



# Capital Allowances Act 2001

## 2001 CHAPTER 2

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

#### STRUCTURES AND BUILDINGS ALLOWANCES

### [<sup>F1</sup>CHAPTER 2

#### QUALIFYING EXPENDITURE

##### 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

#### *Meaning of “qualifying expenditure”*

##### **270BA Meaning of “qualifying expenditure”**

In this Part “qualifying expenditure” means expenditure which—

- (a) is qualifying capital expenditure under any of sections 270BB to 270BE (expenditure on construction or purchase), and
- (b) is not excluded expenditure under—
  - (i) section 270BG (acquisition or alteration of land),
  - (ii) section 270BH (market value rule), or
  - (iii) section 270BI (provision of plant or machinery).

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*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, CHAPTER 2. (See end of Document for details)*

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*Qualifying expenditure incurred on construction*

**270BB Capital expenditure incurred on construction**

- (1) If—
- (a) capital expenditure is incurred on the construction of a building or structure, and
  - (b) the relevant interest in the building or structure has not been sold or, if it has been sold, it has been sold only after the building or structure has been brought into non-residential use,
- the capital expenditure is qualifying capital expenditure.
- (2) Subsection (3) applies where capital expenditure as mentioned in subsection (1)(a) is incurred in relation to a building or structure—
- (a) after it has been brought into [<sup>F2</sup>non-residential use], and
  - (b) on different days (whether or not in the same chargeable period).
- (3) The expenditure may be treated for the purposes of this Part as being incurred—
- (a) on the latest day on which qualifying capital expenditure on the construction is incurred,
  - (b) on the first day of the chargeable period following the period in which the day mentioned in paragraph (a) falls, or
  - (c) on the first day of the chargeable period following the period in which the day on which the expenditure is incurred falls.

**Textual Amendments**

**F2** Words in s. 270BB(2)(a) substituted (retrospectively) by [Finance Act 2020 \(c. 14\)](#), [Sch. 5 paras. 5, 10](#)

*Qualifying expenditure incurred on purchase*

**270BC Sale of unused buildings or structures (other than by a developer)**

- (1) This section applies if—
- (a) capital expenditure is incurred on the construction of a building or structure,
  - (b) the relevant interest in the building or structure is sold before the building or structure is first used,
  - (c) a capital sum is paid by the purchaser for the relevant interest, and
  - (d) section 270BD (sale by a developer: unused buildings or structures) does not apply.
- (2) The lesser of—
- (a) the capital sum paid by the purchaser for the relevant interest, and
  - (b) the capital expenditure incurred on the construction,
- is qualifying capital expenditure.
- (3) Where this section applies, the qualifying expenditure is to be treated as incurred by the purchaser when the capital sum is paid.

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- (4) If the relevant interest is sold more than once before the building or structure is first used, subsection (2) has effect only in relation to the last of those sales.

#### **270BD Sale by a developer: unused buildings or structures**

- (1) This section applies if—
- (a) expenditure is incurred by a developer on the construction of a building or structure, and
  - (b) the relevant interest in the building or structure is sold by the developer in the course of the development trade before the building or structure is first used.
- (2) If—
- (a) the sale of the relevant interest by the developer was the only sale of that interest before the building or structure is first used, and
  - (b) a capital sum is paid by the purchaser for the relevant interest, the capital sum is qualifying capital expenditure.
- (3) If—
- (a) the sale by the developer was not the only sale before the building or structure is first used, and
  - (b) a capital sum is paid by the purchaser for the relevant interest on the last sale before the building or structure is first used,
- the lesser of that capital sum and the sum paid for the relevant interest on its sale by the developer is qualifying capital expenditure.
- (4) Where this section applies, the qualifying expenditure is to be treated as incurred by the purchaser when the capital sum referred to in subsection (2)(b) or (3)(b) is paid.

#### **270BE Sale by a developer: used buildings or structures**

- (1) This section applies if—
- (a) expenditure is incurred by a developer on the construction of a building or structure, and
  - (b) the relevant interest is sold by the developer in the course of the development trade after the building or structure has been used.
- (2) This Part has effect in relation to the person to whom the relevant interest is sold (and any person who subsequently acquires the relevant interest) as if the expenditure on the construction of the building or structure had been qualifying capital expenditure.

#### **270BF Meaning of references to carrying on trade as a developer**

For the purposes of sections 270BD, 270BE and 270BJ—

- (a) a developer is a person who carries on a trade which consists in whole or part in the construction of buildings or structures with a view to their sale, and
- (b) an interest in a building or structure is sold by the developer in the course of the development trade if the developer sells it in the course of the trade or (as the case may be) that part of the trade that consists in the construction of buildings or structures with a view to their sale.

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### *Excluded expenditure*

#### **270BG Acquisition or alteration of land etc**

- (1) Expenditure incurred—
  - (a) on the acquisition of land or rights in or over land, or
  - (b) on altering land,
 is “excluded expenditure” for the purposes of this Part.
- (2) Expenditure incurred on, or in connection with, seeking planning permission (including fees and related costs) is “excluded expenditure” for the purposes of this Part.
- (3) In subsection (1), the reference to expenditure incurred on an acquisition includes a reference to—
  - (a) fees,
  - (b) stamp duty land tax, land and buildings transaction tax or land transaction tax, and
  - (c) other incidental costs attributable to the acquisition.
- (4) For the purposes of subsection (1), “altering land” means—
  - (a) land reclamation,
  - (b) land remediation, and
  - (c) landscaping (other than so as to create a structure).
- (5) In this section “land remediation” means—
  - (a) in relation to land which is in a contaminated state—
    - (i) activities in respect of which conditions A to C in section 1146 of CTA 2009 (contaminated land remediation) are met, and
    - (ii) relevant preparatory activity as defined in subsection (4) of that section;
  - (b) in relation to land which is in a derelict state—
    - (i) activities in respect of which conditions A and B in section 1146A of CTA 2009 (derelict land remediation) are met, and
    - (ii) relevant preparatory activity as defined in subsection (5) of that section.
- (6) In subsection (5), references to land in a contaminated or derelict state have the same meaning as they have for the purposes of Part 14 of CTA 2009 (remediation of contaminated or derelict land).
- (7) Subsection (1)(b) is subject to section 270BK (preparation of sites).
- (8) In this section, except in subsections (4)(b), (5) and (6), “land” does not include buildings or structures.
- (9) In this section—
 

“planning permission” has the meaning given by the relevant planning enactment;

“relevant planning enactment” has the meaning given by section 436(2).

