

Capital Allowances in respect of Private Hospitals



Prepared by
Office of the Revenue Commissioners
Chief Inspector of Taxes

March 2003

While every effort is made to ensure that the information given in this publication is accurate, it is not a legal document. Responsibility cannot be accepted for any liability incurred or loss suffered as a consequence of relying on any matter published herein.

Capital Allowances for Private Hospitals

Introduction

Section 64 Finance Act 2001 provides for capital allowances in respect of capital expenditure incurred, on the construction or refurbishment of buildings which are used for the purposes of a trade which consists of the operation and management of a qualifying hospital (within the meaning of the Tobacco (Health Promotion and Protection) Regulations, 1995 (SI no. 359 of 1995))

This scheme was subject to clearance by the European Commission and came into effect by way of a commencement order signed by the Minister for Finance on 15 May 2002. The scheme applies to expenditure incurred on or after this date.

Qualifying Hospital

A qualifying hospital means a hospital, which meets the following conditions:

- It must be a private hospital (within the meaning of the Health Insurance Act, 1994 (Minimum Benefits) Regulations, 1996 (SI no 83 of 1996))
- It must have the capacity to and normally does provide medical and surgical services 365 days of the year.
- It must have the capacity to provide outpatient services and accommodation on an over-night basis for in-patients with the provision of at least 70 in-patient beds, or
- Day-case and outpatient medical and surgical services and accommodation for such services of at least 40 beds. (as respects capital expenditure incurred on or after 28 March 2003)
- It must contain an operating theatre or theatres and related on-site diagnostic and therapeutic services.

At least 20% of its bed capacity must be made available to the relevant Health Board (in whose functional area the hospital is situated) for the treatment of individuals awaiting in-patient or outpatient hospital services as public patients. The fees charged must be not be more than 90% of the fees that would be charged for equivalent treatment provided to a patient with private medical insurance. There is no requirement that the Health Board actually take up all or any of the bed capacity made available by the hospital. It is a matter for the Health Board to decide whether it wishes to do so.

In addition, the hospital must contain the facilities to provide at least 5 of the following services:

- Accident & emergency
- Cardiology & vascular
- Eye, ear, nose and throat
- Gastroenterology
- Geriatrics
- Haematology
- Maternity
- Medical
- Neurology
- Oncology
- Orthopaedic
- Paediatric
- Respiratory
- Rheumatology

Certificate

The Health Board (in whose functional area the hospital is situated) must issue an annual certificate in writing stating that the hospital is a qualifying hospital i.e. that it complies with the conditions of the scheme.

Capital allowances will only be granted in respect of the part of the hospital used for the assessment or treatment of patients and will not be granted in respect of any part of the hospital consisting of consultants' rooms or offices.

Where part of a building or structure qualifies as an industrial building, but another part does not, the whole building still qualifies if the cost of construction of the non-qualifying part does not exceed 10% of the total capital expenditure incurred on the construction of the whole building (Section 268(8) Tax Consolidation Act, 1997.)

Qualifying Expenditure

The writing down allowance granted is at the rate of 15% per annum for 6 years and 10% in year 7 of the capital expenditure incurred on the construction or refurbishment of the qualifying hospital.

Construction Expenditure

Construction costs include the cost of the site renovation, preparation and landscaping (i.e. drainage, sanitation, power and water supply). The cost of the site does not qualify for capital allowances.

Refurbishment Expenditure

Refurbishment means any work of construction, reconstruction, repair or renewal, including the provision of water, sewerage or heating facilities carried out in the course of the repair or restoration, or maintenance in the nature of repair or restoration of the building or structure.

Balancing charge

Although the write-off period is 7 years, a balancing charge will arise if a private hospital is sold or ceases altogether to be used within 10 years of first being used or, in the case of capital expenditure on refurbishment of a private hospital, within the 10 year period after the capital expenditure on the refurbishment was incurred.

Non-Availability of Capital Allowances

Capital allowances will not be granted in respect of expenditure incurred on the construction of a private hospital if the relevant interest in that capital expenditure is held by:

- a company,
- the trustees of a trust,
- an individual involved in the operation or management of the hospital as an employee or director or any other capacity,
- a property developer in the case where the property developer (or a connected person) incurred the capital expenditure on the hospital.

This rule will apply whether the relevant interest in that expenditure is held by any of the above either in sole capacity or in a partnership with any other person or persons. A “property developer” means a person carrying on a trade consisting wholly or mainly of the construction or refurbishment of buildings or structures, with a view to their sale.

Limit on offset of allowances for passive investors

There is a restriction on the amount of capital allowances a passive investor may set against non-rental income. The amount of the capital allowances for the year of assessment, which may be set off against an individual's other income in such cases, is restricted to €31,750. (Section 409A Taxes Consolidation Act, 1997.)

A passive investor is an investor who lets the property to an operator or is an individual who is not an active partner in a partnership trade of operating or managing the private hospital. An active partner is a partner who works for the greater part of his/her time on the day-to-day management or conduct of the partnership trade.