



HM Revenue  
& Customs

# Capital allowances for structures and buildings

Introductory note to draft secondary legislation  
13 March 2019

## Introduction

1. The Chancellor announced on 29 October 2018 the introduction of a new capital allowance for new non-residential structures and buildings (SBA).
2. The SBA is a long-term commitment to making the UK the prime destination for investment, and improves the business case for new investments in structural assets. As a longstanding request from business, it directly addresses a gap where relief is available for plant and machinery integral to structures and buildings, but not for the latter as constructed assets that lose value over time.
3. A technical note<sup>1</sup> published on Budget Day described key features of the relief, including its rate, period, expected reach and notable restrictions. The purpose of this note is to outline how some elements have evolved following meetings with those representing industry, tax accounting and legal advice, buildings development investors and other key interests.
4. The government invites comment by 24 April 2019 on the detailed draft secondary legislation. An overall response to consultation responses will be published in May 2019. The final, published version of this legislation will be in the format of a Statutory Instrument.

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<sup>1</sup> <https://www.gov.uk/government/publications/capital-allowances-for-structures-and-buildings-technical-note>

## Core structure and timing of relief

5. This remains as outlined in chapter 3 of the technical note:
  - a) relief will be given at a flat rate of two percent over a 50-year period
  - b) relief will be available for new commercial structures and buildings, including costs for new conversions or renovations
  - c) relief is available for UK and overseas structures and buildings, where the business is within the charge to UK tax
  - d) relief will be limited to the costs of physically constructing the structure or building, including costs of demolition or land alterations necessary for construction, and direct costs required to bring the asset into existence
  - e) relief is available for eligible expenditure incurred where all the contracts for the physical construction works were entered into on or after 29 October 2018
  - f) claims can only be made from when a structure or building first comes into use
  - g) land costs or rights over land will not be eligible for relief, nor will the costs of obtaining planning permission
  - h) the claimant must have an interest in the land on which the structure or building is constructed
  - i) dwelling houses will not qualify, nor any part of a building used as a dwelling where the remainder of the building is commercial
  - j) sale of the asset will not result in a balancing adjustment - instead, the purchaser takes over the remainder of the allowances written down over the remaining part of the 50-year period
  - k) expenditure on integral features and fittings of a structure or building that are currently allowable as expenditure on plant and machinery, will continue to qualify for writing down allowances for plant and machinery including the Annual Investment Allowance (AIA) up to its annual limit
  - l) SBA expenditure will not qualify for the AIA
  - m) where a structure or building is renovated or converted so that it becomes a qualifying asset, the expenditure will qualify for a separate two percent relief over the next 50 years.

## Disuse

6. Responses to consultation suggested strongly that provisions on disuse could give rise to onerous calculations and significant record keeping obligations for businesses. Many argued that, with little commercial incentive to keep buildings unoccupied, long periods were unlikely to arise in practice. On that basis, relief will instead continue to be available, with no prohibition for periods of disuse. This approach ensures legitimate expenditure remains recognised and avoids deterrence or reduction of potential investment.

## Demolition

7. Demolition would usually be considered a disposal event for capital gains purposes. As informed by discussion with stakeholders, any unrelieved expenditure would therefore be claimed as a deduction in arriving the capital gains computation. This would avoid businesses having to continue with 'shadow' SBA claims, after the structure or building has been demolished or where interest in land may have expired, whilst at the same time ensuring investors remain able to claim relief for all qualifying construction costs.

## Leases

8. The policy remains that where the term of the lease is not more than 35 years, all the allowances will stay with the lessor. Where leases exceed 35 years, and the amount paid as a capital sum for a lease (including the element of a lease under 50 years allocated to capital) is 75 percent or more of the sum of that capital amount and the value of the retained interest in the property, the relevant interest is transferred to the lessee.
9. Separate rules will apply to wasting and non-wasting leases, both to ensure that all eligible expenditure is relieved, and to avoid double relief. The rules will also look to ensure that lessors do not unduly benefit from unclaimed relief upon expiry of a lease.

## Next Steps

10. From the Budget announcement onwards, the Government has sought to give businesses a high degree of certainty on what the SBA would offer. The technical note was published on Budget Day, and the power to make regulations enacted in Finance Act 2019. A number of meetings with interested groups has directly impacted the design of the secondary legislation, which is now published for comment and provides the detailed legislative vehicle for delivering this new allowance.
11. Comments are therefore invited on the draft legislation by 24 April 2019. Please send these to: [contact.capitalallowances@hmrc.gsi.gov.uk](mailto:contact.capitalallowances@hmrc.gsi.gov.uk). An overall response to the consultation process will be published in May 2019.
12. Ahead of summer recess, the resulting statutory instrument is expected to be debated by Parliament before being made by affirmative resolution.
13. Once in force, the legislation will apply to eligible costs incurred on or after 29 October 2018 in line with the commencement provisions.

1 After section 270 of the Capital Allowances Act 2001 insert—

**“PART 2A**

STRUCTURES AND BUILDINGS ALLOWANCES

**CHAPTER 1**

INTRODUCTION

**270AA Structures and buildings allowances**

- (1) This Part applies if—
  - (a) the construction of a building or structure begins on or after 29 October 2018,
  - (b) qualifying expenditure is incurred, on or after that date, on its construction or acquisition, and
  - (c) the building or structure is not in residential use.
- (2) A person is entitled to an allowance, in relation to a qualifying activity, for a chargeable period if—
  - (a) in respect of any day during that chargeable period, the person has the relevant interest in the building or structure in relation to the qualifying expenditure, and
  - (b) that day falls—
    - (i) after the building or structure is first brought into qualifying use by the person (whether in the same or an earlier chargeable period) or, if later, the day on which the qualifying expenditure is incurred, and
    - (ii) within the period of 50 years beginning with the day on which the building or structure is first brought into non-residential use.
- (3) A person ceases to be entitled to an allowance under this section if the building or structure is—
  - (a) brought into residential use, or
  - (b) demolished.
- (4) The basic rule is that the allowance, in relation to a qualifying activity, for a chargeable period of one year is 2% of the qualifying expenditure.
- (5) In this section—
  - “qualifying activity” has the meaning given by section 270CA;
  - “qualifying expenditure” has the meaning given by section 270BA;
  - “qualifying use” has the meaning given by section 270CE;

“relevant interest” is to be construed in accordance with Chapter 4;

“residential use” and “non-residential use” have the meaning given by section 270CF.

- (6) This section is subject to the following provisions of this Part.

