

# CAPITAL ALLOWANCES ACT 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Glossary*

#### **Part 10: Assured tenancy allowances**

#### **Chapter 2: The relevant interest**

#### **Section 494: Introduction**

1778. This section is a signpost that the Chapter deals, in relation to expenditure on constructing a building, first with the concept of the relevant interest in the building and then with the relevant interest in a dwelling-house comprised in the building. There may be more than one dwelling-house comprised in a building.

#### **Section 495: General rule as to what is the relevant interest in the building**

1779. This section is based on section 95(1) and (2) of CAA 1990.
1780. In relation to construction expenditure, the relevant interest is the interest in the building that the person incurring that expenditure holds when the expenditure is incurred.
1781. *Subsection (2)* signposts the fact that later provisions in this Chapter can modify the general rule
1782. *Subsection (3)* deals with the case in which the person incurring the construction expenditure holds more than one interest in the building.

#### **Section 496: Interest acquired on completion of construction**

1783. This section is based on section 97(3) of CAA 1990.
1784. It deals with the case in which the person incurring the construction expenditure becomes entitled to an interest in the building when construction is completed. Without this provision there might be no relevant interest because that person might have no interest in the building when the construction expenditure is incurred. The absence of a relevant interest could effectively deny relief for the cost of the building that might otherwise be available.
1785. There is added “or as a result of the” in paragraph (b). See *Change 34* in Annex 1. But this change is likely to have no effect for this Part as qualifying expenditure and the relevant interest have almost certainly been established many years ago.

#### **Section 497: Effect of creation of subordinate interest**

1786. This section is based on part of section 95(3) of CAA 1990. It provides that the relevant interest is not changed by the creation of a subordinate interest.

***Section 498: Merger of leasehold interest***

1787. This section is based on part of section 95(3) of CAA 1990. If the relevant interest is a leasehold interest, which merges in a way set out in the section, the relevant interest becomes the interest into which the leasehold merges.

***Section 499: Provisions applying on termination of lease***

1788. This section is based on section 94 of CAA 1990.
1789. *Subsection (1)* does not reproduce section 94(1)'s reference to "capital expenditure" as the expenditure in relation to which there is a relevant interest. The equivalent in this Act would have been "qualifying expenditure". But the different approach has no effect. If there is no qualifying expenditure there is nothing for this section, or Part, to act on.
1790. *Subsections (2) and (3)* treat a lease as continuing in certain circumstances. The rule prevents balancing adjustments being made in circumstances in which it would be inappropriate.
1791. *Subsection (4)* treats the relevant interest (the lease) as surrendered for consideration if the lessor makes certain payments to the lessee on the lease termination. Section 572(1)(b) will then treat the surrender of the lease as if it was a sale of the relevant interest. Section 514(a) then gives a balancing event on which any appropriate balancing adjustment can be made.
1792. *Subsection (5)* treats a new lease as the same lease as a terminated lease in the circumstances set out.

***Section 500: The relevant interest in the dwelling-house***

1793. This section is based on part of section 95(1) of CAA 1990.