

*These notes refer to the Capital Allowances Act 2001
(c.2) which received Royal Assent on 22nd March 2001*

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 4: Agricultural buildings allowances

Overview

1221. This Part provides for agricultural buildings allowances. These may be writing-down allowances or balancing allowances. It also provides for balancing charges.
1222. [Chapter 1](#) makes allowances available if qualifying expenditure has been incurred on the construction of a building for the purposes of husbandry. The person incurring the expenditure must have an interest in the related agricultural land. The first use of the building must be for husbandry.
1223. [Chapter 2](#) defines the “relevant interest”. Allowances are given to the person holding the relevant interest.
1224. [Chapter 3](#) defines “qualifying expenditure” for the purposes of agricultural buildings allowances.
1225. [Chapter 4](#) provides entitlement to writing-down allowances. These are generally at 4% a year of the qualifying expenditure.
1226. [Chapter 5](#) provides for balancing allowances and balancing charges if the relevant interest in the related agricultural land is transferred or the agricultural building is destroyed.
1227. [Chapter 6](#) gives effect to allowances and charges.

Background

1228. The principal theme underlying the legislation is to give relief for capital expenditure incurred on the construction of buildings and structures for the purposes of husbandry. To do this the legislation needs to identify:
- what expenditure qualifies for capital allowances;
 - who gets the allowances; and
 - how much relief is given.

History

1229. ITA 1945 introduced capital allowances for capital expenditure on the construction of agricultural and forestry buildings and works. Allowances were given at 10% a year for ten years to the owner or tenant of agricultural or forestry land. There were no balancing adjustments.

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1230. Capital allowances generally were not, and still are not, available for expenditure on dwelling-houses. But allowances were given on expenditure on farmhouses (up to one third of the expenditure) and on cottages.
1231. FA 1978 introduced initial allowances at 20%.
1232. As part of a wider reform of business taxation, FA 1985 abolished initial allowances. It also reduced writing-down allowances to 4% a year.
1233. FA 1986 introduced a new system of agricultural buildings allowances. This included balancing adjustments. Balancing allowances gave an option of accelerated relief if a building or work was demolished or destroyed. It also introduced two special conditions. No allowances are given to a person who sells the agricultural land before the building has been brought into first use. And no allowances are given if the first use of the building is not for husbandry.
1234. FA 1988 abolished allowances for forestry buildings and works. This was part of a general reform which took the profits, gains and losses of forestry out of the tax system.
1235. The legislation was consolidated as Part V of CAA 1990.
1236. As a temporary measure FA 1993 introduced initial allowances of 20% for expenditure incurred under contracts from November 1992 to October 1993.

Structure of Part 4

1237. The legislation at Part V of CAA 1990 has some similarity with Part I of CAA 1990 (industrial buildings allowances). Both give allowances:
- for capital expenditure incurred on the construction of buildings;
 - to the person with the relevant interest; and
 - on a “straight line basis” (see paragraph 27 above).
1238. But there are also important differences. In particular, for industrial buildings the focus is on the use of the building for the trade or undertaking. For agricultural buildings the focus is on land used for the purposes of husbandry in respect of which the construction expenditure was originally incurred.

Chapter 1: Introduction

Overview

1239. [Chapter 1](#) outlines the conditions for agricultural buildings allowances and the persons who may claim them. It introduces some of the terms employed subsequently in Part 4.
1240. [Section 361](#) sets out the basic requirements and defines two key terms used in Part 4, “agricultural building” and “the related agricultural land”.
1241. [Section 362](#) defines “husbandry” to include intensive farming and the cultivation of short rotation coppice.
1242. [Section 363](#) excludes expenditure on land from agricultural buildings allowances.

Section 361: Agricultural buildings allowances

1243. This section is based on parts of sections 123, 124(1), 125(1) and section 133(1) of CAA 1990. It sets out the basic conditions for agricultural buildings allowances.
1244. *Subsection (1)*:

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- includes a minor change. This is to avoid the use of “farm buildings” which does not capture accurately the fact that agricultural buildings allowances are given also for such things as short rotation coppicing. See *Change 41* in Annex 1; and
 - refers to “land in the United Kingdom” instead of “agricultural land” which CAA 1990 goes on to define as “land, houses or other buildings in the United Kingdom”. This is simpler because the Interpretation Act 1978 gives “land” a meaning which includes buildings in any event. See *Note 48* in Annex 2.
1245. *Subsection (2)* gives the meanings of two terms used in Part 4. “The related agricultural land” is an important concept in determining who is entitled to agricultural buildings allowances at any given time. Broadly speaking, allowances go with the related agricultural land.
1246. *Subsection (3)* provides that the person who has the relevant interest in relation to the qualifying expenditure is entitled to allowances. “Relevant interest” is explained in Chapter 2 and “qualifying expenditure” in Chapter 3.

