



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### [<sup>F1</sup>PART 2A

#### STRUCTURES AND BUILDINGS ALLOWANCES

### [<sup>F1</sup>CHAPTER 9

#### SUPPLEMENTARY PROVISIONS

##### Textual Amendments

- F1** Pt. 2A inserted (5.7.2019) by [The Capital Allowances \(Structures and Buildings Allowances\) Regulations 2019 \(S.I. 2019/1087\)](#), regs. 1, 2

#### *Evidence of qualifying expenditure etc*

##### **270IA Evidence of qualifying expenditure etc**

- (1) This section applies if a person (the “current owner”) is entitled to an allowance for a chargeable period under section 270AA by reference to a building or structure.
- (2) For the purposes of determining the amount of the allowance, the amount of the qualifying expenditure is treated as nil unless, before the current owner first makes a claim for an allowance under this Part, the allowance statement requirement is met.
- (3) The “allowance statement requirement” is met if—
  - (a) in a case where the current owner incurred the qualifying expenditure in relation to the building or structure, the current owner makes an allowance statement;
  - (b) in any other case, the current owner obtains (directly or indirectly) an allowance statement (or a copy of it) from any person who has previously been entitled to a relevant interest in the building or structure.

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- (4) In this section an “allowance statement” means a written statement, identifying the building or structure to which it relates, of—
- (a) the date of the earliest <sup>F2</sup>... contract for the construction of the building or structure,
  - (b) the amount of qualifying expenditure incurred on its construction or [<sup>F3</sup>acquisition,]
  - (c) the date on which the building or structure is first brought into non-residential use [<sup>F4</sup>, and
  - (d) where qualifying expenditure is incurred on the construction or acquisition of the building or structure after the date mentioned in paragraph (c), the date on which the expenditure is incurred].

[ Where the qualifying expenditure described in subsection (4)(b) consists of or includes <sup>F5</sup>(5) [<sup>F6</sup>special tax site qualifying expenditure] (as defined in section 270BNA), a statement is not an allowance statement unless it states the amount of the [<sup>F6</sup>special tax site qualifying expenditure].]

#### Textual Amendments

- F2** Word in s. 270IA(4)(a) omitted (retrospectively) by [Finance Act 2020 \(c. 14\), Sch. 5 paras. 7, 10](#)
- F3** Word in s. 270IA(4)(b) substituted (with effect in accordance with s. 13(2) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 13\(1\)\(a\)](#)
- F4** S. 270IA(4)(d) and word inserted (with effect in accordance with s. 13(2) of the amending Act) by [Finance Act 2022 \(c. 3\), s. 13\(1\)\(b\)](#)
- F5** S. 270IA(5) inserted (10.6.2021) by [Finance Act 2021 \(c. 26\), Sch. 22 para. 12](#)
- F6** Words in s. 270IA(5) substituted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\), Sch. 23 para. 13\(c\)](#)

### *Anti-avoidance*

#### **270IB Anti-avoidance: general**

- (1) This section applies if at any time—
- (a) avoidance arrangements exist in relation to a building or structure (whether or not a person with a relevant interest in the building or structure is party to them), and
  - (b) as a result of those arrangements, a person would, but for this section, obtain a tax advantage under this Part.
- (2) The tax advantage is to be counteracted by making such adjustments as are just and reasonable.
- (3) Adjustments made under this section may affect the tax treatment of persons other than the person in relation to whom the tax advantage is counteracted.
- (4) In subsection (1)(a) “avoidance arrangements” means arrangements the main purpose, or one of the main purposes, of which is to obtain a tax advantage (for any person) under this Part.
- (5) References in this section to obtaining a tax advantage under this Part include obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.

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- (6) In subsection (4) “arrangements” includes any agreement (including an agreed valuation), understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

#### *Co-ownership authorised contractual schemes*

### **270IC Co-ownership schemes: carrying on qualifying activity**

- (1) This section applies where the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity.
- (2) Each participant in the scheme is for the purposes of this Part to be regarded as carrying on the qualifying activity.
- (3) Subsection (2) applies in relation to a participant only to the extent that the profits or gains arising to the participant from the qualifying activity are, or (if there were any) would be, chargeable to tax.
- (4) But in determining for the purposes of subsection (1) whether or to what extent the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity, assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

