



# Capital Allowances Act 2001

## 2001 CHAPTER 2

### [<sup>F1</sup>PART 4

#### AGRICULTURAL BUILDINGS ALLOWANCES

### CHAPTER 5

#### BALANCING ADJUSTMENTS

#### *[<sup>F1</sup> Calculation of balancing adjustments*

#### Textual Amendments

- F1** Pt. 4 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 of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 84\(2\)](#) (with [Sch. 27](#))

#### **385 Calculation of balancing adjustment**

- (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 of qualifying expenditure immediately before the event.
- (4) The amount of the balancing charge is the amount of the difference.

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*Status: Point in time view as at 21/07/2008.*

*Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 2001, Cross Heading: Calculation of balancing adjustments. (See end of Document for details)*

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### **386 The residue of qualifying expenditure**

The residue of qualifying expenditure at any time is—

$$QE+BA$$

where—

QE is the amount of qualifying expenditure,

B is the total amount of balancing charges previously made under this Part in respect of the expenditure, and

A is the total amount of any allowances (including balancing allowances) previously made under this Part in respect of that expenditure (whether to the same or to different persons).

### **387 Overall limit on balancing charge**

The amount of a balancing charge made on a person in respect of any qualifying expenditure must not exceed the total allowances made under this Part to the person in respect of the expenditure for chargeable periods ending before that in which the balancing event occurs.

### **388 Acquisition of relevant interest in part of land, etc.**

- (1) This section applies if a balancing event relates to—
  - (a) the acquisition of the relevant interest in part only of the related agricultural land in which the interest subsisted when the qualifying expenditure was incurred, or
  - (b) only part of the agricultural building.
- (2) Entitlement or liability to, and the amount of, the balancing adjustment, are determined by reference to the part of the qualifying expenditure that is properly attributable to the part of the related agricultural land or (as the case may be) the part of the agricultural building.
- (3) Section 377 (no writing-down allowance for qualifying expenditure for the chargeable period in which a balancing adjustment is made) applies to the part of the qualifying expenditure referred to in subsection (2).

### **389 Balancing allowances restricted where sale subject to subordinate interest etc.**

- (1) This section applies if—
  - (a) the relevant interest is sold subject to a subordinate interest,
  - (b) the person entitled to the relevant interest immediately before the sale (“the former owner”) would, apart from this section, be entitled to a balancing allowance under this Chapter as a result of the sale, and
  - (c) condition A or B is met.
- (2) Condition A is that—
  - (a) the former owner,
  - (b) the person who acquires the relevant interest, and
  - (c) the person to whom the subordinate interest was granted,
 or any two of them, are connected persons.

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- (3) Condition B is that it appears that the sole or main benefit which might have been expected to accrue to the parties or any of them from the sale or the grant, or transactions including the sale or grant, was the obtaining of an allowance under this Part.
- (4) For the purpose of deciding what balancing adjustment is to be made in a case to which this section applies, the net proceeds to the former owner of the sale are to be increased—
- (a) by an amount equal to any premium receivable by him for the grant of the subordinate interest, and
  - (b) if no rent, or no commercial rent, is payable in respect of the subordinate interest, by the amount by which the proceeds would have been greater if a commercial rent had been payable and the relevant interest had been sold in the open market.
- (5) But the net proceeds of the sale are not to be treated as being greater than the amount which secures that no balancing allowance is made.
- (6) If the terms on which a subordinate interest is granted are varied before the sale of the relevant interest—
- (a) any capital consideration for the variation is to be treated for the purposes of this section as a premium for the grant of the interest, and
  - (b) the question whether any, and if so what, rent is payable in respect of the interest is to be determined by reference to the terms in force immediately before the sale.
- (7) If this section applies in relation to a sale to deny or reduce a balancing allowance, the residue of qualifying expenditure immediately after the sale is nevertheless calculated as if the balancing allowance had been made or not reduced.

### **390 Interpretation of section 389**

- (1) In section 389—

“commercial rent” means such rent as may reasonably be expected to have been required in respect of the subordinate interest (having regard to any premium payable for the grant of the interest) if the transaction had been at arm’s length;

“premium” includes any capital consideration, except so much of any sum as corresponds to [F2— ]

- (a) an amount of rent or profits falling to be calculated by reference to that sum under section 34 of ICTA[F3], or
- (b) an amount brought into account as a receipt in calculating the profits of a UK property business under sections 277 to 281 of ITTOIA 2005 that is calculated by reference to the sum; ]

an amount of rent or profits falling to be calculated by reference to that sum under section 34 of ICTA;

“subordinate interest” means an interest in or right over the related agricultural land, whether granted by the former owner or anyone else.

- (2) In section 389 and this section—

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“capital consideration” means consideration which consists of a capital sum or would be a capital sum if it had consisted of a money payment, and “rent” includes any consideration which is not capital consideration.]

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**Textual Amendments**

- F2** Words in definition in s. 390(1) become para. (a) (with effect in accordance with s. 883(1) of the amending Act) by virtue of [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 557\(a\)](#) (with [Sch. 2](#))
- F3** Words in s. 390(1) inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), [Sch. 1 para. 557\(b\)](#) (with [Sch. 2](#))

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