TC02858

Appeal number: TC/2011/06836

Income Tax – Enterprise Zone – Industrial Buildings Allowance – whether a laundry building in an Enterprise Zone is a "commercial building" – Yes - Sections 271 and 281 Capital Allowances Act 2001 – nature of "first use" – Sections 305 and 307 - Appeal allowed

FIRST-TIER TRIBUNAL
TAX CHAMBER

DAVID THOMSON **Appellant**

- and -

THE COMMISSIONERS FOR HER MAJESTY'S REVENUE & CUSTOMS **Respondents**

TRIBUNAL: JUDGE KENNETH MURE, QC
MEMBER: EILEEN A SUMPTER, WS

Sitting in public at George House, 126 George Street, Edinburgh on Tuesday 28 and Wednesday 29 May and Tuesday 9 July 2013

For the Appellant – Keith Gordon, Barrister,

For the Respondents – Iain Artis, Advocate, and Stephen Crilly, Solicitor, Office of the Advocate General for Scotland

DECISION

Introduction

1. The taxpayer's claim for tax relief for the Year to 5 April 2003 relates to the construction of a building and installation in it of a laundry facility within the Lanarkshire Enterprise Zone at Wishaw. Mr Thomson and others were contributors to a syndicate which funded the project. The appeal before the Tribunal is limited to the issue of whether or not the building qualifies as a "commercial building" for the purposes of Section 271 CAA 2001, in which case it will qualify for an Industrial Buildings Allowance at a 100% rate. It may be noted – and this is not in contention – that office premises within the building will on any view qualify for 100% relief.

The Law

2. Both Counsel referred us extensively to authorities, which are listed in the Appendix hereto.

The Facts

3. The only witness was Mr Graham Johnston, who was called by the taxpayer. He is head of management services at NHS Lanarkshire ("Lanarkshire"). He read out and confirmed the terms of his Witness Statement (Doc 25) and elaborated on this in the course of examination-in-chief and in cross. Mr Johnston is an honours engineering graduate with additional qualifications and experience in management. He explained that he had no personal or financial interest in the outcome of the appeal but was familiar with the background to the construction and operation of the building and laundry facilities at the Excelsior Laundry at Wishaw.

4. A decision had been made by the Lanarkshire Primary Care NHS Trust in about 2002 to investigate the possible forms of alternative laundry facilities. The optimum size for this, having regard to fixed and operating costs, was significantly in excess of Lanarkshire's requirements, and therefore consideration had to be given to using up the excess capacity to minimise unit costs. The obvious other users were other Health Boards but consideration was given to attracting private sector users such as hotels. Lanarkshire had such customers using their then laundry facilities but, perhaps as a result of the attendant publicity generated by the new facilities, there was some perceived risk of contamination which, Mr Johnston considered, had affected their interest. In the event two other Health Boards, NHS Ayrshire and Arran ("A & A") and NHS Dumfries and Galloway ("D & G") entered into an arrangement for laundry services with Lanarkshire. The laundry's work in its first year of operation may be apportioned between the principal users broadly as follows, <u>viz</u> 40% Lanarkshire; 40% A & A; and 20% D & G. Apart from that a relatively small amount of laundering was done for other customers, all as set out in the "Income Report" (an extra document) which was produced in the course of Mr Johnston's evidence.

5. We noted that Mr Johnston described the laundry provision as a "commercial arrangement". Lanarkshire "provided a service" for which the other users paid a

"price", he said. In calculating prices charged Lanarkshire aggregated all its costs and sub-divided this by the total number of items processed. There was not an additional profit element, but Lanarkshire required to defray its expenditure and maximise the laundry's throughput. At the start of each Year a "price" was projected, which would be reviewed in the course of the Year and adjusted to take account of, say, any fluctuations in fuel prices. The laundry provided also a "replacement" service for worn or damaged items. It was noted by Mr Johnston that Lanarkshire could competently charge other NHS bodies only for costs and not in addition a profit element.

6. In cross-examination Mr Johnston explained that Lanarkshire had entered into two contracts, one a lease of the building and the other a lease of the necessary plant and equipment. There was no direct or contractual relationship between the landlord/lessor and the other Health Boards.