**270AB Date on which construction begins**

- (1) For the purposes of section 270AA(1)(a), the construction of a building or structure is treated as beginning before 29 October 2018 (the “commencement date”) if subsection (2) or (3) applies.
- (2) This subsection applies if any contract for the construction of the building or structure is entered into before the commencement date.
- (3) This subsection applies if –
- (a) any contract for the construction of the building or structure (a “construction contract”) is entered into on or after the commencement date, but
  - (b) a connected preparatory contract is entered into before that date.
- (4) A “connected preparatory contract”, in relation to a contract for the construction of a building or structure (the “construction contract”), is a contract which –
- (a) is for any works carried out in preparation for the construction of that particular building or structure, and
  - (b) is entered into only because there is an expectation that the construction contract will subsequently be entered into.

**CHAPTER 2**

**QUALIFYING EXPENDITURE**

*Meaning of “qualifying expenditure”*

**270BA Meaning of “qualifying expenditure”**

In this Part, “qualifying expenditure” means expenditure which –

- (a) is qualifying capital expenditure under any of sections 270BB to 270BD (expenditure on construction or purchase), and
- (b) is not excluded expenditure under –
  - (i) section 270BG (acquisition or alteration of land),
  - (ii) section 270BH (market value rule), or
  - (iii) section 270BI (provision of plant or machinery).

*Qualifying expenditure incurred on construction*

**270BB Capital expenditure incurred on construction**

If –

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

- 
- (b) the relevant interest in the building or structure has not been sold or, if it has been sold, it has been sold only after the building or structure has been brought into qualifying use, the capital expenditure is qualifying capital expenditure.

*Qualifying expenditure incurred on purchase*

**270BC Sale of unused buildings or structures (other than by a developer)**

- (1) This section applies if—
  - (a) capital expenditure is incurred on the construction of a building or structure,
  - (b) the relevant interest in the building or structure is sold before the building or structure is first used,
  - (c) a capital sum is paid by the purchaser for the relevant interest, and
  - (d) section 270BD (purchase of building which has been sold unused by a developer) does not apply.
- (2) The lesser of—
  - (a) the capital sum paid by the purchaser for the relevant interest, and
  - (b) the capital expenditure incurred on the construction, is qualifying capital expenditure.
- (3) Where this section applies, the qualifying expenditure is to be treated as incurred by the purchaser when the capital sum is paid.
- (4) If the relevant interest is sold more than once before the building or structure is first used, subsection (2) has effect only in relation to the last of those sales.

**270BD Sale by a developer: unused buildings or structures**

- (1) This section applies if—
  - (a) expenditure is incurred by a developer on the construction of a building or structure, and
  - (b) the relevant interest in the building or structure 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 or structure is used, and
  - (b) a capital sum is paid by the purchaser for the relevant interest,the capital sum is qualifying capital expenditure.
- (3) If—
  - (a) the sale by the developer was not the only sale before the building or structure 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 capital expenditure.

- (4) Where this section applies, 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) is paid.

#### **270BE Sale by a developer: used buildings or structures**

- (1) This section applies if –
- (a) expenditure is incurred by a developer on the construction of a building or structure, and
  - (b) the relevant interest is sold by the developer in the course of the development trade after the building or structure has been used.
- (2) This Part has effect in relation to the person to whom the relevant interest is sold (and any person who subsequently acquires the relevant interest) as if the expenditure on the construction of the building or structure had been qualifying capital expenditure.

#### **270BF Meaning of references to carrying on trade as a developer**

For the purposes of sections 270BD and 270BE –

- (a) a developer is a person who carries on a trade which consists in whole or part in the construction of buildings or structures with a view to their sale, and
- (b) an interest in a building or structure 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 or structures with a view to their sale.

#### *Excluded expenditure*

#### **270BG Acquisition or alteration of land etc**

- (1) Expenditure incurred –
- (a) on the acquisition of land or rights in or over land, or
  - (b) on altering land,
- is “excluded expenditure” for the purposes of this Part.
- (2) Expenditure incurred on, or in connection with, seeking planning permission (including fees and related costs) is “excluded expenditure” for the purposes of this Part.
- (3) In subsection (1), the reference to expenditure incurred on an acquisition includes a reference to fees, stamp duty and other incidental costs attributable to the acquisition.
- (4) For the purposes of subsection (1), “altering land” means –
- (a) land reclamation,
  - (b) land remediation, and
  - (c) landscaping (other than so as to create a structure).
- (5) In this section “land remediation” means –
- (a) in relation to land which is in a contaminated state –

- 
- (i) activities in respect of which conditions A to C in section 1146 of CTA 2009 (contaminated land remediation) are met, and
    - (ii) relevant preparatory activity as defined in subsection (4) of that section;
  - (b) in relation to land which is in a derelict state –
    - (i) activities in respect of which conditions A and B in section 1146A of CTA 2009 (derelict land remediation) are met, and
    - (ii) relevant preparatory activity as defined in subsection (5) of that section.
- (6) In subsection (5), references to land in a contaminated or derelict state have the same meaning as they have for the purposes of Part 14 of CTA 2009 (remediation of contaminated or derelict land).
- (7) Subsection (1)(b) is subject to section 270BK (preparation of sites).
- (8) In this section, except in subsections (4)(b), (5) and (6), “land” does not include buildings or structures.
- (9) In this section –  
“planning permission” has the meaning given by the relevant planning enactment;  
“relevant planning enactment” has the meaning given by section 436(2).

#### **270BH Market value rule**

- (1) Expenditure is “excluded expenditure” for the purposes of this Part if, and to the extent that, it exceeds –
- (a) in a case where the qualifying capital expenditure under section 270BC or 270BD is the capital sum paid for the relevant interest in the building or structure, the market value of the interest (see section 577(1)), or
  - (b) in any other case, the market value amount of the works, services and other matters to which it relates.
- (2) The “market value amount” means the amount of expenditure which it would have been normal and reasonable to incur on the works, services or other matters –
- (a) in the market conditions prevailing when the expenditure was incurred, and
  - (b) assuming the transaction as a result of which the expenditure was incurred was between persons dealing with each other at arm’s length in the open market.

#### **270BI Provision of plant or machinery**

Expenditure which is capital expenditure on the provision of plant or machinery for the purposes of Part 2 (plant and machinery allowances) is “excluded expenditure” for the purposes of this Part.

