

# **Notes for Guidance - Taxes Consolidation Act 1997**

**Finance Act 2021 edition**

## **Part 11**

### **Capital Allowances and Expenses for Certain Road Vehicles**

**December 2021**



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## PART 11 CAPITAL ALLOWANCES AND EXPENSES FOR CERTAIN ROAD VEHICLES

### Overview

This Part restricts the amount of capital allowances available in respect of motor cars costing over a specified amount to the capital allowances appropriate to a car costing the specified amount (the amount of the specified amount varies according to when the expenditure on the car was incurred) (*section 374*).

The Part also includes provisions limiting the amount available for renewals allowances for cars (*section 375*) and restricting the deductions available for hire cars (*section 377*) and cars on hire-purchase (*sections 378 and 379*).

### 373 Interpretation (*Part 11*)

The vehicles to which this Part applies are, essentially, ordinary motor cars. Excluded, (1) therefore, are commercial type vehicles such as lorries, delivery vans, buses, etc.

The restrictions in this Part apply only to motor cars which cost over a certain amount. (2) This amount (referred to as “the specified amount”) varies depending on when the car was purchased or hired. The specified amount is —

- for expenditure incurred in the period 16 May, 1973 to 28 January, 1976, €3,174.35
- for expenditure incurred in the period 29 January, 1976 to 5 April, 1986, €4,444.08
- for expenditure incurred in the period 6 April, 1986 to 27 January, 1988, €5,078.95
- for expenditure incurred in the period 28 January, 1988 to 25 January, 1989, €7,618.43
- for expenditure incurred in the period 26 January, 1989 to 29 January, 1992, €8,888.17
- for expenditure incurred on a second-hand car in the period beginning on 30 January, 1992 and ending with an accounting period or basis period ending on or before 31 December, 2000, €12,697.38
- for expenditure incurred in the period 30 January, 1992 to 26 January, 1994 in the case of a car which was first registered in the State without having been registered elsewhere, €12,697.38
- for expenditure incurred in the period 27 January, 1994 to 8 February, 1995, in the case of a car which was not a used or second-hand car and which was first registered in the State without having been registered elsewhere, €16,506.60
- for expenditure incurred in the period 9 February, 1995 to 22 January, 1997, in the case of a car which was not a used car or a second-hand car and which was first registered in the State without having been registered elsewhere, €17,776.33
- for expenditure incurred in the period 23 January, 1997 to 2 December, 1997, in the case of a car which is not a used car or a second-hand car and which was first registered in the State without having been registered elsewhere, €19,046.07
- for expenditure incurred in the period 3 December, 1997 to 1 December, 1998, in the case of a car which is not a used car or a second-hand car and which was first registered in the State without having been registered elsewhere, €19,680.94
- for expenditure incurred in the period 2 December, 1998 to 30 November 1999, in the case of a car which is not a used car or a second-hand car and which was first registered in the State without having been registered elsewhere, €20,315.81
- for expenditure incurred in the period beginning on 1 December 1999 and ending

with an accounting period or basis period ending on or before 31 December 2000 in the case of a car which is not a used car or a second-hand car and which was first registered in the State without having been registered elsewhere, €20,950.68

- for expenditure incurred in accounting periods or basis periods ending in the period 1 January 2001 to 31 December 2001, in the case of all cars (both new and second-hand), €21,585.55
- for expenditure incurred in accounting periods or basis periods ending in the period 1 January 2002 to 31 December 2005, in the case of all cars (both new and second-hand), €22,000
- for expenditure incurred on accounting periods or basis periods ending in the period 1 January 2006 to 31 December 2006, in the case of all cars (both new and second-hand), €23,000.
- for expenditure incurred in accounting periods or basis periods from 1 January 2007 onwards, in the case of all cars (both new and second-hand), €24,000.

This Part is to be construed as one with **Part 9** (that is, the Part providing for relief for capital expenditure), but in **section 375** (limit on renewals allowance for cars) the reference to “capital expenditure” is construed without regard to **section 316(1)**. The effect of this is that the prohibition in that section on including as capital expenditure sums which are treated as revenue expenditure does not apply for the purposes of **section 375**. (3)

### **374 Capital allowances for cars costing over certain amount**

The wear and tear allowances for motor cars costing in excess of the specified amount are to be restricted to what they would be if the actual cost were taken, for the purposes of **section 284** (that is, the section which provides for wear and tear allowances), to be the specified amount. (1)

The wear and tear allowances to be taken into account in computing the “expenditure still unallowed” for the purposes of balancing allowances and balancing charges are to be the allowances as so reduced. Any balancing allowance or balancing charge is to be computed on the basis that the original cost of the car was the specified amount. (2)

Where the car is put out of use and there are sale, insurance, salvage or compensation moneys received or deemed to have been received, those moneys are reduced in the proportion which the specified amount bears to the cost of the car for the purposes of the balancing allowance or balancing charge. (3)

Where the car changes hands otherwise than by sale in the open market, the allowances to the new owner are to be scaled down in the proportion which the specified amount bears to the actual cost of the car to the previous owner. (4)(a)

