after the 23rd day of April, 1996, by a company for use for the purposes of trading operations carried on by the company,

which are relevant trading operations within the meaning of section 445 or 446 but, in relation to capital expenditure incurred on the provision of an industrial building or structure on or after the 6th day of May, 1993, excluding an industrial building or structure provided by a lessor to a lessee other than in the course of the carrying on by the lessor of those relevant trading operations,

(b) an industrial building or structure provided for the purposes of a project approved by an industrial development agency on or before the 31st day of December, 1988, and in respect of the provision of which expenditure was incurred before the 31st day of December, 1995; but, as respects an industrial building or structure provided for the purposes of a project approved by an industrial development agency in the period from the 1st day of January, 1986, to the 31st day of December, 1988, this paragraph shall apply as if the reference to the 31st day of December, 1995, were a reference to the 31st day of December, 1996,

and

(c) an industrial building or structure provided for the purposes of a project approved for grant assistance by an industrial development agency in the period from the 1st day of January, 1989, to the 31st day of December, 1990, and in respect of the provision of which expenditure is incurred before the 31st day of December, 1997; but, as respects an industrial building or structure provided for the purposes of any such project specified in the list referred to in section 133 (8)(c)(iv), this paragraph shall apply as if the reference to the 31st day of December, 1997, were a reference to the 31st day of December, 2002.

(4) An industrial building allowance shall be of an amount equal to—

(a) where the building or structure is to be used for a purpose specified in paragraph (a) or (b) of section 268 (1), 50 per cent of the capital expenditure mentioned in subsection (2); but, in the case of a building or structure to which subsection (3)(a) applies, this paragraph shall apply only if that expenditure is incurred before the 25th day of January, 1999,

(b) where the building or structure is to be used for a purpose specified in paragraph (c) or (e) of section 268 (1), 20 per cent of the capital expenditure mentioned in subsection (2), and

(c) in any other case, 10 per cent of the capital expenditure mentioned in subsection (2).

(5) Where an industrial building allowance in respect of capital expenditure incurred on the construction of a building or structure to which subsection (3)(c) applies is made under this section for any chargeable period—

(a) no allowance in relation to that capital expenditure shall be made under section 272 for that chargeable period, and

(b) an allowance in relation to that capital expenditure which is to be made under section 272 for any chargeable period subsequent to that chargeable period shall not be increased under section 273.

(6) Notwithstanding any other provision of this section, no industrial building allowance shall be made in respect of any expenditure on a building or structure if the building or structure, when it comes to be used, is not an industrial building or structure, and where an industrial building allowance has been granted in respect of any expenditure on any such building or structure, any necessary additional assessments may be made to give effect to this subsection.