*Expenditure treated as expenditure on construction*

**270BJ Expenditure on renovation, conversion or incidental repairs**

- (1) This Part has effect in relation to capital expenditure incurred by a person—
  - (a) on the renovation or conversion of a part of a building or structure, or
  - (b) on repairs to a part of a building or structure that are incidental to the renovation or conversion of that part,as if it were capital expenditure on the construction of that part of the building or structure for the first time.
- (2) For the purposes of subsection (1), sections 270AA(1)(a) and 270AB have effect as if the renovation or conversion of, or repairs to, part of a building or structure were the construction of that part for the first time.
- (3) For the purposes of subsection (1), expenditure incurred as mentioned in subsection (1)(a) or (b) for the purposes of a qualifying activity is to be treated as capital expenditure if it is not expenditure that would be allowed to be deducted in calculating the profits of the qualifying activity for tax purposes.
- (4) Where capital expenditure as mentioned in subsection (1)(a) or (b) is incurred—
  - (a) in relation to part of a building or structure that is in qualifying use, and
  - (b) on different days in a chargeable period,the expenditure may be treated for the purposes of this Part as being incurred on the last of those days.

**270BK Preparation of sites**

- (1) This section applies if a person incurs capital expenditure, other than expenditure on altering land (within the meaning of section 270BG(4)), for the purposes of preparing land as a site for the construction of a building or structure.
- (2) This Part has effect in relation to the expenditure as if it were capital expenditure on the construction of the building or structure.
- (3) For that purpose, sections 270AA(1)(a) and 270AB have effect as if the preparation of the land mentioned in subsection (1) were the construction of the building or structure.

*Supplementary provision about expenditure*

**270BL Apportionment of sums partly referable to non-qualifying assets**

If, for the purposes of this Part, an item of expenditure falls to be apportioned between qualifying expenditure and other expenditure, the apportionment is to be made on a just and reasonable basis.

**270BM Evidence of the amount of expenditure**

For the purposes of this Part—

- (a) the expenditure on the construction of the building or structure is the sum of those items of expenditure the actual amount of which can be shown, and
- (b) where there are no such items, the amount of expenditure is taken to be nil.

#### **270BN Expenditure incurred before qualifying activity carried on**

For the purposes of this Part, if a person incurs expenditure for the purposes of a qualifying activity –

- (a) on or after 29 October 2018, and
- (b) before the date on which the person starts to carry on that activity,

the expenditure is to be treated as if it were incurred by the person on the date mentioned in paragraph (b).

### **CHAPTER 3**

#### **QUALIFYING USE AND QUALIFYING ACTIVITIES**

##### *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.

#### **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 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 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 (2)),
    - (iv) residential accommodation for members of the armed forces,
    - (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,
    - (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) For the purposes of this Part, a building 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.
- (3) For the purposes of subsection (2), 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).
- (4) 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 taken to be 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, “rent” and “other receipts” have the same meaning as in section 266 of ITTOIA 2005.

### **CHAPTER 4**

#### **THE RELEVANT INTEREST IN THE BUILDING OR STRUCTURE**

#### **270DA General rule as to what is the relevant interest**

- (1) The relevant interest in relation to any qualifying expenditure is the interest in the building or structure to which the person who incurred the expenditure on its construction was entitled when the expenditure was incurred.
- (2) Subsection (1) is subject to the following provisions of this Chapter and to sections 270FB (highway undertakings) and 270IK (provisions applying on termination of lease).
- (3) If—
  - (a) the person who incurred the expenditure on construction was entitled to more than one interest in the building or structure when the expenditure was incurred, and
  - (b) one of those interests was reversionary on all the others, the reversionary interest is the relevant interest.

- (4) For the purposes of section 270AA(2), on the sale of the relevant interest in a building or structure, the seller (and not the purchaser) is treated as the person who has the relevant interest on the day of transfer.

**270DB Interest acquired on completion of construction**

For the purposes of determining the relevant interest, a person who –

- (a) incurs expenditure on the construction of a building or structure, and
- (b) is entitled to an interest in the building or structure on or as a result of the completion of the construction,

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

**270DC Effect of creation of subordinate interest**

- (1) 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.
- (2) This is subject to section 270DD (leases exceeding 35 years).

**270DD Leases granted for 35 years or more**

- (1) This section applies if –
  - (a) qualifying capital expenditure has been incurred on the construction or acquisition of a building or structure,
  - (b) a lease of the building or structure is granted out of the interest which is the relevant interest in relation to the qualifying expenditure, and
  - (c) the effective duration of the lease is equal to, or exceeds, 35 years.
- (2) If the market value of the retained interest in the building or structure is less than one third of the capital sum given as consideration for the lease –
  - (a) the lessee is treated, for the purposes of this Part, as acquiring the relevant interest in the building or structure on the grant of the lease, and
  - (b) on the expiry or surrender of the lease, the lessor is treated, for the purposes of this Part, as acquiring the relevant interest from the lessee.
- (3) The capital sum given as consideration for the lease is treated for the purposes of subsection (2) as excluding the amount, in respect of any premium required to be paid under the lease, that is brought into account as a receipt in calculating the lessor’s profits for the purposes of ITTOIA 2005 or CTA 2009 (determined in accordance with section 277 of ITTOIA 2005 or section 217 of CTA 2009).
- (4) For the purposes of this section, the “effective duration” of a lease is to be determined in accordance with section 303 of ITTOIA 2005 or section 243 of CTA 2009.

**270DE Merger of leasehold interest**

- (1) Subsection (2) applies if the relevant interest is a leasehold interest which is extinguished on the person entitled to the interest acquiring the interest which is reversionary on it.
- (2) The interest into which the leasehold interest merges becomes the relevant interest when the leasehold interest is extinguished.

**CHAPTER 5**

## CALCULATING THE ALLOWANCE: SUPPLEMENTARY PROVISION

**270EA Proportionate adjustment in certain cases**

- (1) This section applies if a person is entitled to an allowance under section 270AA(2) for a chargeable period.
- (2) If the chargeable period is more or less than one year, the allowance is proportionately increased or reduced.
- (3) If—
  - (a) the conditions in section 270AA(2)(a) and (b) are met on some, but not all, days during the chargeable period, or
  - (b) entitlement to the allowance ceases under section 270AA(3) on any day during the chargeable period,the allowance is proportionately reduced.

**270EB Multiple uses**

- (1) This section applies if—
  - (a) a person is entitled to an allowance under section 270AA(2) by reference to a building or structure for a chargeable period, and
  - (b) the building or structure is put to multiple uses.
- (2) The allowance, in relation to a qualifying activity, for a chargeable period of one year is 2% of the appropriate proportion of the qualifying expenditure.
- (3) A building or structure is “put to multiple uses” if—
  - (a) the building or structure is used for the purposes of two or more qualifying activities,
  - (b) part of the building or structure is in use for the purposes of a qualifying activity and part of the building or structure is in use for the purposes of another activity, or
  - (c) part of the building or structure, which is not an area within a dwelling house, is used both for the purposes of a qualifying activity and for the purposes of another activity.
- (4) For the purposes of subsection (2), the “appropriate proportion” of the qualifying expenditure is the amount of that expenditure that would be apportioned to the qualifying activity if that expenditure were apportioned, on a just and reasonable basis, between all the activities for which the building or structure is used, having regard (in particular) to the extent to which the building or structure is used for each activity in the chargeable period.

