



Capital Allowances Act 1990 (repealed)

1990 CHAPTER 1

PART V

AGRICULTURAL BUILDINGS ETC.

CHAPTER I

AGRICULTURE

130 Restriction of balancing allowances on sale of buildings.

(1) This section has effect where—

- (a) the relevant interest in a building is sold subject to a subordinate interest; and
- (b) a balancing allowance under section 128 would, apart from this section, fall to be made to the person who is entitled to the relevant interest immediately before the sale (“the former owner”) by virtue of the sale; and
- (c) either—
 - (i) the former owner, the person to whom the relevant interest is sold and the grantee of the subordinate interest, or any two of them, are connected with each other within the terms of section 839 of the principal Act, or
 - (ii) it appears with respect to the sale or to the grant of the subordinate interest, or with respect to transactions including the sale or grant, that the sole or main benefit which, apart from this section, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under this Part.

(2) For the purposes of section 128, the net proceeds to the former owner of the sale—

- (a) shall be taken to be increased by an amount equal to any premium receivable by him for the grant of the subordinate interest; and
- (b) where no rent, or no commercial rent, is payable in respect of the subordinate interest, shall be taken to be what those proceeds would have been if a

Status: Point in time view as at 16/07/1992. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Section 130. (See end of Document for details)

commercial rent had been payable and the relevant interest had been sold in the open market (increased by any amount to be added under paragraph (a) above);

but the net proceeds of sale shall not by virtue of this subsection be taken to be greater than such amount as will secure that no balancing allowance falls to be made.

(3) Where subsection (2) above operates in relation to a sale to deny or reduce a balancing allowance in respect of any expenditure, section 129(3) shall have effect as if that balancing allowance had been made or, as the case may be, had not been reduced.

(4) In this section—

“subordinate interest” means any interest in or right over the building in question (whether granted by the former owner or by somebody else);

“premium” includes any capital consideration except so much of any sum as corresponds to any amount of rent or profits falling to be computed by reference to that sum under section 34 of the principal Act (premium treated as rent or Schedule D profits);

“capital consideration” means consideration which consists of a capital sum or would be a capital sum if it had taken the form of a money payment;

“rent” includes any consideration which is not capital consideration;

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

(5) Where the terms on which a subordinate interest is granted are varied before the sale of the relevant interest, any capital consideration for the variation shall be treated for the purposes of this section as a premium for the grant of the interest, and the question whether any and, if so, what rent is payable in respect of the interest shall be determined by reference to the terms as in force immediately before the sale.

Status:

Point in time view as at 16/07/1992. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Capital Allowances Act 1990 (repealed), Section 130.