



Capital Allowances Act 2001

2001 CHAPTER 2

PART 3

INDUSTRIAL BUILDINGS ALLOWANCES

CHAPTER 3

THE RELEVANT INTEREST IN THE BUILDING

286 General rule as to what is the relevant interest

- (1) The relevant interest in relation to any qualifying expenditure is the interest in the building to which the person who incurred the expenditure on the construction of the building was entitled when the expenditure was incurred.
- (2) Subsection (1) is subject to the following provisions of this Chapter and to sections 342 (highway undertakings) and 359 (provisions applying on termination of lease).
- (3) If—
 - (a) the person who incurred the expenditure on the construction of the building was entitled to more than one interest in the building when the expenditure was incurred, and
 - (b) one of those interests was reversionary on all the others,the reversionary interest is the relevant interest.

287 Interest acquired on completion of construction

For the purposes of determining the relevant interest, a person who—

- (a) incurs expenditure on the construction of a building, and
- (b) is entitled to an interest in the building on or as a result of the completion of the construction,

is treated as having had that interest when the expenditure was incurred.

Status: This is the original version (as it was originally enacted).

288 Effect of creation of subordinate interest

- (1) An interest does not cease to be the relevant interest merely because of the creation of a lease or other interest to which that interest is subject.
- (2) This is subject to any election under section 290.

289 Merger of leasehold interest

If the relevant interest is a leasehold interest which is extinguished on—

- (a) being surrendered, or
- (b) the person entitled to the interest acquiring the interest which is reversionary on it,

the interest into which the leasehold interest merges becomes the relevant interest when the leasehold interest is extinguished.

290 Election to treat grant of lease exceeding 50 years as sale

- (1) Subsection (2) applies if—
 - (a) expenditure has been incurred on the construction of a building,
 - (b) a lease of the building is granted out of the interest which is the relevant interest in relation to the expenditure,
 - (c) the duration of the lease exceeds 50 years, and
 - (d) the lessor and the lessee elect for subsection (2) to apply.
- (2) This Part applies as if—
 - (a) the grant of the lease were a sale of the relevant interest by the lessor to the lessee at the time when the lease takes effect,
 - (b) any capital sum paid by the lessee in consideration for the grant of the lease were the purchase price on the sale, and
 - (c) the interest out of which the lease was granted had at that time ceased to be, and the interest granted by the lease had at that time become, the relevant interest.
- (3) The election has effect in relation to all the expenditure—
 - (a) in relation to which the interest out of which the lease is granted is the relevant interest, and
 - (b) which relates to the building (or buildings) that is (or are) the subject of the lease.

291 Supplementary provisions with respect to elections

- (1) No election may be made under section 290 by a lessor and lessee who are connected persons unless—
 - (a) the lessor is a body discharging statutory functions, and
 - (b) the lessee is a company of which it has control.
- (2) No election may be made under section 290 if it appears that the sole or main benefit which may be expected to accrue to the lessor from the grant of the lease and the making of an election is obtaining a balancing allowance.
- (3) Whether the duration of a lease exceeds 50 years is to be determined—

Status: This is the original version (as it was originally enacted).

- (a) in accordance with section 38(1) to (4) and (6) of ICTA, and
 - (b) without regard to section 359(3) (new lease granted as a result of the exercise of an option treated as continuation of old lease).
- (4) An election under section 290 must be made by notice to the Inland Revenue within 2 years after the date on which the lease takes effect.
- (5) All such adjustments, by discharge or repayment of tax or otherwise, are to be made as are necessary to give effect to the election.