## 270EC Research and development

- (1) This section applies if—
  - (a) a building or structure, in respect of which qualifying expenditure has been incurred, is in use for a non-residential purpose, and
  - (b) the person who has the relevant interest in the building or structure (the “seller”) sells that interest to another person (the “purchaser”).
- (2) Subsection (3) applies if the purchaser is entitled to an allowance in respect of qualifying expenditure incurred on the acquisition of the building or structure under Part 6 (research and development allowances).
- (3) The total amount of the allowance available to the purchaser under this Part by reference to the building or structure is limited to—
  - (a) the amount of qualifying expenditure, less
  - (b) the total of—
    - (i) the amount of the allowance under this Part to which an entitlement arose by reference to the building or structure before its sale (or would have arisen if the building or structure had been in continuous qualifying use since it was first brought into non-residential use), and
    - (ii) the amount of the allowance under Part 6 to which the purchaser is entitled in respect of qualifying expenditure incurred on the acquisition of the building or structure,(and section 270AA(2)(b)(ii) is subject to this subsection).
- (4) Subsection (5) applies if—
  - (a) the seller was entitled to an allowance in respect of qualifying expenditure incurred by the seller on the acquisition of the building or structure under Part 6 (research and development allowances), and
  - (b) the purchaser is not entitled to an allowance under that Part in respect of the qualifying expenditure incurred by the purchaser on the acquisition of the building or structure.
- (5) The total amount of the allowance available to the purchaser is limited to the lower of—
  - (a) the amount which is equal to—
    - (i) the amount of qualifying expenditure, less
    - (ii) the amount of the allowance under this Part to which an entitlement arose by reference to the building or structure before its sale (or would have arisen if the building had been in continuous qualifying use since it was first brought into non-residential use), and
  - (b) the capital sum paid by the purchaser for the relevant interest,(and section 270AA(2)(b)(ii) is subject to this subsection).

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**CHAPTER 6****HIGHWAY UNDERTAKINGS****270FA Carrying on of highway undertakings**

- (1) For the purposes of this Part the carrying on of a highway undertaking is to be treated as the carrying on of an undertaking by way of trade; and accordingly references in this Part to a trade include a highway undertaking.
- (2) For the purposes of this Part a person carrying on a highway undertaking is to be treated as occupying, for the purposes of the undertaking, any road in relation to which it is carried on.
- (3) In this Chapter “highway undertaking” means so much of any undertaking relating to the design, building, financing and operation of roads as is carried on –
  - (a) for the purposes of, or
  - (b) in connection with,the exploitation of highway concessions.
- (4) In this Chapter “highway concession”, in relation to a road, means –
  - (a) a right to receive sums from the relevant authority because the road is or will be used by the general public, or
  - (b) if the road is a toll road, the right to charge tolls in respect of the road.
- (5) In subsection (4) “the relevant authority” means –
  - (a) the Secretary of State,
  - (b) the Scottish Ministers,
  - (c) the Welsh Ministers, or
  - (d) the Department for Regional Development in Northern Ireland.

**270FB The relevant interest**

- (1) For the purposes of Chapter 4 (the relevant interest in the building or structure) as it applies to expenditure incurred on the construction of a road, a highway concession is not be treated as an interest in the road.
- (2) But if the person who incurred the expenditure on the construction of the road –
  - (a) was not entitled to an interest in the road when the person incurred the expenditure, but
  - (b) was at that time entitled to a highway concession in respect of the road,the highway concession is to be treated as the relevant interest in relation to that expenditure.

**270FC Cases where highway concession is to be treated as extended**

- (1) A highway concession in respect of a road is to be treated as extended if –

- (a) the person entitled to the concession takes up a renewed concession in respect of the whole or a part of the road, or
  - (b) that person or a person connected with that person takes up a new concession in respect of—
    - (i) the whole or a part of the road, or
    - (ii) a road that includes the whole or a part of the road.
- (2) But the concession is to be treated as extended only—
- (a) to the extent that the concession which has in fact ended, and the renewed or new concession, relate to the same road, and
  - (b) for the period of the renewed or new concession.
- (3) A person takes up a renewed or new concession if he is afforded, whether or not under legally enforceable arrangements, an opportunity to be granted the renewed or new concession and takes advantage of the opportunity.
- (4) For the purposes of subsection (3) it does not matter whether the renewed or new concession is on the same terms as the previous concession or on modified terms.

## CHAPTER 7

### ADDITIONAL VAT LIABILITIES AND REBATES

#### *Introduction*

#### **270GA Introduction**

For the purposes of this Chapter—

- (a) “additional VAT liability” and “additional VAT rebate” have the meaning 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.

#### *Additional VAT liabilities*

#### **270GB Additional VAT liabilities**

- (1) This section applies if—
- (a) a person is entitled to an allowance under this Part by reference to qualifying expenditure incurred by that person, and
  - (b) the person incurs an additional VAT liability in respect of the qualifying expenditure.
- (2) Subsection (3) applies for the purposes of calculating an allowance under this Part to which the person mentioned in subsection (1) is entitled—

- 
- (a) for the chargeable period in which the additional VAT liability accrues, and
  - (b) for any subsequent chargeable period.
- (3) The amount of qualifying expenditure is treated as being increased, at the beginning of the chargeable period in which the additional VAT liability accrues, by the amount of the liability.
  - (4) If, immediately before the end of the period mentioned in section 270AA(2)(b) (the “allowance period”), the person who is entitled to an allowance under this Part by reference to qualifying expenditure is the person who incurred that expenditure, that person is entitled to an additional amount of allowance for the chargeable period in which the allowance period ends.
  - (5) The additional amount of allowance is the amount of the difference between—
    - (a) the amount of the additional VAT liability, and
    - (b) the total amount of the allowance to which the person has been entitled during the allowance period in respect of the additional VAT liability.
  - (6) But if an additional VAT rebate is made to the person in respect of the qualifying expenditure by reference to which this section applies, subsection (5) is subject to section 270GC(4) (limit on total allowance).

