



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### [<sup>F1</sup>PART 3A

#### BUSINESS PREMISES RENOVATION ALLOWANCES

### [<sup>F1</sup>CHAPTER 11

#### SUPPLEMENTARY PROVISIONS

##### Textual Amendments

- F1** Pt. 3A inserted (11.4.2007 with effect in accordance with s. 92 of the amending Act) by [Finance Act 2005 \(c. 7\), Sch. 6 para. 1; S.I. 2007/949, art. 2](#)

#### **360Z Giving effect to allowances and charges: trades**

- (1) An allowance or charge to which a person is entitled or liable under this Part is to be given effect in calculating the profits of that person's trade, by treating—
  - (a) the allowance as an expense of the trade, and
  - (b) the charge as a receipt of the trade.
- (2) In the case of a person who—
  - (a) is entitled to an allowance or liable to a charge in respect of a qualifying building, and
  - (b) occupies that building in the course of a profession or vocation,the references in subsection (1) to a trade are to be read as references to the profession or vocation.
- (3) Subsection (1) is [<sup>F2</sup>subject to—
  - (a) section 6E (giving effect to allowances and charges: NI rate activity cases), and
  - (b) the following provisions of this Chapter.]

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*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Chapter 11. (See end of Document for details)*

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- [ If a company or partnership is as a result of section 6D (NI rate activity treated as <sup>F3</sup>(4) separate trade) treated for the purposes of this Act as carrying on two separate trades, the question of whether an allowance or charge relates to the NI rate activity or the main rate activity is to be determined by reference to the purposes for which the qualifying building is used.
- (5) If the qualifying building is used both for the purposes of the NI rate activity and for the purposes of the main rate activity, allowances and charges are to be apportioned on a just and reasonable basis between the trade consisting of the NI rate activity and the trade consisting of the main rate activity, according to the proportion of use for the purposes of the NI rate activity.
- (6) In this section “main rate activity” means an activity other than an NI rate activity.]

#### **Textual Amendments**

- F2** Words in s. 360Z(3) substituted (with effect in accordance with s. 5 of the amending Act) by Corporation Tax (Northern Ireland) Act 2015 (c. 21), **Sch. 1 para. 11(2)**
- F3** Ss. 360Z(4)-(6) inserted (with effect in accordance with s. 5 of the amending Act) by Corporation Tax (Northern Ireland) Act 2015 (c. 21), **Sch. 1 para. 11(3)**

### **360Z1 Giving effect to allowances and charges: lessors and licensees**

- (1) This section applies if—
- (a) a person is entitled or liable to an allowance or charge under this Part for a chargeable period (“ the relevant period ”), but
  - (b) his interest in the building in question is or was subject to a lease or a licence at any time in that period.
- (2) If the person's interest in the building is an asset of a property business carried on by him at any time in the relevant period, the allowance or charge is to be given effect in calculating the profits of that business for the relevant period by treating—
- (a) the allowance as an expense of that business, and
  - (b) the charge as a receipt of that business.
- (3) If the person's interest in the building is not an asset of a property business carried on by him at any time in the relevant period, the allowance or charge is to be given effect by treating him as if he had been carrying on a property business in that period and as if—
- (a) the allowance were an expense of that business, and
  - (b) the charge were a receipt of that business.

### **360Z2 Apportionment of sums partly referable to non-qualifying assets**

- (1) If the sum paid for the sale of the relevant interest in a qualifying building is attributable—
- (a) partly to assets representing expenditure for which an allowance can be made under this Part, and
  - (b) partly to assets representing other expenditure,

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only so much of the sum as on a just and reasonable apportionment is attributable to the assets referred to in paragraph (a) is to be taken into account for the purposes of this Part.

- (2) Subsection (1) applies to other proceeds from a balancing event in respect of a qualifying building as it applies to a sum given for the sale of the relevant interest in the qualifying building.
- (3) Subsection (1) does not affect any other provision of this Act requiring an apportionment of the proceeds of a balancing event.

### **360Z3 Provisions applying on termination of lease**

- (1) This section applies for the purposes of this Part if a lease is terminated.
- (2) If, with the consent of the lessor, the lessee of the qualifying building remains in possession of the qualifying building after the termination without a new lease being granted to him, the lease is treated as continuing so long as the lessee remains in possession.
- (3) If on the termination a new lease is granted to a lessee as a result of the exercise of an option available to him under the terms of the first lease, the second lease is treated as a continuation of the first.
- (4) If on the termination the lessor pays a sum to the lessee in respect of business premises comprised in the lease, the lease is treated as if it had come to an end by surrender in consideration of the payment.
- (5) If on the termination—
  - (a) another lease is granted to a different lessee, and
  - (b) in connection with the transaction that lessee pays a sum to the person who was the lessee under the first lease,the two leases are to be treated as if they were the same lease which had been assigned by the lessee under the first lease to the lessee under the second lease in consideration of the payment.

### **360Z4 Meaning of “lease” etc.**

- (1) In this Part “ lease ” includes—
  - (a) an agreement for a lease if the term to be covered by the lease has begun, and
  - (b) any tenancy,but does not include a mortgage (and “ lessee ”, “ lessor ” and “ leasehold interest ” are to be read accordingly).
- (2) In the application of this Part to Scotland—
  - (a) “ leasehold interest ” or “ leasehold estate ” means the interest of a tenant in property subject to a lease, and
  - (b) any reference to an interest which is reversionary on a leasehold interest or on a lease is to be read as a reference to the interest of the landlord in the property subject to the leasehold interest or lease.]

**Changes to legislation:**

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