



Capital Allowances Act 2001

2001 CHAPTER 2

PART 4

AGRICULTURAL BUILDINGS ALLOWANCES

CHAPTER 1

INTRODUCTION

361 Agricultural buildings allowances

- (1) Allowances are available under this Part if—
 - (a) capital expenditure has been incurred on the construction of a building (such as a farmhouse, farm building or cottage) or on the construction of fences or other works,
 - (b) the expenditure was incurred—
 - (i) by a person having a freehold or leasehold interest in land in the United Kingdom occupied wholly or mainly for the purposes of husbandry, and
 - (ii) for the purposes of husbandry on that land, and
 - (c) the expenditure, or other expenditure, is qualifying expenditure.
- (2) In this Part—
 - (a) “agricultural building” means a building, fence or other works referred to in subsection (1)(a), and
 - (b) “the related agricultural land” means the land referred to in subsection (1)(b).
- (3) Allowances under this Part are made to the person who for the time being has the relevant interest (see Chapter 2) in relation to the qualifying expenditure (see Chapter 3).

Status: This is the original version (as it was originally enacted).

362 Meaning of “husbandry”

- (1) In this Part “husbandry” includes—
- (a) any method of intensive rearing of livestock or fish on a commercial basis for the production of food for human consumption, and
 - (b) the cultivation of short rotation coppice.
- (2) “Short rotation coppice” has the meaning given by section 154(3) of FA 1995 (meaning for general tax purposes: tree species planted at high density where stems harvested at intervals of less than 10 years).

363 Expenditure on the construction of a building

For the purposes of this Part, expenditure on the construction of a building does not include expenditure incurred on the acquisition of land or rights in or over land.

CHAPTER 2

THE RELEVANT INTEREST

364 General rule as to what is the relevant interest

- (1) The relevant interest in relation to any qualifying expenditure is the freehold or leasehold interest in the related agricultural land to which the person who incurred the expenditure on the construction of the agricultural building was entitled when the expenditure was incurred.
- (2) Subsection (1) is subject to the following provisions of this Chapter.
- (3) If, when the expenditure was incurred—
- (a) the person was entitled to freehold and leasehold interests or to more than one leasehold interest in the related agricultural land, and
 - (b) one of those interests was reversionary on all the others,
- the reversionary interest is the relevant interest.

365 Effect of creation of subordinate lease

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.

366 Interest conveyed or assigned by way of security

If an interest in land is—

- (a) conveyed or assigned by way of security, and
- (b) subject to a right of redemption,

the person with the right of redemption is treated for the purposes of this Part as having that interest, and not the creditor.

367 Merger of leasehold interest

- (1) If the relevant interest is a leasehold interest which is extinguished on—

- (a) being surrendered, or
 - (b) the person entitled to it 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.
- (2) If the person who owns the interest into which the leasehold interest is merged is not the same as the person who owned the leasehold interest, the relevant interest is to be treated for the purposes of this Part as acquired by the owner of the interest into which the leasehold interest is merged.
- (3) Subsection (1) does not apply if a new lease of the whole or a part of the related agricultural land is granted to take effect on the extinguishment of the former leasehold interest.

368 Provisions applying on ending of lease

- (1) This section applies if—
- (a) a lease which is the relevant interest comes to an end, and
 - (b) section 367(1) does not apply.
- (2) If a new lease of the whole or a part of the related agricultural land is granted to the same lessee, the lessee is to be treated as continuing to have the same relevant interest in the whole of the related agricultural land.
- (3) If—
- (a) a new lease of the whole or a part of the related agricultural land is granted to a different lessee, and
 - (b) that lessee (“the incoming lessee”) makes a payment to the outgoing lessee in respect of assets representing the qualifying expenditure,
- the incoming lessee is to be treated as acquiring the relevant interest in the whole of the related agricultural land.
- (4) In any other case, the former lease and the interest of the lessor under it are to be treated as the same interest; and so the relevant interest in the whole of the related agricultural land is to be treated as acquired by the lessor.

