

*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

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.
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

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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.