

Section 268 Industrial Buildings – Capital Allowances for Hotels and Other Holiday Accommodation

Part 09-01-09

Document last reviewed May 2023



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Introduction

The purpose of this manual is to outline the registration requirements for capital allowances purposes in relation to hotels and other holiday accommodation. This information was originally published in Tax Briefing Issue No. 60.

1 Hotels

The general position is that a hotel building must be registered in the register of hotels kept by Fáilte Ireland under the Tourist Traffic Acts in order to qualify for capital allowances in respect of expenditure incurred on the building on or after 3 February 2005. This registration requirement was subject to transitional arrangements. Where the conditions for transitional treatment were met, the requirement to be registered for capital allowances purposes was deferred and only applied in respect of capital expenditure incurred after 31 July 2006.

The transitional arrangements involved certain planning conditions having been met by 31 December 2004. Where planning permission was required, a valid application for full planning permission for the work to be carried out must have been received by the relevant local authority by that date (or by 10 March 2002 where the application was made in accordance with the Local Government (Planning and Development) Regulations 1994). Where the work involved was exempted development for the purposes of the Planning and Development Act 2000, certain conditions must have been satisfied by 31 December 2004. There must have been a detailed plan in place in relation to the work to be carried out. There must also have been a written binding contract in place in relation to the expenditure to be incurred and work to the value of at least 5% of the development costs must have been carried out.

2 Guesthouses

Capital expenditure incurred on or after 3 February 2005 on premises used as a guesthouse qualifies for capital allowances provided the guesthouse is registered in the register of guesthouses kept under the Tourist Traffic Acts. Allowances may be claimed at the rate of 4% per annum. A small number of guesthouses may have established an entitlement to capital allowances on the basis that they were effectively operating as hotels. The position outlined above, in relation to registration for hotels in the context of transitional arrangements, applied equally to any hotel-type guesthouse which may have qualified for transitional treatment. In any such case, the requirement to register as a hotel or guesthouse, as the case may be, for capital allowances purposes only applied in relation to capital expenditure incurred after 31 July 2006.

Some registered guesthouses may have already established an entitlement to claim significant buildings relief under **Section 482 TCA, 1997**. That section provides for relief for expenditure incurred on the repair, maintenance or restoration of a building which is intrinsically of significant scientific, historical, architectural or aesthetic interest and which is, inter alia, in use as a registered guesthouse for at least 6 months of the year including not less than 4 months in the period from 1 May to 30 September. The section specifically rules out relief for any expenditure in respect of which relief can be claimed under any other provision of the Tax Acts.

Questions may have arisen in relation to expenditure incurred on such a guesthouse as to whether it qualifies for capital allowances or significant buildings relief. To qualify for significant buildings relief the expenditure must be incurred on **the repair, maintenance or restoration** of the guesthouse. Any expenditure incurred on new build, such as an extension or the addition of extra rooms to a registered guesthouse is outside the scope of the significant buildings' relief. However, where such expenditure was incurred on or after 3 February 2005, it could qualify for capital allowances.

3 Holiday Hostels

Capital expenditure incurred on or after 3 February 2005 on a premises used as a holiday hostel qualifies for capital allowances provided the hostel is registered in the register of holiday hostels kept under the Tourist Traffic Acts. Allowances may be claimed at the rate of 4% per annum. Previously, a holiday hostel would only have qualified for capital allowances if the hostel could establish that it was effectively operating as a hotel. The position outlined above in relation to the transitional arrangements for hotels also applied to any such hostel that established entitlement to transitional treatment.

4 Holiday Camps

Prior to Finance Act 2005, a holiday camp was deemed to be a building or structure in use for the purposes of the trade of hotel-keeping and thus entitled to capital allowances. From 1 January 2005, there is a specific requirement for holiday camps to be registered in the register of holiday camps kept under the Tourist Traffic Acts. However, this should have no effect on capital allowances entitlement. This is because the registration requirement has effectively applied all along as a premises could not have been described or held out to be a holiday camp unless it was so registered.

5 Holiday Cottages¹

The registration of a holiday cottage with Fáilte Ireland by the return filing date for a particular chargeable period does not, in itself, confer an entitlement to industrial buildings allowances for that chargeable period unless certain other conditions have been met by the end of the chargeable period. The holiday cottage must be fully fitted out and be either let or be actively marketed as tourist accommodation with bookings being taken by the end of the chargeable period. The holiday cottage must continue to be registered throughout the period for which capital allowances are claimed.

6 Caravan and Camping Parks/Sites

Revenue previously published a precedent whereby a caravan park approved by Fáilte Ireland and included in its register of approved caravan parks could be regarded as a holiday camp for capital allowances purposes. Accordingly, any building or structure erected in such a caravan park was treated for capital allowances purposes as a building or structure in use for the purposes of the trade of hotel-keeping. This precedent was withdrawn resulting in capital allowances not being available in relation to capital expenditure incurred after 31 December 2005 on the construction of buildings or structures in caravan parks whether registered with Fáilte Ireland or not. Allowances in respect of expenditure incurred before that date were not affected.

Finance Act 2008 introduced capital allowances for expenditure incurred on or after 1 January 2008 on buildings or structures erected in caravan and camping sites provided, they are registered in the register of caravan and camping sites under the Tourist Traffic Acts. Allowances may be claimed at the rate of 4% per annum.

7 Registration

Fáilte Ireland administers a registration system for tourist accommodation such as hotels, guesthouses, holiday hostels and holiday camps. Details of the registration requirements are available at www.failteireland.ie

There may be a delay of several months between the application for registration and the entry in the appropriate register as a building must be open and operating as a hotel, guesthouse etc. before it can be inspected and approved for registration.

¹ Capital allowances are no longer available for expenditure incurred after 31 July 2008 on the construction or refurbishment of registered holiday cottages. However, this termination date was subject to certain transitional arrangements. If these transitional arrangements were not met, an earlier termination date could have applied.

It may happen that expenditure is incurred on a building during a particular year or accounting period but because the building has not been registered before the end of that year or accounting period there is no entitlement to capital allowances for the expenditure incurred. In these circumstances, Revenue will accept a claim for capital allowances for expenditure incurred in a particular year or accounting period if the building has been registered by the return filing date for that year or accounting period. For individual claimants this will be 31 October following the end of the year in question. For corporate claimants it will be 9 months following the end of the company's accounting period.

This practice applies only in relation to the year in which expenditure is incurred. It does not apply in relation to capital allowances for a subsequent year (for example, arising in relation to the same expenditure). Capital allowances cannot be claimed for any subsequent year for which the registration requirements are not met.

8 Other Holiday Accommodation

There is no entitlement to capital allowances for expenditure incurred on youth hostels, bed and breakfast establishments and holiday apartments that are registered with Fáilte Ireland.