Capital Allowances Act 2001

2001 CHAPTER 2

[F1PART 3

INDUSTRIAL BUILDINGS ALLOWANCES

[F1CHAPTER 4

QUALIFYING EXPENDITURE

Textual Amendments

F1 Pt. 3 omitted (with effect in relation to chargeable periods beginning on or after 1.4.2011 for corporation tax purposes and 6.4.2011 for income tax purposes in accordance with ss. 84(1)(3)(4), 85, 86 of the amending Act) by virtue of Finance Act 2008 (c. 9), **s. 84(2)** (with Sch. 27)

Introduction

292 Meaning of "qualifying expenditure"

In this Part "qualifying expenditure" means expenditure which is qualifying expenditure under—

section 294	capital expenditure on construction of a building
section 295	purchase of unused building where developer not involved
section 296	purchase of building which has been sold unused by developer

section 301	qualifying expenditure on sale within 2 years of first use where all of expenditure is qualifying enterprise zone expenditure
section 303	qualifying expenditure on sale within 2 years of first use where part of expenditure is qualifying enterprise zone expenditure.

293 Meaning of references to carrying on a trade as a developer

For the purposes of this Chapter—

(a) a developer is a person who carries on a trade which consists in whole or in part in the construction of buildings with a view to their sale, and

(b) an interest in a building 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 with a view to their sale.

Qualifying expenditure

294 Capital expenditure on construction of a building

If—

(a) capital expenditure is incurred on the construction of a building, and

(b) the relevant interest in the building has not been sold or, if it has been sold, it has been sold only after the first use of the building,

the capital expenditure is qualifying expenditure.

295 Purchase of unused building where developer not involved

(1) This section applies if—

(a) expenditure is incurred on the construction of a building,

(b) the relevant interest in the building is sold before the building is first used,

(c) a capital sum is paid by the purchaser for the relevant interest, and

(d) section 296 (purchase of building which has been sold unused by developer) does not apply.

(2) The lesser of—

(a) the capital sum paid by the purchaser for the relevant interest, and

(b) the expenditure incurred on the construction of the building,

is qualifying expenditure.

(3) The qualifying expenditure is to be treated as incurred by the purchaser when the capital sum became payable.

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

296 Purchase of building which has been sold unused by developer

(1) This section applies if—
  (a) expenditure is incurred by a developer on the construction of a building, and
  (b) the relevant interest in the building is sold by the developer in the course of the development trade before the building 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 is used, and
  (b) a capital sum is paid by the purchaser for the relevant interest,

the capital sum is qualifying expenditure.

(3) If—
  (a) the sale by the developer was not the only sale before the building is used, and
  (b) a capital sum is paid by the purchaser for the relevant interest on the last sale,

the lesser of that capital sum and the price paid for the relevant interest on its sale by the developer is qualifying expenditure.

(4) 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) became payable.

297 Purchase of used building from developer

(1) This section applies if—
  (a) expenditure is incurred by a developer on the construction of a building, and
  (b) the relevant interest is sold by the developer in the course of the development trade after the building has been used.

(2) This Part has effect in relation to the person to whom the relevant interest is sold as if—
  (a) the expenditure on the construction of the building had been qualifying expenditure,
  (b) all appropriate writing-down allowances had been made to the developer, and
  (c) any appropriate balancing adjustment had been made on the occasion of the sale.

(3) This section is subject to sections 301 and 303 (purchase of building in enterprise zone within 2 years of first use).

Qualifying enterprise zone expenditure

298 The time limit for qualifying enterprise zone expenditure

(1) For the purposes of sections 299 to 304, the time limit for expenditure on the construction of a building on a site in an enterprise zone is—
  (a) 10 years after the site was first included in the zone, or
  (b) if the expenditure is incurred under a contract entered into within those 10 years, 20 years after the site was first included in the zone.

(2) In those sections "EZ building" is short for "building on a site in an enterprise zone".

(3) In this Part "enterprise zone" means an area designated as such by an order—

(a) made by the Secretary of State [F2, the Scottish Ministers or the National Assembly for Wales,] under powers conferred by Schedule 32 to the Local Government, Planning and Land Act 1980 (c. 65), or

(b) in Northern Ireland, made by the Department of the Environment under Article 7 of the Enterprise Zones (Northern Ireland) Order 1981 (S.I.1981/607 (N.I.15)).

Textual Amendments

F2 Words in s. 298(3) inserted (with effect as mentioned in s. 69(2) of the amending Act) by Finance Act 2001 (c. 9), s. 69(1), **Sch. 21 para. 5**

299 Application of section 294

If—

(a) capital expenditure is incurred on the construction of an EZ building, and

(b) the expenditure is incurred within the time limit,

the qualifying expenditure given by section 294 is qualifying enterprise zone expenditure.

300 Application of sections 295 and 296

If—

(a) expenditure is incurred on the construction of an EZ building, and

(b) all the expenditure is incurred within the time limit,

any qualifying expenditure given by sections 295 and 296 in relation to that expenditure is qualifying enterprise zone expenditure.

301 Purchase of building within 2 years of first use

(1) This section applies if—

(a) expenditure is incurred on the construction of an EZ building,

(b) all the expenditure is incurred within the time limit,

(c) the relevant interest in the building is sold—

(i) after the building has been used, but

(ii) within the period of 2 years beginning with the date on which the building was first used, and

(d) that sale (“the relevant sale”) is the first sale in that period after the building has been used.