Where there is a chain of transfers to which these provisions apply, the reduction to be applied to the deemed proceeds of sale at each successive transfer is in the proportion which the specified amount bears to the cost of the car to the first owner in the chain. This applies so long as there is no sale in the open market. (4)(b)

Where a trader elects to have the wear and tear allowances on a car computed on the amount by which the cost of the car exceeds the balancing charge which might have been made in respect of the car it replaced, the cost of the car bought in replacement is first restricted to the specified amount before the balancing charge on the old car is deducted. (5)

Where the taxpayer purchasing a car costing more than the specified amount receives a subsidy directly or indirectly from the State or a public authority so that the expenditure to be taken into account for the purposes of balancing allowances and balancing charges is the net expenditure only, the net outlay is to be restricted in the proportion which the specified amount bears to the gross cost of the car. (6)

**375 Limit on renewals allowance for cars**

This section provides that the amount of the cost of a car in excess of the specified amount is to be disregarded in computing the renewal allowance in respect of the car.

If the car costs more than the specified amount, the allowance is to be computed as if the cost of the car were the specified amount. Where, however, the car is replaced in its turn (whether the car then bought costs more or less than the specified amount) the renewals allowance on that occasion is to be computed on the basis that its value or sale proceeds are scaled down in the proportion which the specified amount bears to its cost.

**Example**

|  |         |   |
|--|---------|---|
| Cost of car A (purchased 1 January 2002) |         |   |
| €25,000 restricted to                    | €22,000 |   |
| Cost of car B (purchased June, 2002)     |         |   |
| less proceeds of car A €18,000           | €30,000 |   |
| restricted to                            | €15,840 | $\frac{(22,000 \times 18,000)}{(25,000)}$ |
| Renewals allowance                       | €14,160 |   |

**376 Restriction of deduction in respect of running expenses of cars**

This section was repealed by section 28(1)(c) Finance Act 2002 as respects expenditure incurred in an accounting period ending on or after 1 January 2002, or in a basis period for a year of assessment where that basis period ends on or after 1 January 2002. The section previously operated to restrict the amount of running expenses allowed as a deduction for tax purposes in respect of cars costing over a certain amount.

**377 Limit on deductions, etc for hiring cars**

This section imposes restrictions on the amount which may be claimed in computing trade profits, etc for the hire of cars. If the original retail price of the car exceeded the specified amount, the deduction for car hire, if otherwise allowable, is to be reduced in the proportion which the specified amount bears to that price.

**378 Cars: provisions as to hire-purchase, etc****Summary**

This section provides that, in the case of motor cars costing in excess of the specified amount, where hire-purchase agreements are prematurely terminated without the person who obtained the vehicle on hire-purchase becoming the owner, the payments made on foot of the agreement are to be treated as ordinary hire payments and restricted accordingly under *section 377*. Also provided for is the apportionment of hire-purchase instalments as between capital and “interest” (the revenue element). The full amount of the “interest” is allowed as a deduction.

**Details**

The section applies to cars whose retail price exceeds the specified amount.

(1)

Where a contract provides both for the hire and the purchase of a car but the person incurring the expenditure ceases to be entitled to the benefit of the contract without becoming the owner of the car, the payments are to be disregarded for the purposes of renewals allowance, wear and tear allowances and balancing allowances and balancing charges. Instead they are treated as what they have in effect become, that is, pure hire payments and restricted accordingly under *section 377*. (2) & (3)

The part of the payments to be treated as capital expenditure under a hire-purchase agreement is to be equal, broadly, to the open market value of the car at the time the agreement was entered into. The object of this is to safeguard against claims that the capital element should be calculated by reference to the value of the car when the property in it passes, thereby increasing the revenue element in the instalments which is not liable to be restricted. (4)

### **379 Cars: provisions where hirer becomes owner**

This section applies where a person who had hired (otherwise than by way of hire-purchase) a car costing in excess of the specified amount subsequently becomes its owner. Where this happens, so much of the person's total expenditure on both hire and acquisition as does not exceed the retail price of the car when it was made is to be treated as capital expenditure on the acquisition of the car and the taxpayer's capital allowances are to be restricted to what they would have been had the taxpayer purchased the car for that amount in the first place. Only the excess of the total expenditure over the assumed purchase price is treated as a charge for hire and apportioned rateably over the hire period with consequential adjustment of the deductions for hire already allowed under *section 377*.

### **380 Provisions supplementary to sections 374 to 379**

Excluded from the application of this Part are public hire businesses which purchase or hire cars in the ordinary course of their trade (for example, taxi businesses or car hire firms). (1)

Also similarly excluded are cars used for testing purposes. A manufacturer of cars, car parts or accessories gets unrestricted allowances if the car is provided solely for the purpose of testing either the car itself or car parts and accessories. However, if within 5 years of purchase the car is used to any substantial extent for non-testing purposes, the exemption is withdrawn. This is to prevent full allowances being given for a car which is bought ostensibly for testing purposes and diverted to ordinary use after a short period, or for a car which is used for ordinary travel as well as for testing. (2)

The machinery for adjusting tax assessments for past years where necessary under *sections 378, 379* and *subsection (2)* is provided for. (3)