7. Mr Johnston was invited to comment on certain of the documents produced which were relevant to the laundry and its use. He explained that the construction of the new laundry had been preceded by several years' discussions involving other potential users including other health boards. He spoke to the terms of the Full Business Case (Doc 1) and the consideration of the various business options. The status of the agreement between the Health Boards as to the use of the laundry was described as an "NHS contract" rather than a "lawyers' contract". All this was in terms of the NHS (Scotland) Act 1978. While the agreement was not enforceable at law, any dispute between parties would be referrable to the national Health Board and the Scottish Ministers, so providing a means of recourse. The agreement (Doc 6) sets out the arrangements between Lanarkshire and the other Health Boards, A & A and D & G. (The Tribunal notes at para 4.4 the dilapidation provision acknowledging Lanarkshire's sole liability as tenant in terms of the Leases relating to the laundry.) The concluded relationship was described as the "West of Scotland Laundry Consortium".

8. The new laundry was opened in early November 2003. It was handed over then by the construction teams to Lanarkshire. Initially there was a 3-4 week phased introduction, with Lanarkshire testing its operational efficiency with its own laundry.

9. We found Mr Johnston an impressive and informed witness. Although he was involved in establishing the laundry, he has no financial interest in the outcome of this appeal. We found him wholly credible and reliable. His recollection, we considered, was accurate. His account in terms of his Witness Statement and evidence, as we have narrated it, should be considered to be our **Findings-in-Fact**.

Parties' submissions

10. Helpfully counsel each prepared a Skeleton Argument on which they focussed in their closing submissions. The issue between them was whether the laundry premises qualified as an *industrial building* for purposes of capital allowances.

11. On behalf of the Appellant Mr Gordon referred us firstly to the relevant statutory provisions. Section 271(1) Capital Allowances Act 2001 provides that allowances are available if the building is in relation to qualifying Enterprise Zone expenditure, a *commercial building*. A *commercial building* in this context is a building which is used for the purposes of a trade, profession or vocation or office accommodation (Section 281 CAA). In the present case it was conceded that a small area of the building did indeed qualify as an office. Mr Gordon noted also that Section 307(1) CAA precludes an initial allowance being made if, when the building is first used, it is not an industrial building. In essence, he submitted, entitlement in this appeal depended on the building's first use being for the purposes of a trade.

12. The laundry operation was large-scale and resembled a commercial operation in that sense. This, Mr Gordon surmised, would not be challenged in the private sector, but in the present case the point of controversy was whether any subtlety arose as the occupier was a NHS Trust. The other NHS users paid for their laundry. That, Mr Gordon submitted, represented a trade.

13. Mr Gordon noted the terms mentioned by Mr Johnston in his evidence, viz the references to *customers*, a *service*, and *payment* of a *price*. There had been a business plan, costed out in advance, and the arrangements between Lanarkshire and the other NHS users were not *ad hoc* or casual. While there was not an intention to make an overall net profit, there was a desire to maximise use and for Lanarkshire to meet all its costs, taking account of fluctuating overheads. That, Mr Gordon submitted, was equivalent to a profit-motive.

14. Mr Gordon then considered the nature of *trade* in a tax context. There is no exhaustive definition either in statute or in case-law. While a profit-motive might be suggestive of trading, its absence did not prevent an activity being regarded as a trade, he submitted. Here, the statute refers to a *commercial building* but the absence of a profit-motive did not mean that an activity was not *commercial*.

15. Mr Gordon reviewed the relevant case-law. Initially he noted *Nalgo v Bolton Corporation* (especially p184-6) as supporting the proposition that a local authority could legitimately carry on a trade, and that the term *trade* had the widest scope in the context of the activities of a public authority. He noted then the leading cases of *Ransom v Higgs* and *Griffiths v Harrison*. A profit was not essential for a trade, and on any view a profit need not arise in a conventional sense. Applying this argument to the present appeal the need to defray fixed costs and all other expenditure was equivalent to a profit-motive. Mr Gordon compared the statutory provisions for relieving trading losses. "Set off" relief is restricted under Section 384 ICTA 1988 where a trade is not carried on, on a commercial basis and with a view to profit. That again confirmed, in his view, the distinction between *trade* and the need to make a profit.

16. In short, Mr Gordon argued, the laundry was a significant operation providing cleaning and the provision of linen to third parties for reward, inasmuch as fixed costs and overheads had to be met. It was a significant operation. No profit-motive was necessary, but an equivalent intention was present.

17. Mr Gordon then referred to the "badges of trade" noted in the report of the Royal Commission on the Taxation of Profits and Income in 1955. These, however, were not acknowledged as essential in any of the speeches in the subsequent House of Lords decisions in *Ransom v Higgs* and *Griffiths v Harrison*. However, they were considered by Robert Walker J (as he then was) in *Wannell v Rothwell*. Here, as there, there was a frequency in transacting and a motive of meeting all outlays.