*Additional VAT rebates*

**270GC Additional VAT rebates**

- (1) This section applies if—
  - (a) a person is entitled to an allowance under this Part by reference to qualifying expenditure incurred by that person, and
  - (b) an additional VAT rebate in respect of the qualifying expenditure is made to the person.
- (2) Subsection (3) applies for the purposes of calculating an allowance under this Part to which the person mentioned in subsection (1) is entitled for—
  - (a) the chargeable period in which the additional VAT rebate accrues, and
  - (b) any subsequent chargeable period.
- (3) The amount of qualifying expenditure is treated as being reduced, at the beginning of the chargeable period in which the additional VAT rebate accrues, by the amount of the rebate.
- (4) The total amount of the allowance available under this Part by reference to the qualifying expenditure incurred by the person mentioned in subsection (1) is limited to—
  - (a) the amount of qualifying expenditure (including the amount of any additional VAT liability which is treated as qualifying expenditure under section 270GB), less

(b) the amount of any additional VAT rebate by reference to which this section applies,  
(and sections 270AA(2)(b)(ii) and 270GB(5) are subject to this subsection).

## CHAPTER 8

### GIVING EFFECT TO ALLOWANCES

#### *Trades*

#### **270HA Trades**

If the qualifying activity of a person who is entitled to an allowance for a chargeable period is a trade, the allowance is to be given effect in calculating the profits of that person's trade, by treating the allowance as an expense of the trade.

#### *Property businesses*

#### **270HB Ordinary UK property businesses and ordinary overseas property businesses**

If the qualifying activity of a person who is entitled to an allowance for a chargeable period is—

- (a) an ordinary UK property business, or
- (b) an ordinary overseas property business,

the allowance is to be given effect in calculating the profits of that business by treating the allowance as an expense of that business.

#### *Activities analogous to trades*

#### **270HC Professions and vocations**

If the qualifying activity of a person who is entitled to an allowance for a chargeable period is carrying on a profession or vocation, the allowance is to be given effect in calculating the profits or gains of that person's profession or vocation, by treating the allowance as an expense of the profession or vocation.

#### **270HD Mines, transport undertakings etc**

If the qualifying activity of a person who is entitled to an allowance for a chargeable period is a concern listed in section 12(4) of ITTOIA 2005 or section 39(4) of CTA 2009 (mines, transport undertakings etc) the allowance is to be given effect in calculating the profits of the concern under Chapter 2 of Part 2 of ITTOIA 2005 by treating the allowance as an expense of the concern.

**270HE Companies with investment business**

- (1) This section applies if the qualifying activity of a person entitled to an allowance for a chargeable period is managing the investments of a company with investment business.
- (2) The allowance is, as far as possible, to be given effect by deducting the amount of the allowance from any income for the period of the business; and section 1233 of CTA 2009 (addition of allowances to company's expenses of management) applies only so far as it cannot be given effect in this way.
- (3) Except as provided by subsection (2), the Corporation Tax Acts apply in relation to the allowance as if they were required to be given effect in calculating the profits of that person's trade for the purposes of Part 3 of CTA 2009.
- (4) Corresponding allowances in the case of the same building are not to be made under this Part both under this section and in any other way.
- (5) Expenditure to which this section applies is not to be taken into account otherwise than under this Part or as provided by section 1233 of CTA 2009.
- (6) This section is subject to sections 682(3) and 699(3) of CTA 2010.

**CHAPTER 9**

## SUPPLEMENTARY PROVISIONS

*Evidence of qualifying expenditure etc***270IA Evidence of qualifying expenditure etc**

- (1) This section applies if a person (the "current owner") is entitled to an allowance for a chargeable period under section 270AA by reference to a building or structure.
- (2) For the purposes of determining the amount of the allowance, the amount of the qualifying expenditure is treated as nil unless, before the current owner first makes a claim for an allowance under this Part, the allowance statement requirement is met.
- (3) The "allowance statement requirement" is met if –
  - (a) in a case where the current owner incurred the qualifying expenditure in relation to the building or structure, the current owner makes an allowance statement;
  - (b) in a case where the current owner acquired the relevant interest in the building or structure from another person (the "previous owner") who used the building or structure, other than for residential use, the current owner obtains (directly or indirectly) an allowance statement (or a copy of it) from the previous owner.

- (4) In this section, an “allowance statement”, in relation to a building or structure, means a written statement of –
- (a) the date of the earliest written contract for the construction of the building or structure,
  - (b) the amount of qualifying expenditure incurred on its construction or purchase,
  - (c) the date on which the building or structure is first brought into non-residential use, and
  - (d) such other supplementary information as may be reasonably required by the Commissioners for Her Majesty’s Revenue and Customs.

*Anti-avoidance*

**270IB Anti-avoidance: general**

- (1) This section applies if at any time –
- (a) avoidance arrangements exist in relation to a building or structure (whether or not a person with a relevant interest in the building or structure is party to them), and
  - (b) as a result of those arrangements, a person would, but for this section, obtain a tax advantage under this Part.
- (2) The tax advantage is to be counteracted by making such adjustments as are just and reasonable.
- (3) Adjustments made under this section may affect the tax treatment of persons other than the person in relation to whom the tax advantage is counteracted.
- (4) In subsection (1)(a) “avoidance arrangements” means arrangements the main purpose, or one of the main purposes, of which is to obtain a tax advantage (for any person) under this Part.
- (5) References in this section to obtaining a tax advantage under this Part includes obtaining an allowance that is in any way more favourable to a person than the one that would otherwise be obtained.
- (6) In subsection (4) “arrangements” includes any agreement (including an agreed valuation), understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

*Co-ownership authorised contractual schemes*

**270IC Co-ownership schemes: carrying on qualifying activity**

- (1) This section applies where the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity.
- (2) Each participant in the scheme is for the purposes of this Part to be regarded as carrying on the qualifying activity.
- (3) Subsection (2) applies in relation to a participant only to the extent that the profits or gains arising to the participant from the qualifying activity are, or (if there were any) would be, chargeable to tax.

- (4) But in determining for the purposes of subsection (1) whether or to what extent the participants in a co-ownership authorised contractual scheme together carry on a qualifying activity, assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.

#### **270ID Co-ownership schemes: election**

- (1) The operator of a co-ownership authorised contractual scheme may make an election under this section if an election under section 262AB (plant and machinery allowances: co-ownership schemes) has been made, before the relevant date, in relation to the scheme (whether or not that election has subsequently been withdrawn in accordance with section 262AEA).
- (2) The election must specify an accounting period of the scheme as the first accounting period in relation to which the election has effect.
- (3) But the election may not specify an accounting period ending –
- (a) more than 12 months before the election is made, or
  - (b) more than 12 months after the end of the accounting period in which a building or structure which is subject to the scheme, and by reference to which an allowance is available under this Part, is first brought into qualifying use.
- (4) The first accounting period must not be longer than 12 months.
- (5) The election has effect for that first accounting period and all subsequent accounting periods of the scheme.
- (6) The election is irrevocable.
- (7) The election is made by notice to an officer of Revenue and Customs.
- (8) For the purposes of this section and section 270IE, the “relevant date” is [ ].