### **270ID Co-ownership schemes: election**

- (1) The operator of a co-ownership authorised contractual scheme may make an election under this section if an election under section 262AB (plant and machinery allowances: co-ownership schemes) has been made, before the relevant date, in relation to the scheme (whether or not that election has subsequently been withdrawn in accordance with section 262AEA).
- (2) The election must specify an accounting period of the scheme as the first accounting period in relation to which the election has effect.
- (3) But the election may not specify an accounting period ending—
  - (a) more than 12 months before the election is made, or
  - (b) more than 12 months after the end of the accounting period in which a building or structure which is subject to the scheme, and by reference to which an allowance is available under this Part, is first brought into qualifying use.
- (4) The first accounting period must not be longer than 12 months.
- (5) The election has effect for that first accounting period and all subsequent accounting periods of the scheme.
- (6) The election is irrevocable.
- (7) The election is made by notice to an officer of Revenue and Customs.
- (8) For the purposes of this section and section 270IE, the “relevant date” is the date on which this Part comes into force.

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### **270IE Co-ownership schemes: calculation of allowance after an election**

- (1) This section applies if—
  - (a) an election under section 270ID, or
  - (b) an election under section 262AB (plant and machinery allowances: co-ownership schemes) made on or after the relevant date,
 has effect for an accounting period of a co-ownership authorised contractual scheme (“the relevant period”).
- (2) The operator of the scheme is to calculate the allowances that would be available to the scheme under this Part in relation to the relevant period on the basis of the assumptions in subsection (3).
- (3) The assumptions are—
  - (a) the scheme is a person;
  - (b) the relevant period is a chargeable period for the purposes of this Act;
  - (c) any qualifying activity carried on by the participants in the scheme together is carried on by the scheme;
  - (d) property which was subject to the scheme at the beginning of the first accounting period for which the election has effect—
    - (i) ceased to be owned by the participants at that time, and
    - (ii) was acquired by the scheme at that time;
  - (e) any property which became subject to the scheme at a time during an accounting period for which the election has effect was acquired by the scheme at that time;
  - (f) property which ceased to be subject to the scheme at any such time ceased to be owned by the scheme at that time.
- (4) The operator of the co-ownership authorised contractual scheme must allocate to each participant in the scheme a proportion (which may be zero) of the allowances calculated under this section.
- (5) The allocation is to be on the basis of what is just and reasonable.
- (6) In determining what is just and reasonable—
  - (a) regard is to be had in particular to the relative size of each participant’s holding of units in the scheme;
  - (b) no regard is to be had to—
    - (i) whether or to what extent a participant is liable to income tax or corporation tax, or
    - (ii) any other circumstances relating to a participant’s liability to tax.
- (7) If the participants in the scheme together carry on more than one qualifying activity, the calculation and allocation under this section are to be made separately for each activity.
- (8) The proportion of an allowance allocated by the operator to a participant under this section for a qualifying activity is the total amount of the allowance available to the participant under this Part in relation to the relevant period by virtue of carrying on that activity as a participant in the scheme.

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- (9) For the purposes of subsection (3)(c), assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.
- (10) For the purposes of section 270IA (evidence of qualifying expenditure etc), the operator of a co-ownership scheme may be treated as—
- (a) the “current owner” in relation to property which is subject to the scheme, or
  - (b) the “previous owner” in relation to property which has ceased to be subject to the scheme.

### **270IF Co-ownership schemes: definitions relating to schemes**

Section 262AF (co-ownership schemes: definitions relating to schemes) applies for the purposes of sections 270IC to 270IE as it applies for the purposes of sections 262AA to 262AF.

### *Leases*

### **270IG Treatment of leases**

- (1) This section applies for the purposes of this Part.
- (2) A lease is treated as continuing if it is renewed, extended or replaced.
- (3) If a lease is terminated and, with the consent of the lessor, the lessee of a building or structure remains in possession of the building or structure after the termination without a new lease being granted to the lessee, the lease is treated as continuing so long as the lessee remains in possession.
- (4) If, on the termination of a lease, a new lease is granted to the lessee as a result of the exercise of an option available to the lessee under the terms of the first lease, the second lease is treated as a continuation of the first.
- (5) If, on the termination of a lease, the lessor pays a sum to the lessee in respect of a building or structure comprised in the lease, the lease is treated as if it had come to an end by surrender in consideration of the payment.
- (6) If—
  - (a) on the termination of a lease, 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.

### **270IH 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,
  - (b) any tenancy, and
  - (c) in the case of land outside the United Kingdom, an interest corresponding to a lease,

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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.]

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