



Capital Allowances Act 2001

2001 CHAPTER 2

PART 3

INDUSTRIAL BUILDINGS ALLOWANCES

CHAPTER 9

HIGHWAY UNDERTAKINGS

341 Carrying on of highway undertakings

- (1) For the purposes of this Part the carrying on of a highway undertaking is to be treated as the carrying on of an undertaking by way of trade; and accordingly references in this Part (except sections 274 and 276) to a trade include a highway undertaking.
- (2) For the purposes of this Part a person carrying on a highway undertaking is to be treated as occupying, for the purposes of the undertaking, any road in relation to which it is carried on.
- (3) In this Chapter “highway undertaking” has the meaning given in item 6 of Table B in section 274.
- (4) In that item and this Chapter “highway concession”, in relation to a road, means—
 - (a) a right to receive sums from the Secretary of State or from the Department for Regional Development in Northern Ireland because the road is or will be used by the general public, or
 - (b) if the road is a toll road, the right to charge tolls in respect of the road.

342 The relevant interest

- (1) For the purposes of Chapter 3 (the relevant interest in the building) as it applies to expenditure incurred on the construction of a road, a highway concession is not to be treated as an interest in the road.

Status: This is the original version (as it was originally enacted).

- (2) But if the person who incurred the expenditure on the construction of the road—
- (a) was not entitled to an interest in the road when he incurred the expenditure, but
 - (b) was at that time entitled to a highway concession in respect of the road,
- the highway concession is to be treated as the relevant interest in relation to that expenditure.
- (3) Any question as to what is the relevant interest is to be determined on the assumption that, if section 344 (renewed or new concession treated as extension of earlier concession) applies, the renewed or new concession is a continuation of the earlier concession.

343 Balancing adjustment on ending of concession

- (1) If—
- (a) the relevant interest is a highway concession, and
 - (b) the concession is brought to or comes to an end without being treated as extended under section 344,
- the ending of the concession is a balancing event.
- (2) The proceeds from such a balancing event are—
- (a) any insurance money received by the person entitled to the highway concession in respect of any qualifying expenditure, and
 - (b) other compensation so received so far as it consists of capital sums.

344 Cases where highway concession is to be treated as extended

- (1) A highway concession in respect of a road is to be treated as extended if—
- (a) the person entitled to the concession takes up a renewed concession in respect of the whole or a part of the road, or
 - (b) that person or a person connected with him takes up a new concession in respect of—
 - (i) the whole or a part of the road, or
 - (ii) a road that includes the whole or a part of the road.
- (2) But the concession is to be treated as extended only—
- (a) to the extent that the concession which has in fact ended, and the renewed or new concession, relate to the same road, and
 - (b) for the period of the renewed or new concession.
- (3) A person takes up a renewed or new concession if he is afforded, whether or not under legally enforceable arrangements, an opportunity to be granted the renewed or new concession and takes advantage of the opportunity.
- (4) For the purposes of subsection (3) it does not matter whether the renewed or new concession is on the same terms as the previous concession or on modified terms.
- (5) If—
- (a) a highway concession is treated as extended under this section, and
 - (b) the period of the extension is different in relation to different parts of the road in relation to which the concession has been granted,

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

such apportionments are to be made for the purposes of section 343 as are just and reasonable.