CHAPTER 3

QUALIFYING EXPENDITURE

369 Capital expenditure on construction of agricultural building

- (1) If—
- (a) capital expenditure has been incurred on the construction of an agricultural building,
 - (b) the expenditure was incurred for the purposes of husbandry as mentioned in section 361, and
 - (c) the relevant interest has not been sold or, if it has been sold, has been sold only after the first use of the building,
- the capital expenditure is qualifying expenditure.

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

- (2) Subsections (3) and (4) apply if the capital expenditure has been incurred on the construction of a farmhouse.
- (3) If the accommodation and amenities of the farmhouse are proportionate to the nature and extent of the farm, only one third of the capital expenditure is to be taken into account under subsection (1).
- (4) If they are disproportionate, only such part of the expenditure as is just and reasonable (and not exceeding one third) is to be taken into account under subsection (1).
- (5) If—
 - (a) the capital expenditure is incurred on the construction of any agricultural building other than a farmhouse, and
 - (b) the building is to be used partly for the purposes of husbandry on the related agricultural land and partly for other purposes,
 only such part of the expenditure as, on a just and reasonable apportionment, is referable to use for the purposes of husbandry is to be taken into account under subsection (1).

370 Purchase of relevant interest before first use of agricultural building

- (1) This section applies if—
 - (a) capital expenditure has been incurred on the construction of an agricultural building,
 - (b) the expenditure was incurred for the purposes of husbandry as mentioned in section 361,
 - (c) the relevant interest is sold before the building is first used, and
 - (d) a capital sum is paid by the purchaser for the relevant interest.
- (2) The lesser of—
 - (a) the capital expenditure incurred on the construction of the agricultural building, and
 - (b) the capital sum paid by the purchaser,
 is qualifying expenditure.
- (3) For the purposes of subsections (1) and (2)—
 - (a) capital expenditure incurred on the construction of the agricultural building does not include any amount excluded from being taken into account under section 369(3) to (5), and
 - (b) the capital sum paid by the purchaser for the relevant interest does not include any amount which, on a just and reasonable apportionment, is attributable to assets representing expenditure in respect of which an allowance cannot be made under this Part.
- (4) Subsection (3)(b) does not affect sections 562, 563 and 564(1) (apportionment and procedure for determining apportionment).
- (5) The qualifying expenditure is to be treated as incurred when the capital sum became payable.
- (6) If the relevant interest is sold more than once before the building is first used, subsection (2) has effect only in relation to the last of those sales.

371 Different relevant interests in different parts of the related agricultural land

If a person is entitled to different relevant interests in different parts of the related agricultural land—

- (a) the expenditure is to be apportioned between those parts on a just and reasonable basis, and
- (b) this Part applies as if the person had incurred the expenditure apportioned to each part separately.

CHAPTER 4

WRITING-DOWN ALLOWANCES

372 Entitlement to writing-down allowance

- (1) A person is entitled to a writing-down allowance for a chargeable period if—
 - (a) qualifying expenditure has been incurred,
 - (b) at any time during that chargeable period he is entitled to the relevant interest in relation to the qualifying expenditure, and
 - (c) that time falls within the writing-down period.
- (2) The writing-down period, in relation to qualifying expenditure incurred by a person, is 25 years beginning with the first day of the chargeable period of that person in which the qualifying expenditure was incurred.
- (3) A person claiming a writing-down allowance may require the allowance to be reduced to a specified amount.

373 Basic rule for calculating amount of allowance

- (1) The basic rule is that the writing-down allowance for a chargeable period is 4% of the qualifying expenditure.
- (2) The allowance is proportionately increased or reduced if the chargeable period is more or less than a year.

374 First use of building not for purposes of husbandry, etc.

- (1) No writing-down allowance is to be made under section 372 if, when the agricultural building is first used, it is not used for the purposes of husbandry.
- (2) Any writing-down allowance which has been made in respect of an agricultural building which has not been used is to be withdrawn if—
 - (a) when the building is first used, it is not used for the purposes of husbandry, or
 - (b) the person to whom the allowance was made sells the relevant interest before the building is first used.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this section.

