

CAPITAL ALLOWANCES ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Glossary

Part 4: Agricultural buildings allowances

Chapter 2: The relevant interest

Overview

1251. **Chapter 2** identifies the relevant interest in relation to qualifying expenditure in various situations.
1252. **Section 364** is the general rule. The relevant interest is the freehold or leasehold in the related agricultural land. The owner or tenant must have incurred expenditure on constructing an agricultural building.
1253. **Section 365** provides that the relevant interest does not change because of the creation of a subordinate interest. Section 366 deals with the effect of assigning or conveying an interest in land as a security to a creditor, a practical point only in Northern Ireland.
1254. **Section 367** identifies the relevant interest if a leasehold interest merges with another interest. Section 368 deals with other situations in which a lease comes to an end.

Section 364: General rule as to what is the relevant interest

1255. This section is based on sections 125(2) and (3) of CAA 1990. It identifies the relevant interest in terms of the freehold or leasehold interest in the related agricultural land.
1256. In CAA 1990 this is done less directly. Section 125 of CAA 1990 first defines a “major interest”. The “relevant interest” is then defined as the particular major interest in the agricultural land which was held by the person at the time they incurred expenditure on the agricultural building.
1257. The concept of “the relevant interest” is similar to that for industrial buildings allowances. But it is not the same. In particular for agricultural buildings allowances the relevant interest is not in the building but in the related agricultural land.

Section 365: Effect of creation of subordinate lease

1258. This section is based on part of section 125(4) of CAA 1990. It provides that the creation of a subordinate lease has no effect on the relevant interest.

Section 366: Interest held as security

1259. This section is based on section 133(4) of CAA 1990. It ensures that a person who, for example, mortgages land, continues to have the relevant interest in circumstances which

*These notes refer to the Capital Allowances Act 2001
(c.2) which received Royal Assent on 22nd March 2001*

in Northern Ireland may involve a conveyance or assignment. See the commentary on section 175, paragraph 646646 above.

Section 367: Merger of leasehold interest

1260. This section is based on sections 125(4) and 126(4) of CAA 1990. It deals with a relevant interest which is a lease. It sets out rules to determine what happens to the relevant interest when the lease comes to an end.
1261. *Subsection (1)* provides that the reversionary interest (for example the freehold in a simple case) becomes the relevant interest if:
- a lease is extinguished on surrender to the holder of the reversionary interest; or
 - the holder of the lease acquires the reversionary interest.
1262. *Subsection (2)* provides an additional rule if a different person owns the relevant interest as a result of subsection (1). The new owner is treated as having acquired the relevant interest. This gives the new owner the right allowances.
1263. *Subsection (3)* excludes from this section the cases dealt with in section 368.

Section 368: Provisions applying on ending of lease

1264. This section is based on section 126(5) of CAA 1990. It deals with three other cases involving the ending of a lease.
1265. *Subsection (2)* applies if the same lessee gets a new lease of the whole or part of the related agricultural land. Then the lessee keeps the relevant interest.
1266. *Subsection (3)* applies if a new (incoming) lessee:
- gets a new lease of whole or part of the related agricultural land; and
 - pays the outgoing lessee for agricultural buildings on which qualifying expenditure had been incurred.
1267. The new lessee is then treated as having acquired the relevant interest in the whole of the related agricultural land. This links with section 375 which deals with the calculation of allowances after acquisition of a relevant interest.
1268. There is a minor change. Subsections (2) and (3) go further than section 126 of CAA 1990 by catering for cases in which the new lease is for part of the land as well as those in which the new lease is for all of the land. See *Change 42* in Annex 1.
1269. *Subsection (4)* applies in other cases. The relevant interest is treated as acquired by the lessor.