#### **270IE Co-ownership schemes: calculation of allowance after an election**

- (1) This section applies if –
- (a) an election under section 270ID, or
  - (b) an election under section 262AB (plant and machinery allowances: co-ownership schemes) made on or after the relevant date,
- has effect for an accounting period of a co-ownership authorised contractual scheme (“the relevant period”).
- (2) The operator of the scheme is to calculate the allowances that would be available to the scheme under this Part in relation to the relevant period on the basis of the assumptions in subsection (3).
- (3) The assumptions are –
- (a) the scheme is a person;
  - (b) the relevant period is a chargeable period for the purposes of this Act;
  - (c) any qualifying activity carried on by the participants in the scheme together is carried on by the scheme;

- (d) property which was subject to the scheme at the beginning of the first accounting period for which the election has effect –
    - (i) ceased to be owned by the participants at that time, and
    - (ii) was acquired by the scheme at that time;
  - (e) any property which became subject to the scheme at a time during an accounting period for which the election has effect was acquired by the scheme at that time;
  - (f) property which ceased to be subject to the scheme at any such time ceased to be owned by the scheme at that time.
- (4) The operator of the co-ownership authorised contractual scheme must allocate to each participant in the scheme a proportion (which may be zero) of the allowances calculated under this section.
  - (5) The allocation is to be on the basis of what is just and reasonable.
  - (6) In determining what is just and reasonable –
    - (a) regard is to be had in particular to the relative size of each participant's holding of units in the scheme;
    - (b) no regard is to be had to –
      - (i) whether or to what extent a participant is liable to income tax or corporation tax, or
      - (ii) any other circumstances relating to a participant's liability to tax.
  - (7) If the participants in the scheme together carry on more than one qualifying activity, the calculation and allocation under this section are to be made separately for each activity.
  - (8) The proportion of an allowance allocated by the operator to a participant under this section for a qualifying activity is the total amount of the allowance available to the participant under this Part in relation to the relevant period by virtue of carrying on that activity as a participant in the scheme.
  - (9) For the purposes of subsection (3)(c), assume that profits or gains arising to all participants from the qualifying activity are, or (if there were any) would be, chargeable to tax.
  - (10) For the purposes of section 270IA (evidence of qualifying expenditure etc), the operator of a co-ownership scheme may be treated as –
    - (a) the “current owner” in relation to property which is subject to the scheme, or
    - (b) the “previous owner” in relation to property which has ceased to be subject to the scheme.

#### **270IF Co-ownership schemes: definitions relating to schemes**

Section 262AF (co-ownership schemes: definitions relating to schemes) applies for the purposes of sections 270IC to 270IE as it applies for the purposes of sections 262AA to 2622AF.

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*Long-term business*

**270IG Application of sections 270IH and 270II**

- (1) Sections 270IH and 270II apply if a company which is carrying on any long-term business is entitled to an allowance under this Part for a chargeable period in respect of a relevant interest in a building or structure consisting of a management asset.
- (2) In this section and section 270IH, “management asset” has the same meaning as in Chapter 1 of Part 12 (life assurance business).

**270IH Apportionment of allowances**

- (1) This section applies if the long-term business of the company consists of—
  - (a) basic life assurance and general annuity business, and
  - (b) non-BLAGAB long-term business.
- (2) Any allowance under this Part to which the company is entitled for a chargeable period in respect of a management asset must be apportioned between the businesses in accordance with Chapter 7 of Part 2 of FA 2012.

**270II Different giving effect rules for BLAGAB**

- (1) This section applies if a company—
  - (a) carries on basic life assurance and general annuity business, and
  - (b) is charged to tax in accordance with the I-E rules in respect of that business.
- (2) Any allowance under this Part to which the company is entitled in respect of the basic life assurance and general annuity business is to be given effect by treating it for the purposes of section 76 of FA 2012 as a deemed BLAGAB management expense for the chargeable period in question.

**270IJ Supplementary**

- (1) An allowance to which sections 270IH and 270II apply is not to be given effect otherwise than in accordance with those sections.
- (2) Subsection (1) does not prevent any allowance which is to be given effect under those sections from being taken into account in any calculation for the purposes of—
  - (a) section 93(5) of FA 2012 (minimum profits test), or
  - (b) section 103 of FA 2012 (rules for determining policyholders’ share of I-E profit).

*Leases*

**270IK Treatment of leases**

- (1) This section applies for the purposes of this Part.
- (2) A lease is treated as continuing if it is renewed, extended or replaced.

- (3) If a lease is terminated and, with the consent of the lessor, the lessee of a building remains in possession of the building after the termination without a new lease being granted to the lessee, the lease is treated as continuing so long as the lessee remains in possession.
- (4) If, on the termination of a lease, a new lease is granted to the lessee as a result of the exercise of an option available to the lessee under the terms of the first lease, the second lease is treated as a continuation of the first.
- (5) If on the termination of a lease, the lessor pays a sum to the lessee in respect of a building comprised in the lease, the lease is treated as if it had come to an end by surrender in consideration of the payment.
- (6) If on the termination of a lease –
  - (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.

#### **270IL 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,
  - (b) any tenancy, and
  - (c) in the case of land outside the United Kingdom, an interest corresponding to a lease,
 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.”

#### FURTHER AMENDMENTS TO CAA 2001

##### CAA 2001

- 2 CAA 2001 is amended as follows.
- 3 In section 1 (capital allowances), in subsection (2), after paragraph (a) insert –
  - “(aa) Part 2A (structures and buildings allowances);”.
- 4 In section 2 (general means of giving effect to capital allowances), in subsection (3), after the entry in the list for sections 247 to 262A of CAA 2001 (plant and machinery allowances) insert –

“sections 270HA to 270HE (structures and buildings allowances);”.

- 5 In section 3 (claims for capital allowances), after subsection (2) insert –
- “(2ZA) Any claim for an allowance under Part 2A (structures and buildings allowances) must be separately identified as such in the return.”
- 6 In section 6E (giving effect to allowances and charges: NI rate activity cases), in subsection (1), after paragraph (a) insert –
- “(aa) an allowance under Part 2A (structures and buildings allowances);”.
- 7 In section 7 (no double allowances), after subsection (1) insert –
- “(1A) In subsection (1), the reference to capital expenditure includes a reference to expenditure that is treated as capital expenditure for the purposes of section 270BJ(1) (structures and buildings allowances: expenditure on repairs, renovation and conversion).”
- 8 (1) Section 262AB (plant and machinery allowances: co-ownership schemes: elections) is amended in accordance with this paragraph.
- (2) In subsection (5), at the end insert “(subject to section 262AEA)”.
- (3) At the end insert –
- “(7) See sections 262AC to 262AE and sections 270ID and 270IE for provision about the effect of an election.”

