



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### [<sup>F1</sup>PART 3A

#### BUSINESS PREMISES RENOVATION ALLOWANCES

##### Textual Amendments

- F1** Pt. 3A inserted (11.4.2007 with effect in accordance with s. 92 of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [Sch. 6 para. 1](#); [S.I. 2007/949](#), art. 2

#### CHAPTER 1

##### INTRODUCTION

#### **360A Business premises renovation allowances**

- (1) Allowances are available under this Part if a person incurs qualifying expenditure in respect of a qualifying building.
- (2) Allowances under this Part are made to the person who—
  - (a) incurred the expenditure, and
  - (b) has the relevant interest in the qualifying building.

#### CHAPTER 2

##### QUALIFYING EXPENDITURE

#### **360B Meaning of “qualifying expenditure”**

- (1) In this Part “qualifying expenditure” means capital expenditure incurred before the expiry date on, or in connection with—

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- (a) the conversion of a qualifying building into qualifying business premises,
  - (b) the renovation of a qualifying building if it is or will be qualifying business premises, or
  - (c) repairs to a qualifying building or, where the qualifying building is part of a building, to the building of which the qualifying building forms part, to the extent that the repairs are incidental to expenditure within paragraph (a) or (b).
- (2) In subsection (1) “ the expiry date ” means—
- (a) the fifth anniversary of the day appointed under section 92 of the Finance Act 2005, or
  - (b) such later date as the Treasury may prescribe by regulations.
- (3) Expenditure is not qualifying expenditure if it is incurred on or in connection with—
- (a) the acquisition of land or rights in or over land,
  - (b) the extension of a qualifying building (except to the extent required for the purpose of providing a means of getting to or from qualifying business premises),
  - (c) the development of land adjoining or adjacent to a qualifying building, or
  - (d) the provision of plant and machinery, other than plant or machinery which is or becomes a fixture as defined by section 173(1).
- (4) For the purposes of this section, expenditure incurred on repairs to a building is to be treated as capital expenditure if it is not expenditure that would be allowed to be deducted in calculating the profits of a property business, or of a trade, profession or vocation, for tax purposes.
- (5) The Treasury may by regulations make further provision as to expenditure which is, or is not, qualifying expenditure.

### CHAPTER 3

#### QUALIFYING BUILDINGS AND QUALIFYING BUSINESS PREMISES

##### **360C Meaning of “qualifying building”**

- (1) In this Part “ qualifying building ”, in relation to any conversion or renovation work, means any building or structure, or part of a building or structure, which—
- (a) is situated in an area which, on the date on which the conversion or renovation work began, was a disadvantaged area,
  - (b) was unused throughout the period of one year ending immediately before that date,
  - (c) on that date, had last been used—
    - (i) for the purposes of a trade, profession or vocation, or
    - (ii) as an office or offices (whether or not for the purposes of a trade, profession or vocation),
  - (d) on that date, had not last been used as, or as part of, a dwelling, and
  - (e) in the case of part of a building or structure, on that date had not last been occupied and used in common with any other part of the building or structure other than a part—
    - (i) as respects which the condition in paragraph (b) is met, or

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- (ii) which had last been used as a dwelling.
- (2) In this section “disadvantaged area” means—
- (a) an area designated as a disadvantaged area for the purposes of this section by regulations made by the Treasury, or
  - (b) if no regulations are made under paragraph (a), an area for the time being designated as a disadvantaged area for the purposes of Schedule 6 to the Finance Act 2003 (stamp duty land tax: disadvantaged areas relief).
- (3) Regulations under subsection (2)(a) may—
- (a) designate specified areas as disadvantaged areas, or
  - (b) provide for areas of a description specified in the regulations to be designated as disadvantaged areas.
- (4) If regulations under subsection (2)(a) so provide, the designation of an area as a disadvantaged area shall have effect for such period as may be specified in or determined in accordance with the regulations.
- (5) Regulations under subsection (2)(a) may—
- (a) make different provision for different cases, and
  - (b) contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (6) Where a building or structure (or part of a building or structure) which would otherwise be a qualifying building is on the date mentioned in subsection (1)(a) situated partly in a disadvantaged area and partly outside it, only so much of the expenditure incurred in accordance with section 360B as, on a just and reasonable apportionment, is attributable to the part of the building or structure located in the disadvantaged area is to be treated as qualifying expenditure.
- (7) The Treasury may by regulations make further provision as to the circumstances in which a building or structure or part of a building or structure is, or is not, a qualifying building.