18. Mr Gordon then addressed HMRC's attack on the lack of commerciality in the undertaking. *Commerciality* was not, he submitted, necessary to constitute a trade. He noted the VAT decision in *Morrison's Academy* and also, in the context of Income Tax, the decision in *Brighton College*. Here, in any event, the circumstances were akin to commerciality. The operation was run as a business; it was professionally operated; it was significant in size; the arrangements were not casual or *ad hoc*; and they were at arms-length. The only difference was that in addition to meeting costs, an additional profit element was not sought. That, Mr Gordon argued, was unnecessary.

19. Mr Gordon then considered HMRC's arguments as to mutual trading being applicable here. It is accepted that a party cannot trade with itself. Here, the business was not conducted on the basis of a collaborative effort. While the three Health Boards had a good relationship *inter se*, they were independent of each other and had to conduct their dealings with one another on an arms-length basis. The price charged by Lanarkshire was not dictated by the other Health Boards. Accordingly this was not an example of mutual trading. In support of his argument Mr Gordon noted the decision in *Dublin Corporation v McAdam*.

20. Finally, in response to the Tribunal's enquiry, Mr Gordon submitted that notwithstanding the element of self-benefit to the Appellant, this activity was still trading. It had always been intended that substantial use would be made of the facilities by third parties. The element of self-use did not detract from the activity being trading.

21. In reply, on behalf of HMRC, Mr Artis moved us to refuse the Appeal. Essentially, he argued that the laundry activity was not a trade for tax purposes. Each of the parties involved, the three Health Boards, was not in trade, and the laundry operation given its nature could not qualify as a trade itself. The activity fell to be viewed in the context of Health Service provision in Scotland. In essence the Health Service was dealing with itself. Moreover, the laundry activity was wholly uncommercial, Mr Artis submitted. The Minute of Agreement (Doc 6) was utterly remote from a commercial context. The objective of the operation was cost-sharing, with no intent for reward. Furthermore, the test of "first use" for purposes of an Initial Allowance was not satisfied in the circumstances. Even if the laundry activity did represent a trade, the "first use" test, prescribed by Section 307CAA 2001 was not satisfied. The first operations in the laundry did not involve any supply to the other Health Boards, Mr Artis claimed.

22. Mr Artis adopted his skeleton argument and addressed us in detail on certain aspects. Firstly, he considered again the relevant statutory provisions noted by

Mr Gordon, viz Sections 271, 281, 305 and 307 CAA 2001. These prescribe cumulative conditions. It was not disputed that expenditure had been incurred and that in an Enterprise Zone. However, more controversial was whether the laundry was a "commercial building or structure", used for the purposes of a trade. (See Section 271(1)(b)(iv) and Section 281(b).) The nature of the first use is important: was it, when first used, a commercial building, crucially offering a service to third parties? This last condition loomed large in significance as counsel developed their respective arguments.

23. Mr Artis then turned to the relevant case law, dealing with the definition and sense of the term "trade". He reviewed the authorities noted by Mr Gordon. The commercial character of a venture was significant. The manner in which a transaction was carried out was relevant. The size of an operation was not conclusive in relation to commerciality: see *British Legion, Peterhead Branch*. Additionally, he noted also two anti-avoidance cases, viz *Coates v Arndale Properties Ltd*, where the commercial character of an asset involved a mixed question of fact and law, and *Overseas Containers (Finance) Ltd v Stoker*.

24. Thirdly, Mr Artis stressed that the relief was available only for *commercial* buildings. For purposes of tax relief here, the reality of the activity had to be assessed for its having a commercial objective. The test of trading did not require the activity to be conducted on a commercial basis. He argued by reference to Section 384(1) ICTA 1988 (the restrictions on right of set-off of losses) that a trade need not be commercial. In the present case the laundry venture could never be profitable. In short, even if the laundry were a trade (which he doubted), it was not conducted commercially.

25. Next, Mr Artis examined the nature of the relationship between the Health Boards. The laundry activity, he repeated, was one arm of the Scottish Health Service dealing with another. Because of the nature of these bodies, their dealings *inter se* could never be *trade*. Section 519A ICTA 1988 provided that Health Boards were exempt from tax. Further, the status of the arrangement was not properly contractual with legally enforceable remedies. Such an NHS "contract" did not have a legal status, he suggested. Any dispute between parties could only be referred to the Secretary of State for resolution. This was the antithesis of a commercial arrangement or a trade.