Section 362: Meaning of “husbandry”

1247. This section is based on parts of section 133(1) of CAA 1990 and of section 154(1) and (3) of FA 1995. It widens the meaning of “husbandry”.
1248. The meaning of “husbandry” has been examined by the courts on several occasions over the years. Other words which might appear more user-friendly, for example “farming” or “agriculture”, could not be used without changing the scope of agricultural buildings allowances in ways which would be uncertain.
1249. Section 154(1) of FA 1995 provides that for the purposes of the Tax Acts and the Taxation of Chargeable Gains Act 1992 the cultivation of short rotation coppice is to be regarded as farming, husbandry or agriculture but not as forestry. Agricultural buildings allowances make use of the definition in section 154(3) of FA 1995:

““short rotation coppice” means a perennial crop of tree species planted at high density, the stems of which are harvested above ground level at intervals of less than ten years.

Section 363: Expenditure on the construction of a building

1250. This section is based on section 133(6) of CAA 1990. It excludes from agricultural buildings allowances expenditure on the acquisition of land or of rights in or over land. As in other Parts, allowances are only given for what depreciates – in this case expenditure on the construction of a building.

Chapter 2: The relevant interest

Overview

1251. [Chapter 2](#) identifies the relevant interest in relation to qualifying expenditure in various situations.
1252. [Section 364](#) is the general rule. The relevant interest is the freehold or leasehold in the related agricultural land. The owner or tenant must have incurred expenditure on constructing an agricultural building.
1253. [Section 365](#) provides that the relevant interest does not change because of the creation of a subordinate interest. [Section 366](#) deals with the effect of assigning or conveying an interest in land as a security to a creditor, a practical point only in Northern Ireland.
1254. [Section 367](#) identifies the relevant interest if a leasehold interest merges with another interest. [Section 368](#) deals with other situations in which a lease comes to an end.

Section 364: General rule as to what is the relevant interest

1255. This section is based on sections 125(2) and (3) of CAA 1990. It identifies the relevant interest in terms of the freehold or leasehold interest in the related agricultural land.
1256. In CAA 1990 this is done less directly. Section 125 of CAA 1990 first defines a “major interest”. The “relevant interest” is then defined as the particular major interest in the agricultural land which was held by the person at the time they incurred expenditure on the agricultural building.
1257. The concept of “the relevant interest” is similar to that for industrial buildings allowances. But it is not the same. In particular for agricultural buildings allowances the relevant interest is not in the building but in the related agricultural land.

Section 365: Effect of creation of subordinate lease

1258. This section is based on part of section 125(4) of CAA 1990. It provides that the creation of a subordinate lease has no effect on the relevant interest.

Section 366: Interest held as security

1259. This section is based on section 133(4) of CAA 1990. It ensures that a person who, for example, mortgages land, continues to have the relevant interest in circumstances which in Northern Ireland may involve a conveyance or assignment. See the commentary on section 175, paragraph 646646 above.

Section 367: Merger of leasehold interest

1260. This section is based on sections 125(4) and 126(4) of CAA 1990. It deals with a relevant interest which is a lease. It sets out rules to determine what happens to the relevant interest when the lease comes to an end.
1261. *Subsection (1)* provides that the reversionary interest (for example the freehold in a simple case) becomes the relevant interest if:
- a lease is extinguished on surrender to the holder of the reversionary interest; or
 - the holder of the lease acquires the reversionary interest.
1262. *Subsection (2)* provides an additional rule if a different person owns the relevant interest as a result of subsection (1). The new owner is treated as having acquired the relevant interest. This gives the new owner the right allowances.
1263. *Subsection (3)* excludes from this section the cases dealt with in section 368.