- 9 After section 262AE insert –

**“262AEA Co-ownership schemes: withdrawal of election**

- (1) This section applies if –
- (a) an election under section 262AB has been made in relation to the scheme before the relevant date (within the meaning of section 270ID(8)), and
  - (b) an allowance under Part 2A (structures and buildings allowances) is available by reference to a building or structure which is subject to the scheme.
- (2) The operator of the scheme may, by notice to an officer of Revenue and Customs, withdraw the election.
- (3) The notice of withdrawal may not be given more than 12 months after the end of the accounting period in which the building or structure mentioned in subsection (1)(b) is first brought into qualifying use for the purposes of that Part.
- (4) The election ceases to have effect for the accounting period in which the notice of withdrawal is given and all subsequent accounting periods of the scheme.
- (5) If an election is withdrawn under this section –
- (a) the property which was subject to the scheme at the beginning of the accounting period in which the notice of withdrawal is given is treated for the purposes of this Part –
    - (i) as ceasing to be owned by the scheme at that time, and

- (ii) as being acquired by the participants at that time in such proportions as are just and reasonable;
- (b) the disposal value to be brought into account in relation to the cessation of ownership is the tax written-down value.
- (6) Subsections (6) and (9) to (11) of section 262AC apply for the purposes of this section as they apply for the purposes of that section.”
- 10 (1) Section 536 (contributions not made by public bodies and not eligible for tax relief) is amended in accordance with this paragraph.
- (2) In subsection (1), after “the expenditure” insert “(but see subsection (6))”.
- (3) At the end insert—
- “(6) Subsection (1) does not apply for the purposes of Part 2A (structures and buildings allowances).”
- 11 (1) Section 537 (conditions for contribution allowances) is amended as follows.
- (2) In subsection (1), after “2” insert “, 2A”.
- (3) In subsection (2)(b)(ii), after “allowance under Part 2” insert “, 2A”.
- (4) In the heading, after “2,” insert “2A,”.
- (5) In the italic heading before the section, after “2” insert “, 2A”.
- 12 After section 538 insert—
- “538A Buildings and structures**
- (1) For the purposes of contribution allowances under Part 2A, the references in section 537(2) to expenditure on the provision of an asset are to be treated as references to expenditure which is qualifying expenditure for the purposes of Part 2A.
- (2) This section applies if—
- (a) the general conditions for contribution allowances are met,
- (b) C’s contribution is to expenditure which is qualifying expenditure for the purposes of Part 2A, and
- (c) C’s contribution is made for the purposes of a qualifying activity (within the meaning of that Part) carried on, or to be carried on—
- (i) by C, or
- (ii) by a tenant of land in which C has an interest.
- (3) C is to be treated for the purposes of allowances under Part 2A as if—
- (a) the contribution were expenditure incurred by C on the construction or acquisition of the building or structure,
- (b) C had a relevant interest in the building or structure,
- (c) the building or structure were brought into non-residential use by C, for the purposes of the qualifying activity, on the day on which R brought it into non-residential use, and
- (d) for the purposes of section 270AA(2)(b), the day on which the qualifying expenditure is incurred were the day on which C made the contribution.

- (4) Section 270AA(3) (allowance ceases on residential use or demolition of the building or structure) applies for the purposes of this section as it applies for the purposes of section 270AA.
- (5) For the purposes of this section –
- (a) the provisions of Part 2A relating to the relevant interest apply (with any necessary modifications) in relation to the contribution as they apply in relation to expenditure incurred on the construction or acquisition of a building or structure, and
  - (b) C is not treated as ceasing to have a relevant interest in the building or structure on the sale of R’s relevant interest.”
- 13 In section 544 (management assets), after “(plant and machinery allowances)” insert “or Part 2A (structures and buildings allowances)”.
- 14 In section 546 (introduction to Chapter 2 to of Part 12: additional VAT liabilities and rebates, interpretation etc), after paragraph (a) insert –
- “(aa) Chapter 7 of Part 2A (structures and buildings allowances: additional VAT liabilities and rebates),”.
- 15 In section 573 (transfers treated as sales), in subsection (1), after “Parts” insert “2A”.

#### AMENDMENTS TO OTHER ACTS

##### TCGA 1992

- 16 TCGA 1992 is amended as follows.
- 17 In section 24 (disposal on destruction, extinction etc of asset), after subsection (3) insert –
- “(3A) But subsection (3) does not apply if –
- (a) the asset that is deemed to be disposed of under this section –
    - (i) is UK land which consists of, or includes, a building or structure, or
    - (ii) is a leasehold interest, other than an excluded leasehold interest (see subsection (3E)), in a building or structure, and
  - (b) the person deemed to make the disposal is, immediately before the disposal, entitled to an allowance under Part 2A of CAA 2001 by reference to the building or structure.
- (3B) If the conditions in subsection (3A)(a) and (b) are met, subsection (3C) applies unless the person deemed to make the disposal elects otherwise.
- (3C) For the purposes of this section –
- (a) the asset that is deemed to be disposed of under this section is to be regarded as an asset separate from the land on which the building or structure is situated, and

- (b) the person deemed to make the disposal is to be treated as if the unclaimed allowance amount were a sum allowable as a deduction from the consideration for the disposal.
- (3D) For the purposes of subsection (3C), the “unclaimed allowance amount”, in relation to an allowance under Part 2A of CAA 2001, is the amount of the difference between –
  - (a) the amount of qualifying expenditure in respect of which the allowance is available (see section 270AA of that Act), and
  - (b) the amount of the allowance to which an entitlement arose (or would have arisen if the conditions in section 270AA(2) of that Act had been met at all times since an entitlement to the allowance first arose) before the deemed disposal under this section.
- (3E) For the purposes of section (3A)(a), an asset is an “excluded leasehold interest” if –
  - (a) it is a leasehold interest by reference to which section 270DD of CAA 2001 (leases granted for 35 years or more) applies, and
  - (b) on its expiry, the lessor is treated as acquiring the relevant interest (within the meaning of Part 2A of CAA 2001) from the lessee under section 270DD(2)(b) of that Act.”