26. Fifthly, the reality of this activity was that the NHS was dealing with itself. "Mutual" trading does not amount in law to a trade. Contrasting somewhat the decision in *Dublin Corporation v M'Adam*, the interests of the various Health Boards here were the same interest, viz that of the Scottish Government dealing with itself. Thus, Mr Artis submitted it was the mutual fulfilment of a statutory duty.

27. Finally, Mr Artis turned to the aspect of "first use" prescribed by statute. Here, according to the evidence, the first use was for Lanarkshire's own articles, and there was no third party supply. Even if (contrary to HMRC's stance) the laundry were a trade, its first use was for Lanarkshire alone. In support Mr Artis referred us to a recent Special Commissioner decision, *Mansell v HMRC*, which related to the

commencement date of a trade, albeit in a different statutory context. He noted para 93 in which the Special Commissioner opined –

"It seems to me that a trade commences when the taxpayer, having a specific idea in mind of his intended profit-making activities, and having set up his business, begins operational activities – and by operational activities I mean dealings with third parties immediately and directly related to the supplies to be made which it is hoped will give rise to the expected profits …".

28. In summary, according to Mr Artis, the laundry was a building but its use was not commercial. While it was large-scale, that did not result in its being commercial. What was material was the nature of the parties and their relationship as Health Boards. Irrespective of forming an intention to make a profit, the parties did not have the legal capacity to make a profit especially from each other. These were cost-saving arrangements. The only benefit which could be derived from the arrangements was the spreading of fixed costs over a broader base, he concluded.

29. Mr Artis referred us to draft Findings-in-Fact which he had prepared for our consideration and noted no. 11 in particular. The "first use" was for Lanarkshire's own good. That in itself, he argued, precluded tax relief.

30. In the whole circumstances Mr Artis invited us to refuse the Appeal.

31. The Tribunal then heard from Mr Gordon a "last word" on behalf of the Appellant. As he had understood HMRC's argument, Lanarkshire's principal function was not trading but the provision of health care in its area: however, to carry this out, subsidiary services such as laundry provision were necessary: as this was intimately related to the principal function of Lanarkshire, it could not be a trade. That final inference, however, was fundamentally flawed according to Mr Gordon.

32. In the present case the laundry facility was too big for Lanarkshire's own requirements. Accordingly, it offered a laundry facility to others for commensurate payment. Thus it "profits" by reducing the fixed overheads. The standard of service corresponded to industrial standards, and the other Health Boards were customers of Lanarkshire, Mr Gordon maintained.

33. The other Health Boards were not on a par with Lanarkshire, he argued. Lanarkshire was the "owner" of the laundry, and the other Health Boards were its "customers". Had the activity been conducted by any other party, the Respondents would have treated it as trading.

34. Notwithstanding the terms of the National Health Service (Scotland) Act 1978 the arrangements between Lanarkshire and the other Health Boards was still an agreement, according to Mr Gordon. That was not altered by the statute ousting the court's jurisdiction. That was similar in effect to an arbitration clause in a contract. Mr Gordon commented also on Section 17A, which provides that parties should act fairly *inter se*. It had been suggested that this was the antithesis of trade. Not so, Mr Gordon replied, it made sound commercial sense.

35. Mr Gordon noted the *Pfizer* decision, referred to by Mr Artis. He distinguished the circumstances of that case as not relating to trading. Rather it concerned a statutory right enabling patients to purchase drugs at a specific price, without any element of bargaining. Also, he revisited *Dublin Corporation*, again relied on by Mr Artis in support of his argument as to the Health Boards having the same identifiable interest. Mr Gordon on the other hand submitted that the Health Boards covered different geographical areas of responsibility and were distinct entities, with separate interests.

36. For the building to qualify as a "commercial building" it was not necessary that Lanarkshire should secure a financial reward, he continued, Savings on fixed overheads would be sufficient. The arrangements made between Lanarkshire and the other Health Boards were not shams. They had real commercial substance. They had not been contrived artificially for tax purposes or other ulterior motives.

37. On a correct analysis of the evidence the "first use" test had been satisfied. Mr Gordon reminded the Tribunal that in cross-examination Mr Johnston had indicated that Lanarkshire's goods alone had been in the laundry for *one* day (which corresponds with our notes). On a sound reading of Sections 281 and 307 CAA in conjunction there was no requirement that the "first use" had to be for third parties. In any event, viewing the matter of "first use" holistically there was a shared element in the first use. Once the goods were laundered they passed into a common pool (see para 18 of Mr Johnston's WS) to be shared by all the laundry users. Alternatively, Mr Gordon argued, the first use could be viewed as a testing process to ensure a satisfactory continuing service for the pre-existing customers. Accordingly the "first use" argument as pursued by the Respondents must fail.