Section 368: Provisions applying on ending of lease

1264. This section is based on section 126(5) of CAA 1990. It deals with three other cases involving the ending of a lease.
1265. *Subsection (2)* applies if the same lessee gets a new lease of the whole or part of the related agricultural land. Then the lessee keeps the relevant interest.
1266. *Subsection (3)* applies if a new (incoming) lessee:
- gets a new lease of whole or part of the related agricultural land; and
 - pays the outgoing lessee for agricultural buildings on which qualifying expenditure had been incurred.
1267. The new lessee is then treated as having acquired the relevant interest in the whole of the related agricultural land. This links with section 375 which deals with the calculation of allowances after acquisition of a relevant interest.

1268. There is a minor change. Subsections (2) and (3) go further than section 126 of CAA 1990 by catering for cases in which the new lease is for part of the land as well as those in which the new lease is for all of the land. See *Change 42* in Annex 1.
1269. *Subsection (4)* applies in other cases. The relevant interest is treated as acquired by the lessor.

Chapter 3: Qualifying expenditure

Overview

1270. This Chapter identifies qualifying expenditure for the purposes of Part 4.
1271. **Section 369** gives the general rule about capital expenditure incurred on the construction of an agricultural building which is not sold before it was first used. Broadly, the capital expenditure is qualifying expenditure. It also provides special rules for farmhouses and for buildings only partly used for the purposes of husbandry.
1272. **Section 370** deals with expenditure on buildings if the relevant interest is sold before first use of the building. Broadly, the lesser of the construction expenditure and the price paid is qualifying expenditure.
1273. **Section 371** apportions expenditure if a person has different relevant interests in different parts of the related agricultural land.

Section 369: Capital expenditure on construction of agricultural building

1274. This section is based on parts of sections 123 and 124(1) of CAA 1990. It gives the general rule for what is qualifying expenditure for the purposes of agricultural buildings allowances. It also:
- restricts the expenditure on farm houses which can be qualifying expenditure; and
 - caters for expenditure on buildings which are only partly for use on the related agricultural land.
1275. There is a minor change. The section provides for a “just and reasonable apportionment”. CAA 1990 provides for a “just apportionment”. See *Change 40* in Annex 1.

Section 370: Purchase of relevant interest before first use of agricultural building

1276. This section is based mainly on parts of sections 123 and 127 of CAA 1990. It deals with expenditure which would have been qualifying expenditure but for a sale of the relevant interest before the building was first used. The qualifying expenditure is then broadly the lesser of:
- the capital expenditure which would have been the qualifying expenditure for the person who incurred it; and
 - the expenditure paid by the buyer in respect of the building.
1277. There is a minor change in *subsection (1)*. It gives the buyer qualifying expenditure only if a capital sum is paid for the relevant interest. CAA 1990 does not require the sum to be capital. See *Change 43* in Annex 1.
1278. *Subsection (3)* provides that:
- expenditure which is excluded from qualifying expenditure by section 369(3) to (5) is also excluded for the purpose of this section; and
 - a just and reasonable apportionment must be made of the purchase price as between the building and other things (for example land). There is a minor change. It is

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the use of “just and reasonable apportionment” whereas CAA 1990 uses “just apportionment”. See *Change 40* in Annex 1.

Section 371: Different relevant interests in different parts of the related agricultural land

1279. This section caters for a person who incurs qualifying expenditure on the construction of a building but who has different relevant interests in different parts of the related agricultural land. The expenditure is apportioned between the different parts.
1280. There is nothing corresponding to this in CAA 1990. But this Act differs from CAA 1990. It allows in section 361 for expenditure incurred for husbandry on land made up of several relevant interests in the related agricultural land. This provision follows through the consequences of that. See *Note 49* in Annex 2.

Chapter 4: Writing-down allowances

Overview

1281. This Chapter identifies who is entitled to writing-down allowances when and in what amount.
1282. [Sections 372](#) and [373](#) give the general rules. Writing-down allowances are made to whoever holds the relevant interest. Allowances are made at 4% a year over a 25-year period. This is referred to as the writing-down period.
1283. [Section 374](#) withdraws allowances if the building’s first use is not for husbandry.
1284. [Sections 375](#) and [376](#) deal with transfers of the relevant interest after first use of a building. [Section 375](#) gives the new owner entitlement to writing-down allowances. [Section 376](#) sets out the rules for calculating the new owner’s allowances.
1285. [Section 377](#) stops writing-down allowances being given if there is a balancing adjustment in a chargeable period.
1286. [Sections 378](#) and [379](#) ensure that allowances do not exceed the qualifying expenditure and, conversely, that the final writing-down allowance does not leave some qualifying expenditure incapable of being used.

