



# Capital Allowances Act 2001

## 2001 CHAPTER 2

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

#### STRUCTURES AND BUILDINGS ALLOWANCES

### [<sup>F1</sup>CHAPTER 3

#### QUALIFYING USE AND QUALIFYING ACTIVITIES

##### 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

#### *Qualifying activities*

##### **270CA Qualifying activities**

Each of the following is a qualifying activity for the purposes of this Part—

- (a) a trade,
  - (b) an ordinary UK property business,
  - (c) an ordinary overseas property business,
  - (d) a profession or vocation,
  - (e) the carrying on of a concern listed in section 12(4) of ITTOIA 2005 or section 39(4) of CTA 2009 (mines, quarries and other concerns), and
  - (f) managing the investments of a company with investment business,
- but only to the extent that the profits or gains from the activity are, or (if there were any) would be, chargeable to tax.

---

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, CHAPTER 3. (See end of Document for details)*

---

### **270CB Property businesses**

In section 270CA, “ordinary UK property business” and “ordinary overseas property business” have the same meaning as in Part 2 (see sections 16 and 17A).

### **270CC Foreign permanent establishments**

A business carried on through one or more permanent establishments outside the United Kingdom by a company in relation to which an election under section 18A of CTA 2009 (exemption for profits or losses of foreign permanent establishments) has effect—

- (a) is an activity separate from any other activity of the company, and
- (b) is to be regarded for the purposes of this Part as an activity all the profits and gains from which are not, or (if there were any) would not be, chargeable to tax.

### **270CD Companies with investment business**

- (1) For the purposes of this Part, managing the investments of a company with investment business consists of pursuing those purposes expenditure on which would be treated as expenses of management within section 1219 of CTA 2009.
- (2) In this Part “company with investment business” has the same meaning as in Part 16 of CTA 2009 (see section 1218B of that Act).

### *Qualifying use*

### **270CE Qualifying use**

- (1) A building or structure is in “qualifying use” for the purposes of this Part if it is in non-residential use for the purposes of a qualifying activity carried out by the person who has the relevant interest in the building or structure.
- (2) But a building or structure is not treated for the purposes of subsection (1) as being in use for the purposes of a particular activity if the extent to which it is in use for those purposes is insignificant.
- (3) The extent to which a building or structure is in use for the purposes of a particular activity is to be determined on a just and reasonable basis.
- (4) Section 270EB makes provision for the calculation of the allowance in the case of a building or structure that is put to multiple uses.

### **270CF Exclusion: residential use**

- (1) For the purposes of this Part, a building or structure is in “residential use” if—
  - (a) it is used by any person as, or for purposes ancillary to use as—
    - (i) a dwelling-house,
    - (ii) residential accommodation for school pupils,
    - (iii) student accommodation (see subsection (3)),
    - (iv) residential accommodation for members of the armed forces,

---

*Changes to legislation:* There are currently no known outstanding effects for the Capital Allowances Act 2001, CHAPTER 3. (See end of Document for details)

---

- (v) a home or other institution providing residential accommodation (whether for children or adults), except where the accommodation is provided with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder, or
  - (vi) a prison or similar establishment, or
- (b) it falls within—
- (i) paragraph 4 of Schedule 14 to the Housing Act 2004 (buildings in England or Wales occupied by students and managed or controlled by educational establishment etc), or
  - (ii) any corresponding provision having effect in Scotland or Northern Ireland,
- (and a building or structure is in “non-residential use” if it is in use which is not residential use).
- (2) A building or structure that is situated on land that is, or is intended to be, occupied or enjoyed with a building or structure that is in residential use as a garden or grounds is to be treated for the purposes of this Part as being in residential use.
- (3) For the purposes of this Part, a building or structure is in use as student accommodation if—
- (a) the accommodation is purpose-built, or is converted, for occupation by students, and
  - (b) the accommodation is available for occupation by students on at least 165 days of each calendar year.
- (4) For the purposes of subsection (3), accommodation is occupied by students if it is occupied exclusively or mainly by persons who occupy it for the purpose of undertaking a course of education (otherwise than as school pupils).
- (5) Any part of a building or structure that is used as a dwelling-house (whether or not it is also used for any other purposes) is not in qualifying use.

### **270CG Use for the purposes of a property business**

- (1) A building or structure is to be treated, for the purposes of this Part, as being used for the purposes of an ordinary UK property business or an ordinary overseas property business during any period in respect of which subsection (2) applies.
- (2) This subsection applies in relation to a building or structure if the person with the relevant interest is entitled, under the terms of a lease or otherwise, to rents, or other receipts, in respect of the building or structure of such amounts as may reasonably have been expected to have been payable if the transaction had been between persons dealing with each other at arm’s length in the open market.
- (3) For the purposes of this section, “rents” and “other receipts” have the same meaning as in section 266 of ITTOIA 2005.]

**Changes to legislation:**

There are currently no known outstanding effects for the Capital Allowances Act 2001,  
CHAPTER 3.