### **360D Meaning of “qualifying business premises”**

- (1) In this Part “qualifying business premises” means any premises in respect of which the following requirements are met—
- (a) the premises must be a qualifying building,
  - (b) the premises must be used, or available and suitable for letting for use,—
    - (i) for the purposes of a trade, profession or vocation, or
    - (ii) as an office or offices (whether or not for the purposes of a trade, profession or vocation),
  - (c) the premises must not be used, or available for use as, or as part of, a dwelling.
- (2) In this section “premises” means any building or structure or part of a building or structure.
- (3) For the purposes of this Part, if premises are qualifying business premises immediately before a period when they are temporarily unsuitable for use for the purposes mentioned in subsection (1)(b), they are to be treated as being qualifying business premises during that period.

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- (4) The Treasury may by regulations make further provision as to the circumstances in which premises are, or are not, qualifying business premises.

## CHAPTER 4

### THE RELEVANT INTEREST IN THE QUALIFYING BUILDING

#### **360E General rule as to what is the relevant interest**

- (1) The relevant interest in a qualifying building in relation to any qualifying expenditure is the interest in the qualifying building to which the person who incurred the qualifying expenditure was entitled when it was incurred.
- (2) Subsection (1) is subject to the following provisions of this Chapter and to section 360Z3 (provisions applying on termination of lease).
- (3) If—
- (a) the person who incurred the qualifying expenditure was entitled to more than one interest in the qualifying building when the expenditure was incurred, and
  - (b) one of those interests was reversionary on all the others,
- the reversionary interest is the relevant interest in the qualifying building.
- (4) An interest does not cease to be the relevant interest merely because of the creation of a lease or other interest to which that interest is subject.
- (5) If—
- (a) the relevant interest is a leasehold interest, and
  - (b) that interest is extinguished on the person entitled to it acquiring the interest which is reversionary on it,
- the interest into which the leasehold interest merges becomes the relevant interest when the leasehold interest is extinguished.

#### **360F Interest acquired on completion of conversion**

For the purposes of determining the relevant interest in a qualifying building, a person who—

- (a) incurs expenditure on the conversion of a qualifying building into qualifying business premises, and
- (b) is entitled to an interest in the qualifying building on or as a result of the completion of the conversion,

is treated as having had that interest when the expenditure was incurred.

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## CHAPTER 5

### INITIAL ALLOWANCES

#### **360G Initial allowances**

- (1) A person who has incurred qualifying expenditure in respect of any qualifying building is entitled to an initial allowance in respect of the expenditure.
- (2) The amount of the initial allowance is 100% of the qualifying expenditure.
- (3) A person claiming an initial allowance under this section may require the allowance to be reduced to a specified amount.
- (4) The initial allowance is made for the chargeable period in which the qualifying expenditure is incurred.

#### **360H Premises not qualifying business premises or relevant interest sold before premises first used or let**

- (1) No initial allowance is to be made under section 360G if, at the relevant time, the qualifying building does not constitute qualifying business premises.
- (2) An initial allowance which has been made in respect of a qualifying building which is to be qualifying business premises is to be withdrawn if—
  - (a) the qualifying building does not constitute qualifying business premises at the relevant time, or
  - (b) the person to whom the allowance was made has sold the relevant interest in the qualifying building before the relevant time.
- (3) All such assessments and adjustments of assessments are to be made as are necessary to give effect to this section.
- (4) In this section “ the relevant time ” means the time when the premises are first used by the person with the relevant interest or, if they are not so used, the time when they are first suitable for letting for either of the purposes mentioned in section 360D(1)(b).

## CHAPTER 6

### WRITING-DOWN ALLOWANCES

#### **360I Entitlement to writing-down allowances**

- (1) A person is entitled to a writing-down allowance for a chargeable period if he has incurred qualifying expenditure in respect of a qualifying building and, at the end of the chargeable period—
  - (a) the person is entitled to the relevant interest in the qualifying building,
  - (b) the person has not granted a long lease of the qualifying building out of the relevant interest in consideration of the payment of a capital sum, and
  - (c) the qualifying building constitutes qualifying business premises.
- (2) In subsection (1)(b) “ long lease ” means a lease the duration of which exceeds 50 years.