Section 372: Entitlement to writing-down allowance

1287. This section is based on section 123 of CAA 1990. It gives the general rule for entitlement to writing-down allowances.
1288. There is a minor change. *Subsection (3)* allows a person to claim less than full entitlement to a writing-down allowance. See *Change 38* in Annex 1.

Section 373: Basic rule for calculating amount of allowance

1289. This section is based on parts of sections 123 and 126(2) of CAA 1990. It gives the 4% rate for agricultural buildings allowances.

Section 374: First use of building not for purposes of husbandry etc.

1290. This section is based on section 124(2) of CAA 1990. It deals with buildings if the first use is not for husbandry. Writing-down allowances are not then available. Any allowances previously given are withdrawn.

Section 375: Effect of acquisition of relevant interest after first use of building

1291. This section is based on section 126(1), (2) and (3) of CAA 1990. It deals with transfers of a relevant interest after a building has been used.

1292. Entitlement to allowances then passes to the new owner. If the relevant interest in only part of the related agricultural land changes hands, succession to allowances is confined to those which are specific to that part of the land.

Section 376: Calculation of allowance after acquisition

1293. This section is mainly based on section 129(1) and (3) of CAA 1990. It provides the rate of writing-down allowances after a balancing event so the new owner gets the right total allowances over the remainder of the writing-down period. The “writing-down period” is defined by section 372(2).
1294. *Subsections (1) and (2)* give the rules for recalculating writing-down allowances. These apply if there is a balancing event and an election for a balancing adjustment. The residue of qualifying expenditure is spread over the remaining period.
1295. *Subsection (6)* adjusts the writing-down allowance for any chargeable period in which the relevant interest is not held throughout. This is the same rule as in section 375(4)(b).

Section 377: Chargeable period when balancing adjustment made

1296. This section is based on part of section 128(1) of CAA 1990. It stops people getting writing-down allowances for the same chargeable period for which they get a balancing adjustment. Balancing adjustments are dealt with in Chapter 5.

Section 378: Allowance limited to residue of qualifying expenditure

1297. This section is based on section 146(2) and (3) of CAA 1990. It limits the amount of a writing-down allowance for a chargeable period to the residue of qualifying expenditure immediately prior to the allowance being made. This makes sure the total allowances do not exceed the qualifying expenditure.

Section 379: Final writing-down allowance

1298. This section is based on section 126(6) of CAA 1990. It makes sure the owner of the relevant interest at the end of the writing-down period gets the full entitlement to allowances on the assumptions in subsection (3). Its effect is to “catch up” any allowances lost solely as a result of the way the rules for giving allowances on a transfer operate.

Chapter 5: Balancing adjustments

Overview

1299. This Chapter provides balancing adjustments. These are only made if there is an election for a balancing adjustment:
- on a sale, by both buyer and seller; or
 - on the destruction or demolition of a building, by the owner.
1300. A balancing adjustment is either a balancing allowance or a balancing charge depending on whether the residue of qualifying expenditure is more or less than the proceeds from the balancing event.
1301. **Section 380** gives the basic rules for when a balancing adjustment is made and how.
1302. **Section 381** defines events which are balancing events if an election is made. **Section 382** provides how elections are made.
1303. **Sections 383 and 384** give the proceeds from a balancing event.

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1304. [Section 385](#) gives the basic rule for the calculation of a balancing adjustment. It is the difference between the proceeds and the residue of qualifying expenditure.
1305. [Section 386](#) defines “the residue of qualifying expenditure”. It is broadly the net amount of qualifying expenditure not yet relieved.
1306. [Section 387](#) caps a balancing charge at the amount of allowances previously given.
1307. [Section 388](#) provides for balancing events in relation to part of a building or part of the related agricultural land.
1308. [Sections 389](#) and [390](#) restrict balancing allowances in certain transactions involving connected persons or if allowances are the sole or main benefit.