(2) If this section applies—

(a) any balancing adjustment which falls to be made on the occasion of the relevant sale is to be made, and

(b) the residue of qualifying expenditure immediately after the relevant sale is to be disregarded for the purposes of this Part.

(3) If a capital sum is paid by the purchaser for the relevant interest on the relevant sale—

(a) the purchaser is to be treated as having incurred qualifying expenditure that is qualifying enterprise zone expenditure of an amount given in subsection (4), (6) or (7), and

(b) in relation to that qualifying enterprise zone expenditure, this Part applies as if the building had not been used before the date of the relevant sale.

(4) Unless subsection (6) or (7) applies, the amount of the qualifying enterprise zone expenditure is the lesser of—

(a) the capital sum paid by the purchaser for the relevant interest on the relevant sale, and

(b) the expenditure incurred on the construction of the building.

(5) Subsections (6) and (7) apply if—

(a) the expenditure incurred on the construction of the EZ building was incurred by a developer, and

(b) the relevant interest in the building has been sold by the developer in the course of the development trade.

(6) If the sale by the developer is the relevant sale, the amount of the qualifying enterprise zone expenditure is the capital sum paid by the purchaser for the relevant interest on that sale.

(7) If the sale by the developer is not the relevant sale, the amount of the qualifying enterprise zone expenditure is the lesser of—

(a) the capital sum paid by the purchaser for the relevant interest on the relevant sale, and

(b) the price paid for the relevant interest on its sale by the developer.

(8) The qualifying expenditure is to be treated as incurred when the capital sum on the relevant sale became payable.

Part of expenditure within time limit for qualifying enterprise zone expenditure

302 Qualifying enterprise zone expenditure where section 295 or 296 applies

(1) This section applies if—

(a) expenditure is incurred on the construction of an EZ building,

(b) only a part of the expenditure is incurred within the time limit, and

(c) the circumstances are as described in—

(i) section 295(1) (purchase of unused building where developer not involved), or

(ii) section 296(1) (purchase of building which has been sold unused by developer).

(2) Only a part of the qualifying expenditure given by section 295(2) or 296(2) or (3) (as the case may be) is qualifying enterprise zone expenditure.

(3) The part of the qualifying expenditure that is qualifying enterprise zone expenditure is—

$$\mathrm{QE} \times \frac{E}{T}$$

where—

QE is the qualifying expenditure,
E is the part of the expenditure on the construction of the EZ building that is incurred within the time limit, and
T is the total expenditure on the construction of the building.

303 Purchase of building within 2 years of first use

(1) This section applies if—

(a) expenditure is incurred on the construction of an EZ building,

(b) only a part of the expenditure is incurred within the time limit,

(c) the relevant interest in the building is sold—

(i) after the building has been used, but

(ii) within the period of 2 years beginning with the date on which the building was first used, and

(d) that sale ("the relevant sale") is the first sale in that period after the building has been used.

(2) If this section applies—

(a) any balancing adjustment which falls to be made on the occasion of the relevant sale is to be made, and

(b) the residue of qualifying expenditure immediately after the relevant sale is to be disregarded for the purposes of this Part.

(3) If a capital sum is paid by the purchaser for the relevant interest on the relevant sale—

(a) the purchaser is to be treated as having incurred qualifying expenditure—

(i) part of which is qualifying enterprise zone expenditure ("Z"), and

(ii) part of which is not ("N"), and

(b) in relation to that qualifying expenditure, this Part applies as if the building had not been used before the date of the relevant sale.

(4) Unless section 304 (cases where developer involved) applies—

$$Z = \mathrm{Lx}\,\frac{E}{T}$$

and

$$N = L - Z$$

L is the lesser of—

(a) the capital sum paid for the relevant interest on the relevant sale, and

(b) the expenditure incurred on the construction of the building,

E is the part of the expenditure on the construction of the EZ building that is incurred within the time limit, and

T is the total expenditure on the construction of the building.

(5) Any qualifying expenditure arising under this section or section 304 is to be treated as incurred when the capital sum on the relevant sale became payable.

304 Application of section 303 where developer involved

(1) This section applies if section 303 applies but—

(a) the expenditure on the construction of the building was incurred by a developer, and

(b) the relevant interest in the building has been sold by the developer in the course of the development trade;

and in this section Z, N, E and T have the same meaning as in section 303.

(2) If the sale by the developer is the relevant sale—

$$Z = \mathrm{Cx}\,\frac{E}{T}$$

and

$$N = L - \mathrm{Lx}\,\frac{E}{T}$$

where—

C is the capital sum paid for the relevant interest by the purchaser, and

L is the lesser of—

(a) the capital sum paid for the relevant interest on the relevant sale, and

(b) the expenditure incurred on the construction of the building.

(3) If the sale by the developer is not the relevant sale—

$$Z = \mathrm{Dx}\,\frac{E}{T}$$

and

$$N = D - Z$$

where D is the lesser of—

(a) the price paid for the relevant interest on its sale by the developer, and

(b) the capital sum paid for the relevant interest on the relevant sale.**]**