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- (3) Whether the duration of a lease exceeds 50 years is to be determined—
  - (a) in accordance with section 303 of ITTOIA 2005, and
  - (b) without regard to section 360Z3(3) of this Act (new lease granted as a result of the exercise of an option treated as continuation of old lease).
- (4) A person claiming a writing-down allowance may require the allowance to be reduced to a specified amount.

### **360J Amount of allowance**

- (1) The writing-down allowance for a chargeable period is 25% of the qualifying expenditure.
- (2) The allowance is proportionately increased or reduced if the chargeable period is more or less than a year.
- (3) The amount of the writing-down allowance for a chargeable period is limited to the residue of qualifying expenditure.
- (4) For this purpose the residue is ascertained immediately before writing off the writing-down allowance at the end of the chargeable period.

### **360K Meaning of “ the residue of qualifying expenditure ”**

The residue of qualifying expenditure is the qualifying expenditure that has not yet been written off in accordance with Chapter 9.

## **CHAPTER 7**

### **GRANTS IN RESPECT OF QUALIFYING EXPENDITURE**

### **360L Grants affecting entitlement to allowances**

- (1) No initial allowance or writing-down allowance under this Part is to be made in respect of expenditure to the extent that it is taken into account for the purposes of a relevant grant or relevant payment made towards that expenditure.
- (2) A grant or payment is relevant if it is—
  - (a) a notified State aid other than an allowance under this Part, or
  - (b) a grant or subsidy, other than a notified State aid, which the Treasury by order declares to be relevant for the purposes of the withholding of initial allowances or writing-down allowances.
- (3) For the purposes of subsection (2), “ notified State aid ” means a State aid notified to and approved by the European Commission.
- (4) If a relevant grant or relevant payment towards the expenditure is made after the making of an initial allowance or a writing-down allowance, the allowance is to be withdrawn to that extent.
- (5) If the amount of the relevant grant or relevant payment is repaid by the grantee to the grantor, in whole or in part, the grant or payment is treated, to that extent, as never having been made.

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- (6) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (4) or (5).
- (7) Any such assessment or adjustment is not out of time if it is made within 3 years of the end of the chargeable period in which the grant, payment or adjustment was made.

## CHAPTER 8

### BALANCING ADJUSTMENTS

#### **360M When balancing adjustments are made**

- (1) A balancing adjustment is made if—
  - (a) qualifying expenditure has been incurred in respect of a qualifying building, and
  - (b) a balancing event occurs.
- (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 who incurred the qualifying expenditure.
- (4) No balancing adjustment is made if the balancing event occurs more than 7 years after the time when the premises were first used, or suitable for letting, for either of the purposes mentioned in section 360D(1)(b).
- (5) If more than one balancing event within section 360N occurs, a balancing adjustment is made only on the first of them.

#### **360N Balancing events**

- (1) The following are balancing events for the purposes of this Part—
  - (a) the relevant interest in the qualifying building is sold;
  - (b) a long lease of the qualifying building is granted out of the relevant interest in consideration of the payment of a capital sum;
  - (c) if the relevant interest is a lease, the lease ends otherwise than on the person entitled to it acquiring the interest reversionary on it;
  - (d) the person who incurred the qualifying expenditure dies;
  - (e) the qualifying building is demolished or destroyed;
  - (f) the qualifying building ceases to be qualifying business premises (without being demolished or destroyed).
- (2) Section 360I(2) and (3) (meaning of “long lease”) applies for the purposes of subsection (1)(b).

#### **360O 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—

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TABLE: BALANCING EVENTS AND PROCEEDS

<b>1 Balancing Event</b>	<b>2 Proceeds from event</b>
1 The sale of the relevant interest.	The net proceeds of the sale.
2 The grant of a long lease out of the relevant interest.	If the capital sum paid in consideration of the grant is less than the commercial premium, the commercial premium. In any other case, the capital sum paid in consideration of the grant.
3 The coming to an end of a lease, where a person entitled to the lease and a person entitled to any superior interest are connected persons.	The market value of the relevant interest in the qualifying building at the time of the event.
4 The death of the person who incurred the qualifying expenditure.	The residue of qualifying expenditure immediately before the death.
5 The demolition or destruction of the qualifying building.	The net amount received for the remains of the qualifying building, together with (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.
6 The qualifying building ceases to be qualifying business premises.	The market value of the relevant interest in the qualifying building at the time of the event.