Section 380: When balancing adjustments are made

1309. This section is based on section 128(1) of CAA 1990. It provides for balancing allowances and charges for agricultural buildings allowances if there is:
- qualifying expenditure; and
 - a balancing event in the writing-down period.
1310. A balancing adjustment allowance or charge is made for the chargeable period in which the balancing event occurs, to or on the person who has the relevant interest in relation to the qualifying expenditure prior to the balancing event.

Section 381: Balancing events (on making an election)

1311. This section is based on parts of section 129(1) and (2) of CAA 1990. It defines “balancing events”.
1312. There is a minor change. Section 129(1)(b) refers to an agricultural building which “otherwise ceases to exist as such”. In *subsection (2)(c)* of this section the corresponding words are “the agricultural building ceases altogether to be used (without being demolished or destroyed)”. This provides a link to the provisions which define the “proceeds” from such an event. CAA 1990 has no such link. See *Change 44* in Annex 1.

Section 382: Requirements as to elections

1313. This section is based on section 129(2), (4) and (5) of CAA 1990. It sets out how elections for balancing events must be made. In general this is by the old and new owners jointly.
1314. *Subsections (2)* and *(3)* prevent an election from being made if the sole or main benefit of the transaction(s) which gave rise to the balancing event is obtaining an allowance or an increased allowance.
1315. *Subsection (4)* provides for an election to be made by the person entitled to the relevant interest immediately before the event if there is no new owner.
1316. *Subsection (5)* prevents people from making an election if they are not “within the charge to tax” without the additional words “within the charge to tax in the United Kingdom” which are in section 129(5) of CAA 1990. The words are not necessary. Omitting them brings this section into line with the wording used elsewhere in CAA 1990 and ICTA. See *Note 42* in Annex 2.
1317. *Subsections (6)* and *(7)* set the time limits for making an election for both income tax and corporation tax purposes. These are the normal self assessment time limits.

Section 383: Proceeds from balancing events

1318. This section is based on parts of sections 128(2) and 156 of CAA 1990. It defines the “proceeds from balancing events”.
1319. *Subsection (1)* brings together material from sections 128(2)(b) and 156 of CAA 1990 in a Table linking each of the balancing events from section 381(2) to the proceeds. The third item in the Table follows from the minor change in section 381(2)(c). See *Change 44* in Annex 1.
1320. *Subsection (2)* makes clear the proceeds from an event are those received or receivable by the person who has liability to the charge or entitlement to the allowance.

Section 384: Exclusion of proportion of proceeds

1321. This section is based on sections 128(3) and 133(7) of CAA 1990. It apportions the proceeds from a balancing event to take account of:
- other assets (for example land); and
 - expenditure excluded from qualifying expenditure (for example on a farmhouse).
1322. *Subsection (1)* is based on part of section 133(7) of CAA 1990. If part of the proceeds from a balancing event do not relate to assets representing qualifying expenditure, a just and reasonable apportionment must be made to establish the correct amount under column 2 of the Table in section 383 subsection (1). This can arise if, for example, part of the proceeds is attributable to land. There is a minor change in the use of “just and reasonable” in place of “just”. See *Change 40* in Annex 1.
1323. *Subsection (2)* is based on section 128(3) of CAA 1990. It deals with expenditure on farmhouses and on buildings only partly used for husbandry. Only part of that expenditure qualifies for agricultural buildings allowances. So disposal proceeds for such buildings must be restricted in the same proportion as was applied to the expenditure. This subsection does this.
1324. *Subsection (3)* is based on the opening words of section 133(7) of CAA 1990. It makes clear this section does not stop the general provisions for apportionments applying in these circumstances.

Section 385: Calculation of balancing adjustment

1325. This section is based on section 128(4) and (5) of CAA 1990. It calculates a balancing adjustment. The calculation uses “the proceeds from the balancing event” from sections 383 and 384 and “the residue of qualifying expenditure” from section 386.

Section 386: The residue of qualifying expenditure

1326. This section is based on part of section 128(2) of CAA 1990. It defines the “residue of qualifying expenditure”.
1327. The calculation of the residue is defined in a different way from that used in section 128(2)(a) of CAA 1990. See *Change 45* in Annex 2.