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

375 Effect of acquisition of relevant interest after first use of building

- (1) This section applies if—
- (a) a person (“the former owner”) would be entitled to an allowance under this Part in respect of any expenditure if he continued to be the owner of the relevant interest, and
 - (b) another person (“the new owner”) acquires the relevant interest in the whole or a part of the related agricultural land.
- (2) For the purposes of subsection (1)(b), it is immaterial whether the relevant interest is acquired by transfer, by operation of law or otherwise.
- (3) The former owner—
- (a) is not entitled to an allowance for any chargeable period after that in which the acquisition occurs, and
 - (b) if the acquisition occurs during a chargeable period, is entitled only to an appropriate part of any writing-down allowance for that period.
- (4) The new owner—
- (a) is entitled to allowances for the chargeable period in which the acquisition occurs and for subsequent chargeable periods falling wholly or partly within the writing-down period, and
 - (b) if the acquisition occurs during a chargeable period, is entitled only to an appropriate part of any writing-down allowance for that period.
- (5) If the new owner acquires the relevant interest in part only of the related agricultural land, subsections (3) and (4) apply to so much only of the allowance as is properly referable to that part of the agricultural land as if it were a separate allowance.

376 Calculation of allowance after acquisition

- (1) This section applies if—
- (a) section 375 applies, and
 - (b) the acquisition is a balancing event under section 381 (as a result of an election made in accordance with section 382).
- (2) The writing-down allowance for a chargeable period ending after the event is—

$$\text{RQE} \times \frac{\text{A}}{\text{B}}$$

where—

RQE is the residue of qualifying expenditure immediately after the event,
 A is the length of the chargeable period, and
 B is the length of the period from the date of the event to the end of the writing-down period.

- (3) On any later acquisition that is a balancing event under section 381, the writing-down allowance is further adjusted in accordance with this section.
- (4) The residue of qualifying expenditure immediately after a balancing event is calculated as mentioned in section 386, taking into account any balancing adjustment falling to be made on the event.

- (5) For this purpose, any balancing allowance on that or any previous balancing event which is reduced or denied under section 389 (sale subject to subordinate interest) is to be treated as having been made in full.
- (6) The allowance is proportionately reduced if the person entitled to the allowance is not entitled to the relevant interest in relation to the expenditure in question during part of the chargeable period.

377 Chargeable period when balancing adjustment made

A person is not entitled to a writing-down allowance for a chargeable period in which a balancing allowance or balancing charge is made to or on him in respect of the qualifying expenditure.

378 Allowance limited to residue of qualifying expenditure

- (1) The amount of a writing-down allowance for a chargeable period is limited to the residue of qualifying expenditure immediately before it is made or would, apart from this section, be made.
- (2) The residue of qualifying expenditure is calculated in accordance with section 386.

379 Final writing-down allowance

- (1) In this section “the final writing-down allowance” means the writing-down allowance which is made—
 - (a) to the person who is entitled to the relevant interest when the writing-down period ends, and
 - (b) for the chargeable period in which it ends.
- (2) If the final writing-down allowance would, apart from this section, be less than the amount of the residue of qualifying expenditure immediately before it is made, the allowance is increased to that amount.
- (3) When determining the residue of qualifying expenditure under section 386 for the purposes of subsection (2), assume that all such writing-down allowances have been made to the persons who have been entitled to the relevant interest during the writing-down period as could have been made if each of them—
 - (a) had been entitled to allowances, and
 - (b) had claimed allowances in full.

CHAPTER 5

BALANCING ADJUSTMENTS

General

380 When balancing adjustments are made

- (1) A balancing adjustment is made if—

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

- (a) qualifying expenditure has been incurred, and
 - (b) a balancing event occurs in a chargeable period for which a person would (apart from this section) be entitled to a writing-down allowance.
- (2) A balancing adjustment is either a balancing allowance or a balancing charge and is made for the chargeable period in which the balancing event occurs.
- (3) A balancing allowance or balancing charge is made to or on the person entitled to the relevant interest in relation to the qualifying expenditure immediately before the balancing event.

381 Balancing events (on making an election)

- (1) Any event described in subsection (2) is a balancing event, but only if an election is made in accordance with section 382 for it to be treated as such.
- (2) The events are—
- (a) the relevant interest is acquired as mentioned in section 375;
 - (b) the agricultural building is demolished or destroyed;
 - (c) the agricultural building ceases altogether to be used (without being demolished or destroyed).