(2) The amounts referred to in column 2 of the Table are those received or receivable by the person who incurred the qualifying expenditure.

(3) In Item 2 of the Table “ the commercial premium ” means the premium that would have been given if the transaction had been at arm's length.

### **360P Calculation of balancing adjustments**

- (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, if any, of qualifying expenditure immediately before the event.
- (4) The amount of the balancing charge is the amount of—
  - (a) the difference, or



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- (b) the proceeds (if the residue is nil).
- (5) The amount of a balancing charge made on a person must not exceed the total amount of—
- (a) any initial allowances made to the person in respect of the expenditure, and
  - (b) any writing-down allowances made to the person in respect of the expenditure for chargeable periods ending on or before the date of the balancing event giving rise to the balancing adjustment.

## CHAPTER 9

### WRITING OFF QUALIFYING EXPENDITURE

#### **360Q Introduction**

For the purposes of this Part qualifying expenditure is written off to the extent and at the times specified in this Chapter.

#### **360R Writing off initial allowances and writing-down allowances**

- (1) If an initial allowance is made in respect of the qualifying expenditure, the amount of the allowance is written off at the time when the qualifying business premises are first used, or suitable for letting for use, for either of the purposes mentioned in section 360D(1)(b).
- (2) If a writing-down allowance is made in respect of the qualifying expenditure, the amount of the allowance is written off at the end of the chargeable period for which the allowance is made.
- (3) If a balancing event occurs at the end of the chargeable period referred to in subsection (2), the amount written off under that subsection is to be taken into account in calculating the residue of qualifying expenditure immediately before the event to determine what balancing adjustment (if any) is to be made.

#### **360S Treatment of demolition costs**

- (1) This section applies if—
  - (a) a qualifying building is demolished, and
  - (b) the person who incurred the qualifying expenditure incurs the cost of the demolition.
- (2) The net cost of the demolition is added to the residue of qualifying expenditure immediately before the demolition.
- (3) “ The net cost of the demolition ” means the amount, if any, by which the cost of the demolition exceeds any money received for the remains of the qualifying building.
- (4) If this section applies, neither the cost of the demolition nor the net cost of the demolition is treated for the purposes of any Part of this Act as expenditure on any other property replacing the qualifying building demolished.

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## CHAPTER 10

### ADDITIONAL VAT LIABILITIES AND REBATES

#### **360T Introduction**

For the purposes of this Chapter—

- (a) “ additional VAT liability ” and “ additional VAT rebate ” have the meanings given by section 547,
- (b) the time when—
  - (i) a person incurs an additional VAT liability, or
  - (ii) an additional VAT rebate is made to a person,
 is given by section 548, and
- (c) the chargeable period in which, and the time when, an additional VAT liability or an additional VAT rebate accrues are given by section 549.

#### **360U Additional VAT liabilities and initial allowances**

- (1) This section applies if—
  - (a) a person was entitled to an initial allowance under this Part in respect of qualifying expenditure on a qualifying building,
  - (b) that person incurs an additional VAT liability in respect of that expenditure, and
  - (c) the additional VAT liability is incurred at a time when the qualifying building is, or is about to be, qualifying business premises.
- (2) If this section applies, the person entitled to the relevant interest is entitled to an initial allowance on the amount of the additional VAT liability.
- (3) The amount of the initial allowance is 100% of the amount of the additional VAT liability.
- (4) A person claiming an initial allowance under this section may require the allowance to be reduced to a specified amount.
- (5) The allowance is made for the chargeable period in which the additional VAT liability accrues.

#### **360V Additional VAT liabilities and writing-down allowances**

- (1) This section applies if the person entitled to the relevant interest in relation to qualifying expenditure incurs an additional VAT liability in respect of that expenditure.
- (2) If this section applies—
  - (a) the additional VAT liability is treated as qualifying expenditure, and
  - (b) the amount of the residue of qualifying expenditure is accordingly increased at the time when the liability accrues by the amount of the liability.

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### **360W Additional VAT liabilities and writing off initial allowances**

If an initial allowance is made in respect of an additional VAT liability incurred after the qualifying business premises are first used or suitable for letting for business use, the amount of the allowance is written off at the time when the liability accrues.