38. In short, Mr Gordon submitted, the relationship between Lanarkshire and the other Health Boards was a trading relationship. To a degree it was commercial, but commerciality was not determinative or required for trading. A substantial number of articles were regularly laundered for real payment for all parties' benefit, especially Lanarkshire's. That represented trading on Lanarkshire's part.

39. Accordingly, Mr Gordon concluded, the Appeal should be allowed.

Decision

40. This Appeal relates to eligibility for Industrial Building Allowances for a building erected in the Wishaw Enterprise Zone to accommodate a new laundry for the Lanarkshire Health Board. An Initial Allowance of 100% may be granted for such expenditure (Section 306(1)).

41. Having been addressed by counsel at length there is essentially one issue for the Tribunal to resolve, a matter of statutory interpretation. Having regard to Sections 271 and 281 CAA 2001 is the laundry building a "commercial building" in the sense that it is used for the purposes of a trade? The other criteria seemed to be satisfied. The necessary expenditure has been incurred and the building is situated in

an Enterprise Zone. Part of the building was used as office accommodation: that part qualified irrespective of use having regard to Section 281(b).

42. The taxpayer seeks an Initial Allowance, which introduces a secondary test relating to the "first use" of the building. Having regard to the terms of Section 305(1) and 307(1) CAA entitlement to an Initial Allowance depends on whether the building is to be an industrial building and whether, when it is "first used", it is an industrial building. This was developed as a secondary issue.

43. Counsels' arguments considered the concepts of trade and commerciality, and whether these overlapped in interpreting the sense of a "commercial building". The authorities cited, while helpful, did not consider these particular provisions. While there is a considerable body of case-law analysing the concept of *trade*, no comprehensive definition emerges. It is trite law that it does include an isolated adventure as well as a continuing activity, but no profit motive is necessary. (The statutory definition set out in ITA2007, section 989, simply extends the term to any venture in the nature of trade.) Some discussion has been made about the "badges of trade" (noted in the Royal Commission's report in 1955) but these, while no doubt relevant, have no statutory or other authority.

44. The speciality emphasised by HMRC in the Appeal is that Lanarkshire and the other Health Boards were operating within the rules and structure of the Scottish Health Service. The Health Service and its constituent arms are not profit-making. Its function is the provision of medical care. In order to achieve this, it requires to provide ancillary or support services, such as catering, cleaning, transport and, of course, laundering. These support services may be provided in-house or contracted out for performance by independent third parties.

45. The laundry here was an in-house provision. For reasons of efficiency and considerations of costs the optimum unit was larger than that required for Lanarkshire's own needs. That meant that costs had to be defrayed even although a profit was not sought. That objective was secured by way of an agreement with the other Health Boards, A & A and D & G, although Lanarkshire would have welcomed any further business from the private sector such as hotels.

46. In the Tribunal's view the defraying of overheads and other expenses approximates to a profit motive in this context. A certain "price" has to be determined as consideration. The absence of an additional excess element of profit makes little difference in our view. Apart from that additional element Lanarkshire had to view the laundry enterprise as any entrepreneur would do. A service is provided on a frequent and repeated basis, to a competitive standard, and for a price reflecting all costs of its provision.

47. The position and interests of Lanarkshire are distinct from these of the two other Health Boards. Lanarkshire leases the laundry. It is the party liable in terms of the Lease. The other Health Boards do not have a direct relationship with the landlord. The three Health Boards are independent of each other, although they all participate in the provision of the Health Service in Scotland. They cover different areas. They are

financially independent of each other and accountable individually. The arrangements between them are at "arms-length".

48. All aspects of "arms-length" trading are echoed in these arrangements apart from the absence of a desire to seek a profit element over and above meeting expenses. Again in our view that does not detract significantly from the commerciality of the arrangements. Nor does the reference of disputes to the Secretary of State: we agree with Mr Gordon that that is akin to the effect of an arbitration clause in a contract.

49. In the Tribunal's view the laundry activity conducted in the building falls within the definition of a trade. That building accordingly is a "commercial building" for purposes of Section 271 CAA and entitlement to capital allowances.

