

Section 268 Industrial Buildings - Aviation Services Facilities

Part 09-01-07

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Introduction

Chapter 1 of Part 9 TCA 1997¹ provides for a scheme of capital allowances for expenditure incurred on the construction and refurbishment of buildings and structures (referred to as Aviation Services Facilities) in use for the purposes of the maintenance, repair or overhaul of commercial aircraft, and the dismantling of such aircraft for the purposes of salvaging or recycling parts and materials. The relief applies to buildings or structures in use for the purposes of such operations at all airports within the State.

In order to conform to EU State Aid de minimis guidelines, a cap is imposed on the amount of capital expenditure (known as specified capital expenditure) that can qualify for relief at the accelerated rate provided for under the scheme. The limits are €5 million for a company and €1.25 million for an individual. These limits are per project and not per investor.

Where a number of individuals or companies or both invest in a project the amount of capital expenditure that can qualify as specified capital expenditure will be determined by the following formula:

$(A \times 50 \text{ per cent}) + (B \times 12.5 \text{ per cent})$ does not exceed €625,000, where –

A is the aggregate of all such specified expenditure which has been incurred, or deemed to have been incurred, by the individual or individuals concerned, and

B is the aggregate of all such specified capital expenditure which has been incurred, or deemed to have been incurred, by the company or companies concerned.

The specified capital expenditure must not exceed an amount that will give rise to tax relief greater than €625,000. Revenue will not prescribe how the specified capital expenditure is actually apportioned between the parties but will ensure that the maximum amount of tax relief that can be claimed over 7 years cannot exceed €625,000.

Capital expenditure which is not specified capital expenditure may qualify for capital allowances at the standard rate of 4%.

¹ Section 268(1)(n)

1. Qualifying period

Specified capital expenditure must be incurred during the five year qualifying period commencing on 13 October 2015 and ending on 12 October 2020 to qualify for the accelerated allowances. Capital expenditure which is not specified capital expenditure can qualify for capital allowances at the standard rate providing it is incurred on or after 13 October 2015.

2. Writing Down Allowances

Specified capital expenditure is to be written off at a rate of 15% per annum over 6 years and 10% in year 7. Capital expenditure which is not specified capital expenditure is to be written off at a rate of 4% per annum over 25 years.

3. Tax Life and Holding Period

In this TDM the **tax life** of a building or structure (which is referred to as the “appropriate period” in section 272(4)) is the period within which allowances may be transferred to a subsequent purchaser. The tax life of an aviation services facility in relation to specified capital expenditure is 7 years from first use of the building or structure or 7 years from first use after refurbishment. The tax life of an aviation services facility in relation to capital expenditure which is not specified capital expenditure is 25 years from first use or first use after refurbishment.

The period for a building or structure, set out in section 274(1), within which a balancing adjustment (either a balancing allowance or charge) can arise is referred to in this TDM as the **holding period**. The holding period of an aviation services facility in relation to specified capital expenditure is 7 years from first use of the building or structure or 7 years from first use after refurbishment. The holding period of an aviation services facility in relation to capital expenditure which is not specified capital expenditure is 25 years from first use or first use after refurbishment.

4. Conditions

The following information must be provided to the Revenue Commissioners before any relief at the accelerated rate can be claimed:

- name, address and tax reference number of the claimant,
- address of the building or structure in respect of which the expenditure was incurred, and
- details of the aggregate amount of the expenditure which was incurred by the claimant.

This information is necessary to ensure that the level of expenditure does not exceed the limits provided for in the EU de minimis guidelines and is to be provided, at the time of making the first claim for tax relief at the accelerated rate, via a drop down menu on the Form 11 or CT1 tax return as appropriate.

5. Exclusion of property developers

Capital expenditure will not be regarded as specified capital expenditure for the purposes of claiming accelerated allowances under the aviation services facilities scheme where the **relevant interest** (within the meaning of section 269) is held by a property developer or a person connected with a property developer and the capital expenditure on the construction or refurbishment is incurred by either of those persons or by some other person connected with the property developer². This rule applies whether the relevant interest in the facility is held by the excluded category of person in a sole capacity or jointly or in partnership with another person or persons.

6. High Earners' Restriction

Writing down allowances and balancing allowances referable to specified capital expenditure are among the reliefs that are subject to the high earners' restriction.

7. Grants

Capital expenditure incurred on the construction or refurbishment of an aviation services facility will not be treated as specified capital expenditure where any part of that expenditure is met, directly or indirectly, by way of grant assistance, from the State or any of its agencies. Where such grant assistance has been received the capital expenditure net of any grants may still qualify for capital allowances at the standard rate of 4% per annum (section 317).

8. Termination of carry forward of certain unused capital allowances

Chapter 4A of Part 12 (introduced in Finance Act 2012) provides for a termination of the carry-forward of certain unused capital allowances after the tax life of the respective building has ended. These measures came into effect in 2015. The arrangements apply to the various accelerated property and area-based capital allowance schemes and apply solely to passive investors.

With effect from 1 January 2015 any unused accelerated capital allowances which are carried forward beyond the tax life of the building or structure to which they relate are immediately lost. Accordingly, any unused accelerated capital allowances which are carried forward beyond the tax life of an aviation services facility are lost after the end of the tax life of that building or structure.

² Please refer to Tax and Duty Manual [Part 09-01-05](#)

9. Restriction on passive investors

Where an individual passive investor incurs capital expenditure on the construction or refurbishment of an aviation services facility, an annual limit (under section 409A TCA 1997) of €31,750 applies in relation to any excess capital allowances over rental income (or passive partnership trading income, if applicable) which such an investor can offset against his or her other income. These restrictions on the offset of capital allowances do not apply in the case of expenditure incurred by (active) traders or by corporate investors.

10. Property relief surcharge

Section 531AAE provides for an increase in the Universal Social Charge (USC) in respect of income of certain individuals. It potentially applies to those whose gross income in the year is at least €100,000, **but** only to income which is sheltered by any of the property or area-based incentive reliefs in that year. This means any of the accelerated property capital allowances under any of the incentive schemes, including the aviation services facilities scheme, as well as section 23-type relief. The **5% property relief surcharge** is payable in addition to any other USC, which the person is obliged to pay on the income in question.

Where a person's gross income is less than €100,000, no additional USC is payable, even if that person is using these property reliefs. See Tax and Duty Manual [Part 18D-00-01](#) for further detail, including examples illustrating the interaction between the computation of this property relief surcharge and the restrictions on tax relief claims by high-income individuals.