



Capital Allowances Act 2001

2001 CHAPTER 2

[^{F1}PART 4

AGRICULTURAL BUILDINGS ALLOWANCES

CHAPTER 5

BALANCING ADJUSTMENTS

Calculation of balancing adjustments

[^{F1}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.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Section 389. (See end of Document for details)

- (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.]

Textual Amendments

- F1** Pt. 4 omitted (with effect in relation to chargeable periods beginning on or after 1.4.2011 for corporation tax purposes and 6.4.2011 for income tax purposes in accordance with ss. 84(1)(3)(4), 85 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), s. **84(2)** (with [Sch. 27](#))

Changes to legislation:

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