### **360X Additional VAT rebates and balancing adjustments**

- (1) If an additional VAT rebate is made in respect of qualifying expenditure to the person entitled to the relevant interest in relation to that qualifying expenditure—
  - (a) the making of the rebate is a balancing event for the purposes of this Part, but
  - (b) the making of balancing adjustments as a result of the event is subject to subsections (2) and (3).
- (2) No balancing allowance is to be made as a result of the event.
- (3) A balancing charge is not to be made as a result of the event unless—
  - (a) the amount of the additional VAT rebate is more than the amount of the residue of qualifying expenditure immediately before the time when the rebate accrues, or
  - (b) there is no such residue.
- (4) The amount of the balancing charge is—
  - (a) the amount of the difference, or
  - (b) the amount of the rebate (if there is no residue).

### **360Y Additional VAT rebates and writing off qualifying expenditure**

If an additional VAT rebate is made in respect of qualifying expenditure, an amount equal to the rebate is written off at the time when the rebate accrues.

## **CHAPTER 11**

### **SUPPLEMENTARY PROVISIONS**

### **360Z Giving effect to allowances and charges: trades**

- (1) An allowance or charge to which a person is entitled or liable under this Part is to be given effect in calculating the profits of that person's trade, by treating—
  - (a) the allowance as an expense of the trade, and
  - (b) the charge as a receipt of the trade.
- (2) In the case of a person who—
  - (a) is entitled to an allowance or liable to a charge in respect of a qualifying building, and
  - (b) occupies that building in the course of a profession or vocation,the references in subsection (1) to a trade are to be read as references to the profession or vocation.
- (3) Subsection (1) is subject to the following provisions of this Chapter.

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### **360Z1 Giving effect to allowances and charges: lessors and licensees**

- (1) This section applies if—
  - (a) a person is entitled or liable to an allowance or charge under this Part for a chargeable period (“ the relevant period ”), but
  - (b) his interest in the building in question is or was subject to a lease or a licence at any time in that period.
- (2) If the person's interest in the building is an asset of a property business carried on by him at any time in the relevant period, the allowance or charge is to be given effect in calculating the profits of that business for the relevant period by treating—
  - (a) the allowance as an expense of that business, and
  - (b) the charge as a receipt of that business.
- (3) If the person's interest in the building is not an asset of a property business carried on by him at any time in the relevant period, the allowance or charge is to be given effect by treating him as if he had been carrying on a property business in that period and as if—
  - (a) the allowance were an expense of that business, and
  - (b) the charge were a receipt of that business.

### **360Z2 Apportionment of sums partly referable to non-qualifying assets**

- (1) If the sum paid for the sale of the relevant interest in a qualifying building 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.
- (2) Subsection (1) applies to other proceeds from a balancing event in respect of a qualifying building as it applies to a sum given for the sale of the relevant interest in the qualifying building.
- (3) Subsection (1) does not affect any other provision of this Act requiring an apportionment of the proceeds of a balancing event.

### **360Z3 Provisions applying on termination of lease**

- (1) This section applies for the purposes of this Part if a lease is terminated.
- (2) If, with the consent of the lessor, the lessee of the qualifying building remains in possession of the qualifying building after the termination without a new lease being granted to him, the lease is treated as continuing so long as the lessee remains in possession.
- (3) If on the termination a new lease is granted to a lessee as a result of the exercise of an option available to him under the terms of the first lease, the second lease is treated as a continuation of the first.

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- (4) If on the termination the lessor pays a sum to the lessee in respect of business premises comprised in the lease, the lease is treated as if it had come to an end by surrender in consideration of the payment.
- (5) If on the termination—
- (a) another lease is granted to a different lessee, and
  - (b) in connection with the transaction that lessee pays a sum to the person who was the lessee under the first lease,
- the two leases are to be treated as if they were the same lease which had been assigned by the lessee under the first lease to the lessee under the second lease in consideration of the payment.

#### **360Z4 Meaning of “lease” etc.**

- (1) In this Part “ lease ” includes—
- (a) an agreement for a lease if the term to be covered by the lease has begun, and
  - (b) any tenancy,
- but does not include a mortgage (and “ lessee ”, “ lessor ” and “ leasehold interest ” are to be read accordingly).
- (2) In the application of this Part to Scotland—
- (a) “ leasehold interest ” or “ leasehold estate ” means the interest of a tenant in property subject to a lease, and
  - (b) any reference to an interest which is reversionary on a leasehold interest or on a lease is to be read as a reference to the interest of the landlord in the property subject to the leasehold interest or lease.]

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