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## 270BH Market value rule

- (1) Expenditure is “excluded expenditure” for the purposes of this Part if, and to the extent that, it exceeds—
  - (a) in a case where the qualifying capital expenditure under section 270BC or 270BD is the capital sum paid for the relevant interest in the building or structure, the market value of the interest (see section 577(1)), or
  - (b) in any other case, the market value amount of the works, services and other matters to which it relates.
- (2) The “market value amount” means the amount of expenditure which it would have been normal and reasonable to incur on the works, services or other matters—
  - (a) in the market conditions prevailing when the expenditure was incurred, and
  - (b) assuming the transaction as a result of which the expenditure was incurred was between persons dealing with each other at arm’s length in the open market.

## 270BI Provision of plant or machinery

Expenditure which is capital expenditure on the provision of plant or machinery for the purposes of Part 2 (plant and machinery allowances) is “excluded expenditure” for the purposes of this Part.

*Expenditure treated as expenditure on construction*

## 270BJ Expenditure on renovation, conversion or incidental repairs

- (1) This Part has effect in relation to expenditure incurred by a person—
  - (a) on the renovation or conversion of a part of a building or structure, or
  - (b) on repairs to a part of a building or structure that are incidental to the renovation or conversion of that part,as if it were expenditure on the construction of that part of the building or structure for the first time.
- (2) For the purposes of subsection (1), sections 270AA(1)(a) and 270AB have effect, in relation to a building or structure that has been brought into use before 29 October 2018, as if the renovation or conversion of, or repairs to, part of the building or structure were the construction of that part for the first time.

[ For the purposes of subsection (1), in relation to a building or structure that has<sup>F3</sup>(2A) been brought into use at a time when the area in which the building or structure is situated was not a [<sup>F4</sup>special tax site], section 270BNA(2) and (7) have effect as if the renovation or conversion of, or repairs to, part of the building or structure were the construction of that part for the first time.]
- (3) For the purposes of subsection (1), expenditure incurred as mentioned in subsection (1) (a) or (b) for the purposes of a qualifying activity is to be treated as capital expenditure if it is not expenditure that may be allowed to be deducted in calculating the profits of the qualifying activity for tax purposes.

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### Textual Amendments

**F3** S. 270BJ(2A) inserted (10.6.2021) by [Finance Act 2021 \(c. 26\)](#), [Sch. 22 para. 8](#)

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*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, CHAPTER 2. (See end of Document for details)*

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**F4** Words in s. 270BJ(2A) substituted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), Sch. 23 para. 14(a)

### **270BK Preparation of sites**

- (1) This section applies if a person incurs capital expenditure, other than expenditure on altering land (within the meaning of section 270BG(4)), for the purposes of preparing land as a site for the construction of a building or structure.
- (2) This Part has effect in relation to the expenditure as if it were capital expenditure on the construction of the building or structure.
- (3) For that purpose, sections 270AA(1)(a)<sup>[F5]</sup>, 270AB and 270BNA(2) and (7)] have effect as if the preparation of the land mentioned in subsection (1) were the construction of the building or structure.

#### **Textual Amendments**

**F5** Words in s. 270BK(3) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 22 para. 9

#### *Supplementary provision about expenditure*

### **270BL Apportionment of sums partly referable to non-qualifying assets**

- (1) If, for the purposes of this Part, an item of expenditure falls to be apportioned between <sup>[F6]</sup>expenditure for which an allowance can be made under this Part] and other expenditure, the apportionment is to be made on a just and reasonable basis.
- (2) If the sum paid for the sale of the relevant interest in a building or structure is attributable—
  - (a) partly to assets representing expenditure for which an allowance can be made under this Part, and
  - (b) partly to assets representing other expenditure,
 only so much of the sum as on a just and reasonable apportionment is attributable to the assets referred to in paragraph (a) is to be taken into account for the purposes of this Part.

#### **Textual Amendments**

**F6** Words in s. 270BL substituted (retrospectively) by Finance Act 2020 (c. 14), Sch. 5 paras. 6, 10

### **270BM Evidence of the amount of expenditure**

For the purposes of this Part—

- (a) the expenditure on the construction of the building or structure is the sum of those items of expenditure the actual amount of which can be shown, and
- (b) where there are no such items, the amount of expenditure is taken to be nil.

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*Changes to legislation:* There are currently no known outstanding effects for the Capital Allowances Act 2001, CHAPTER 2. (See end of Document for details)

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## **270BN Expenditure incurred before qualifying activity carried on**

For the purposes of this Part, if a person incurs expenditure for the purposes of a qualifying activity—

- (a) on or after 29 October 2018, and
- (b) before the date on which the person starts to carry on that activity,

the expenditure is to be treated as if it were incurred by the person on the date mentioned in paragraph (b).]

**Changes to legislation:**

There are currently no known outstanding effects for the Capital Allowances Act 2001,  
CHAPTER 2.