



Capital Allowances Act 2001

2001 CHAPTER 2

PART 4

AGRICULTURAL BUILDINGS ALLOWANCES

CHAPTER 5

BALANCING ADJUSTMENTS

General

380 When balancing adjustments are made

- (1) A balancing adjustment is made if—
 - (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;

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- (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—

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<i>1. Balancing event</i>	<i>2. Proceeds from event</i>
	(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).

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.

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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.

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- (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—

“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.