50. Finally, the matter of the building's "first use" falls to be considered. As at that first use the building must be an "industrial building". That for purposes of this appeal includes a "commercial building". The submission by HMRC was that the "first use" was for Lanarkshire alone, not for the benefit of the other Health Boards, and thus the possibility of trading was excluded.

51. We were not impressed by this argument. We agree that as a matter of fact, following Mr Johnston's evidence, it was only on the first day that the laundry processed linen supplied by Lanarkshire alone. Quite apart from *de minimis* considerations, that falls to be qualified in as much as the system which operated, was that laundered goods were not allocated to any one user but rather formed a shared supply. Further, we agree that in any event a short period devoted to laundering only Lanarkshire's goods for testing purposes, would be entirely consistent with the continuing activity *ab initio* representing "trading". We prefer to view such testing as integral to the conduct of a trade with third parties. Lanarkshire had conducted that trade before moving to the new laundry, and its "first use" was for the continuance of the same trade. An initial allowance, therefore, should not be withheld by reference to Section 307 CAA.

52. For all of these reasons the Tribunal allows the Appeal.

53. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

KENNETH MURE, QC
TRIBUNAL JUDGE

RELEASE DATE: 4 September 2013

APPENDIX

DAVID THOMSON v HMRC
TC/2011/06836
List of Authorities

Case law

1. *CIR v Livingston* (1927) SC 251
2. *National Association of Local Government Officers v Bolton* [1943] AC 166
3. *British Legion, Peterhead Branch, Remembrance & Welcome Home Fund v Commissioners of Inland Revenue* (1953) 35 TC 509
4. *JP Harrison (Watford) Ltd v Griffiths (HM Inspector of Taxes)* [1963] AC 1
5. *Ransom (HM Inspector of Taxes) v Higgs* [1974] 1 WLR 1594
6. *HM Customs & Excise v Morrison's Academy Boarding Houses Association* (1977) SC 279
7. *Coates v Arndale Properties Ltd* [1984] 1 WLR 1328
8. *Overseas Containers (Finance) Ltd v Stoker (HM Inspector of Taxes)* [1989] 1 WLR 606
9. *IRC v Aken* [1990] 1 WLR 1374
10. *Ensign Tankers (Leasing) Ltd v Stokes (HM Inspector of Taxes)* [1992] 1 AC 655
11. *Wannell v Rothwell (HM Inspector of Taxes)* [1996] STC 450
12. *Brown v Richardson (HM Inspector of Taxes)* (1997) SpC 129
13. *New Angel Court Ltd v Adam (HM Inspector of Taxes)* [2004] 1 WLR 1988
14. *McCall v HMRC* (2008) SpC 678
15. *Samarkand Film Partnership No. 3 v HMRC* [2011] UKFTT 610 (TC) (extract only)
16. *Pawson v HMRC* [2012] UKFTT 51 (TC)
17. *Edwards v Bairstow* [1956] AC 14
18. *Religious Tract and Book Society of Scotland v Forbes* (1896) 23R 390
19. *Ransom v Higgs* (1974) 50 TC 1
20. *Griffiths v JP Harrison (Watford) Ltd* [1963] AC 1
21. *Overseas Containers (Finance) Ltd v Stoker* [1989] 1 WLR 606
22. *Dublin Corporation v M'Adam* (1887) 2 TC 387

Statute (including secondary legislation)

1. Schedule 32 to the Local Government, Planning and Land Act 1980
2. Income and Corporation Taxes Act 1988, sections 380, 381, 384(1), 385, 389, 397(1) and (2), 831, 519A, 832(1)
3. Taxation of Chargeable Gains Act 1992, sections 165A, 169S(1) and former Schedule A1, paragraph 22(1)
4. Value Added Tax Act 1994, Schedule 6, paragraph 1A
5. Capital Allowances Act 2001, sections 271, 281, 305-207 Chapters 4 and 5 of Part 3
6. Income Tax (Trading and Other Income) Act 2005, section 9

7. Income Tax Act 2007, sections 64, 66, 67, 72, 83, 89, 989
8. Value Added Tax (Input Tax) Order 1992 (SI 1992/3222), regulation 2
9. The Lanarkshire (Motherwell) Enterprise Zones Designation Order 1993 (SI 1993/23 (S.3))

HMRC Manuals

Business Income Manual at 22001

Hansard

House of Commons, Vol. 985, 4 June 1980, Col. 1515

Further reference should be made to—

NHS (Scotland) Act 1978

Mansell v HMRC [2006] STC (SCD) 605

Pfizer Corporation v Ministry of Health [1965] AC 512