Section 387: Overall limit on balancing charge

1328. This section is based on section 128(6) of CAA 1990. It puts a cap on a balancing charge. It cannot exceed the allowances made.
1329. There is a minor change. The reference to “chargeable periods ending before the balancing event” makes explicit just which allowances are to be taken into account. See *Change 46* in Annex 1.

Section 388: Acquisition of relevant interest in part of land, etc.

1330. This section is based on section 128(7) of CAA 1990. It deals with balancing events for part of the related land or part of an agricultural building.
1331. *Subsection (1)* applies the section to balancing events under:
- section 381(2)(a) if a new owner acquires part of the relevant interest in the related agricultural land; and
 - section 381(2)(b) and (c) if part of an agricultural building is demolished, destroyed or ceases to be used.
1332. *Subsection (2)* provides the apportionment rule. The balancing adjustment is to be calculated by reference to the relevant part of the qualifying expenditure.
1333. *Subsection (3)* makes clear that section 377 applies. The effect is that no writing-down allowance is due for the chargeable period of the balancing event in respect of the part of the qualifying expenditure for which there is a balancing adjustment.

Section 389: Balancing allowances restricted where sale subject to subordinate interest etc.

1334. This section is based on section 130(1), (2), (3) and (5) of CAA 1990. It stops sales of relevant interests which are subject to a subordinate interest being used to create balancing allowances. It is an anti-avoidance rule.
1335. *Subsections (1), (2) and (3)* are based on section 130(1) of CAA 1990. These give the conditions which must be met for the section to apply.
1336. *Subsection (4)* reduces the balancing allowance by increasing the proceeds of the sale by the sum of:
- any premium receivable for the grant of the subordinate interest; and
 - the amount by which the open market value of the relevant interest, if sold with the subordinate interest in receipt of a commercial rent, exceeds the actual proceeds of the sale.
1337. *Subsection (5)* limits subsection (4) so as not to impose a balancing charge.
1338. *Subsection (6)* is based on section 130(5) of CAA 1990. It is a rule concerning the net proceeds of sale which is in addition to the rules set out in subsections (4) and (5). It only applies if, before the sale of the relevant interest, there is a variation in the terms of the grant of the subordinate interest. The result of that variation is:
- any capital payment for the variation is treated as if it were a premium for the grant of the subordinate interest; and
 - whatever rent, if any, is payable under the subordinate interest is found by looking at the terms in force immediately before the sale.
1339. *Subsection (7)* is based on section 130(3) of CAA 1990. It means that the residue of qualifying expenditure immediately after the transfer is to be calculated as if the full balancing allowance before reduction by this section, had been made.

Section 390: Interpretation of section 389

1340. This section is based on section 130(4) of CAA 1990. It gives the meaning of various terms used here and in section 389.

Chapter 6: Supplementary provisions

Overview

1341. This Chapter gives effect to allowances and charges under Part 4. It also contains supplementary provisions.
1342. **Section 391** sets out how allowances are to be given effect for a person who is carrying on a trade. Section 392 does the same thing for a person who does not have a trade but has a Schedule A business. And it gives a further rule for anyone who has neither a trade nor a Schedule A business.
1343. **Section 393** provides for extended meanings of “freehold interest in land” and “lease” for the purposes of this Part of the Act. This is particularly important for the definitions of “the related agricultural land” in section 361 and “the relevant interest in relation to any qualifying expenditure” in section 364.

Section 391: Trades

1344. This section is based on section 132(1) of CAA 1990. It gives effect to agricultural buildings allowances for a person carrying on a trade by:
- treating the allowance as if it were an expense of the trade; and
 - treating the charge as if it were a receipt of the trade.

Section 392: Schedule A businesses

1345. This section is based on section 132(2) of CAA 1990. It gives effect to agricultural buildings allowances for persons who are not carrying on a trade.
1346. **Subsection (2)** gives effect to allowances and charges for persons carrying on a Schedule A business. The allowances and charges are treated as if they were expenses and receipts of the business.
1347. **Subsection (3)** gives effect to allowances and charges for all other persons. They are treated as if they had a Schedule A business.

Section 393: Meaning of “freehold interest”, “lease”, etc.

1348. With regard to the meaning of “lease” this section is based on interpretative provisions found in sections 161(2) and 162 of CAA 1990.