18 After section 37A insert –

**“37B Consideration on certain disposals: structures and buildings allowances**

- (1) This section applies if –
  - (a) there is a disposal of an asset, other than a deemed disposal under section 24 (destruction, extinction etc of asset), and
  - (b) the asset is an interest in a building or structure by reference to which an allowance under Part 2A of CAA 2001 (the “SBA allowance”) has been made to the person making the disposal.
- (2) In determining for the purposes of this Act the amount of any gain accruing to the person making the disposal, after the application of sections 39A and 41, the consideration for the disposal is treated as increased by an amount equal to the amount of the SBA allowance that has been made to the person.
- (3) Subsection (2) is subject to subsections (4) to (6).
- (4) If section 45(3) or 47(2) applies in relation to the disposal, subsection (2) applies in relation to the part of the consideration apportioned in the same proportion as the expenditure qualifying for capital allowances.
- (5) Subsection (6) applies in relation to the disposal if –
  - (a) the asset mentioned in subsection (1) is –
    - (i) a leasehold interest by reference to which section 270DD of CAA 2001 (leases granted for 35 years or more) applies, and
    - (ii) a wasting asset for the purposes of this Act, and

(b) section 45(3)(b) or 47(2)(b) applies in relation to the disposal.

- (6) For the purposes of subsection (2), the amount of the SBA allowance is to be treated as if it were an amount of expenditure attributable to the asset under section 38(1) and, accordingly, as if it had been reduced at the same rate at which that expenditure is written off in accordance paragraph 1(3) and (4) of Schedule 8 (leases of land as wasting assets).”

19 After section 39 insert –

**“39A Exclusion of certain expenditure: structures and buildings allowances**

- (1) This section applies if –
- (a) there is a disposal of an asset,
  - (b) the asset is, or is an interest in, a building or structure by reference to which an allowance under Part 2A of CAA 2001 (an “SBA allowance”) has been made, and
  - (c) the person making the disposal is, or has been, a lessor in relation to a lease of the building or structure by reference to which section 270DD of CAA 2001 (leases granted for 35 years or more) applies.
- (2) Any expenditure by reference to which an SBA allowance has been made to a lessee in relation to the lease mentioned in subsection (1)(c) is to be excluded from the sums allowable under section 38 as a deduction in the computation of the gain (and this section applies before the application of section 41).”

20 In section 41 (restriction of losses by reference to capital allowances etc), after subsection (4) insert –

- “(4A) But references in this section to a capital allowance do not include references to an allowance under Part 2A of CAA 2001 (structures and buildings allowances).”

21 In section 52 (supplemental), at the end of subsection (5) insert “(and, except in section 41, references in this Chapter to a capital allowance include references to an allowance under Part 2A of CAA 2001 (structures and buildings allowances))”.

*ITTOIA 2005*

22 In section 96B of ITTOIA 2005 (capital receipts under, or after leaving, the cash basis: supplementary provision), in subsection (5)(a), after “Part 2,” insert “2A,”.

*ITA 2007*

23 In section 123 of ITA 2007 (meaning of “the loss has a capital allowances connection” etc), after subsection (2) insert –

- “(2A) But any allowance under Part 2A of CAA 2001 (structures and buildings allowances) is to be ignored for the purposes of subsection (2).”

## CTA 2009

- 24 CTA 2009 is amended as follows.
- 25 In section 1147 (reliefs for expenditure on contaminated or derelict land: deduction for capital expenditure), in subsection (8), after “an allowance” insert “, other than an allowance under Part 2A of CAA 2001 (structures and buildings allowances),”.
- 26 (1) Section 1233 (excess capital allowances) is amended as follows.
- (2) In subsection (1), after “section 15(1)(g)” insert “or 270CA(f)”.
- (3) In subsection (2), after “section 253(2)” insert “or 270HE(2) (as the case may be)”.

## FA 2009

- 27 (1) Schedule 61 to FA 2009 (alternative finance investment bonds) is amended as follows.
- (2) In paragraph 14 (treatment for purposes of capital allowances) –
- (a) in sub-paragraph (2), for paragraph (b) substitute –
- “(b) a building or structure (or part of a building or structure).”
- (b) in sub-paragraph (3)(b), at the beginning insert “in a case within sub-paragraph (2)(a),”;
- (c) in sub-paragraph (3), at the end insert “; and
- (c) in a case within sub-paragraph (2)(b), Q is not to be regarded as acquiring, and P is not to be regarded as ceasing to have, the relevant interest in the asset by virtue of that transaction.”
- (3) In paragraph 16 –
- (a) in sub-paragraph (2), for paragraph (b) substitute –
- “(b) a building or structure (or part of a building or structure).”
- (b) in sub-paragraph (4), for the words from “, Q is to be treated” to the end substitute “ –
- (a) in a case within sub-paragraph (2)(a), Q is to be treated as becoming, and P is to be treated as ceasing to be, the owner of the asset, and
- (b) in a case within sub-paragraph (2)(b), Q is to be treated as acquiring, and P is to be treated as ceasing to have, the relevant interest in the asset.”
- (c) omit sub-paragraph (5)(b) and the “and” before it, and
- (d) omit sub-paragraph (6)(b) and the “and” before it.
- (4) In paragraph 17 –
- (a) in sub-paragraph (2), for paragraph (b) substitute –
- “(b) a building or structure (or part of a building or structure).”
- (b) in sub-paragraph (4), for the words from “, that other person” to the end substitute “ –

- (a) in a case within sub-paragraph (2)(a), that other person is to be treated as becoming, and P is to be treated as ceasing to be, the owner of the asset, and
- (b) in a case within sub-paragraph (2)(b), that other person is to be treated as acquiring, and P is to be treated as ceasing to have, the relevant interest in the asset.”
- (c) omit sub-paragraph (5)(b) and the “and” before it, and
- (d) omit sub-paragraph (6)(b) and the “and” before it.

*CTA 2010*

- 28 (1) CTA 2010 is amended as follows.
- (2) In section 682 (restriction on the deduction of the expenses of management: general provision), in subsection (3), for “section 253” substitute “sections 253 and 270HE”.
  - (3) In section 699 (restriction on the deduction of the expenses of management: asset transferred within group), in subsection (3), for “section 253” substitute “sections 253 and 270HE”.

*Friendly Societies (Modifications of the Tax Acts) Regulations 2012 (S.I. 2012/3008)*

- 29 In the Friendly Societies (Modifications of the Tax Acts) Regulations 2012 (S.I. 2012/3008), after regulation 4 insert –
- “4A Section 270IH of CAA 2001 (structures and buildings allowances: apportionment of allowances) applies as if for subsection (1) there were substituted –
- “(1A) This section applies if the long-term business of the company consists of two or more of –
    - (a) basic life assurance and general annuity business,
    - (b) non-BLAGAB long-term business, or
    - (c) tax exempt business.
  - (1B) In subsection (1)(c) “tax exempt business” has the same meaning as in section 57A of FA 2012 (section 57: meaning of “tax exempt business”).”