382 Requirements as to elections

- (1) An election relating to an event within section 381(2)(a) must be made jointly by the former owner and the new owner.
- (2) No election relating to such an event may be made if it appears that the sole or main benefit which might have been expected to accrue to the parties, or any of them, from —
- (a) the acquisition, or
 - (b) transactions of which the acquisition is one,
- is the obtaining of an allowance, or a greater allowance, under this Part.
- (3) In determining for the purposes of subsection (2) what benefit might have been expected to accrue, sections 568 and 573 (sales treated as being for alternative amount) are to be disregarded.
- (4) An election relating to an event within section 381(2)(b) or (c) must be made by the person entitled to the relevant interest immediately before the event.
- (5) No election relating to any event may be made if any person by whom the election is to be made is not within the charge to tax.
- (6) The election must be made by notice given to the Inland Revenue—
- (a) for income tax purposes, on or before the normal time limit for amending a tax return for the tax year in which the relevant chargeable period ends;
 - (b) for corporation tax purposes, no later than 2 years after the end of the relevant chargeable period.
- (7) “The relevant chargeable period” means the chargeable period in which the event in question occurs.

383 Proceeds from balancing events

- (1) References in this Part to the proceeds from a balancing event are to the amounts received or receivable in connection with the event, as shown in the Table—

Table

BALANCING EVENTS AND PROCEEDS

<i>1. Balancing event</i>	<i>2. Proceeds from event</i>
1. The sale of the relevant interest.	The net proceeds of the sale.
2. The acquisition of the relevant interest under section 368(3) (ending of lease where incoming lessee makes payment to outgoing lessee).	The net amount of the payment to the outgoing lessee.
3. The demolition or destruction of the agricultural building.	The net amount received for the remains of the building, together with— (a) any insurance money received in respect of the demolition or destruction, and (b) any other compensation of any description so received, so far as it consists of capital sums.
4. The agricultural building ceases altogether to be used.	Any compensation of any description received in respect of the event, so far as it consists of capital sums.

- (2) The amounts referred to in column 2 of the Table are those received or receivable by the person whose entitlement to a balancing allowance or liability to a balancing charge is in question.

384 Exclusion of proportion of proceeds

- (1) The amounts referred to in column 2 of the Table in section 383 do not include any amount which, on a just and reasonable apportionment, is attributable to assets representing expenditure in respect of which an allowance cannot be made under this Part.
- (2) If the qualifying expenditure in respect of which the balancing adjustment is made was restricted as a result of—
- (a) subsection (3) or (4) of section 369 (restrictions on expenditure on farmhouse), or
 - (b) subsection (5) of that section (restriction on expenditure on buildings to be used partly for purposes other than husbandry),
- a corresponding proportion only of the amounts referred to in the Table in section 383 is to be treated as proceeds from the balancing event.
- (3) Subsection (1) does not affect sections 562, 563 and 564(1) (apportionment and procedure for determining apportionment).

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

Calculation of balancing adjustments

385 Calculation of balancing adjustment

- (1) A balancing allowance is made if—
 - (a) there are no proceeds from the balancing event, or
 - (b) the proceeds from the balancing event are less than the residue of qualifying expenditure immediately before the event.
- (2) The amount of the balancing allowance is the amount of—
 - (a) the residue (if there are no proceeds);
 - (b) the difference (if the proceeds are less than the residue).
- (3) A balancing charge is made if the proceeds from the balancing event are more than the residue of qualifying expenditure immediately before the event.
- (4) The amount of the balancing charge is the amount of the difference.

386 The residue of qualifying expenditure

The residue of qualifying expenditure at any time is—

$$QE + B - A$$

where—

QE is the amount of qualifying expenditure,

B is the total amount of balancing charges previously made under this Part in respect of the expenditure, and

A is the total amount of any allowances (including balancing allowances) previously made under this Part in respect of that expenditure (whether to the same or to different persons).

387 Overall limit on balancing charge

The amount of a balancing charge made on a person in respect of any qualifying expenditure must not exceed the total allowances made under this Part to the person in respect of the expenditure for chargeable periods ending before that in which the balancing event occurs.

388 Acquisition of relevant interest in part of land, etc.

- (1) This section applies if a balancing event relates to—
 - (a) the acquisition of the relevant interest in part only of the related agricultural land in which the interest subsisted when the qualifying expenditure was incurred, or
 - (b) only part of the agricultural building.
- (2) Entitlement or liability to, and the amount of, the balancing adjustment, are determined by reference to the part of the qualifying expenditure that is properly attributable to the part of the related agricultural land or (as the case may be) the part of the agricultural building.

- (3) Section 377 (no writing-down allowance for qualifying expenditure for the chargeable period in which a balancing adjustment is made) applies to the part of the qualifying expenditure referred to in subsection (2).

389 Balancing allowances restricted where sale subject to subordinate interest etc.

- (1) This section applies if—
- (a) the relevant interest is sold subject to a subordinate interest,
 - (b) the person entitled to the relevant interest immediately before the sale (“the former owner”) would, apart from this section, be entitled to a balancing allowance under this Chapter as a result of the sale, and
 - (c) condition A or B is met.
- (2) Condition A is that—
- (a) the former owner,
 - (b) the person who acquires the relevant interest, and
 - (c) the person to whom the subordinate interest was granted,
- or any two of them, are connected persons.
- (3) Condition B is that it appears that the sole or main benefit which might have been expected to accrue to the parties or any of them from the sale or the grant, or transactions including the sale or grant, was the obtaining of an allowance under this Part.
- (4) For the purpose of deciding what balancing adjustment is to be made in a case to which this section applies, the net proceeds to the former owner of the sale are to be increased—
- (a) by an amount equal to any premium receivable by him for the grant of the subordinate interest, and
 - (b) if no rent, or no commercial rent, is payable in respect of the subordinate interest, by the amount by which the proceeds would have been greater if a commercial rent had been payable and the relevant interest had been sold in the open market.
- (5) But the net proceeds of the sale are not to be treated as being greater than the amount which secures that no balancing allowance is made.
- (6) If the terms on which a subordinate interest is granted are varied before the sale of the relevant interest—
- (a) any capital consideration for the variation is to be treated for the purposes of this section as a premium for the grant of the interest, and
 - (b) the question whether any, and if so what, rent is payable in respect of the interest is to be determined by reference to the terms in force immediately before the sale.
- (7) If this section applies in relation to a sale to deny or reduce a balancing allowance, the residue of qualifying expenditure immediately after the sale is nevertheless calculated as if the balancing allowance had been made or not reduced.

390 Interpretation of section 389

- (1) In section 389—

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

“commercial rent” means such rent as may reasonably be expected to have been required in respect of the subordinate interest (having regard to any premium payable for the grant of the interest) if the transaction had been at arm’s length;

“premium” includes any capital consideration, except so much of any sum as corresponds to an amount of rent or profits falling to be calculated by reference to that sum under section 34 of ICTA;

“subordinate interest” means an interest in or right over the related agricultural land, whether granted by the former owner or anyone else.

(2) In section 389 and this section—

“capital consideration” means consideration which consists of a capital sum or would be a capital sum if it had consisted of a money payment, and

“rent” includes any consideration which is not capital consideration.

CHAPTER 6

SUPPLEMENTARY PROVISIONS

Giving effect to allowances and charges

391 Trades

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.

392 Schedule A businesses

- (1) This section applies if a person who is entitled or liable to an allowance or charge for a chargeable period was not carrying on a trade in that period.
- (2) If the person was carrying on a Schedule A business at any time in that period, the allowance or charge is to be given effect in calculating the profits of that business, 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 was not carrying on a Schedule A business at any time in that period, the allowance or charge is to be given effect by treating him as if he had been carrying on such a 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.

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

Meaning of “freehold interest”, “lease” etc.

393 Meaning of “freehold interest”, “lease”, etc.

- (1) In this Part “freehold interest in land” means—
 - (a) the fee simple estate in the land, or
 - (b) in relation to Scotland, the interest of the owner.
- (2) In this Part “freehold interest in land” also includes—
 - (a) an agreement to acquire the fee simple estate in the land, or
 - (b) in relation to Scotland, an agreement to acquire the interest of the owner.
- (3) 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).
- (4) In the application of this Part to Scotland—
 - (a) “leasehold interest” 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.