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PRACTICE NOTE

PN 117/05

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COMMERCIAL BUILDINGS ALLOWANCE

Regional Development Incentives

1 INTRODUCTION

An extension of the allowance for 'industrial buildings' is currently available to enable tax relief for capital expenditure in respect of new building work on business premises located within designated areas of the Isle of Man. The areas are situated in Ramsey, Port St Mary and Peel, and are shown on the plans reproduced at appendices two, three and four of this Practice Note as the areas edged with a thin black line.

This allowance encourages business development in these areas by making tax relief available in respect of expenditure that does not otherwise qualify for relief. It has been enabled by Orders of Tynwald that can be purchased with accompanying plans from the Central Reference Library which is situated on 3rd Floor, Government Office, Buck's Road, Douglas. See appendix one for details.

2 WHAT DOES THE ALLOWANCE APPLY TO?

Part 1 of the Capital Allowances Act 1970, an Act of Parliament, enables the cost of new buildings/structures and significant work on existing buildings used as industrial buildings (as defined in that Act) to be claimed as a capital allowance. Section 29 of the Isle of Man Income Tax Act 1970 provides for the application of that Act of Parliament in the Isle of Man. The Orders referred to in the introduction modify this legislation so as to include buildings that are used for the purpose of **any** trade or profession (other than use as tourist premises*) carried on wholly or partly in the designated areas. This includes retail shops, showrooms and offices.

[* Separate allowances are available Island wide]

The cost of a new building, either commissioned or purchased new and unused, is the qualifying expenditure. The cost of new work carried out to refurbish, renovate, alter, convert or extend an existing building is the qualifying expenditure. The cost of land must be excluded, but no account is taken of government grant assistance that may be received for the purchase of property or other capital expenditure.

Where an existing building is purchased by a person carrying on a trade as a developer, who then incurs the cost of new work to refurbish, renovate, alter, convert or extend it in the course of the development trade, the qualifying expenditure is a pro-rata apportionment of the selling

price paid to the developer. This apportionment is based on the total development cost remaining after deduction of the purchase price (and associated costs) paid by the developer for the existing land and building(s), compared with the total development cost.

$$\text{i.e. Qualifying expenditure} = S \times \frac{D - P}{D}$$

Where: S = sale price, D = total development cost, P = purchase price of existing building.

3 WHO CAN CLAIM?

The allowance can be claimed by any person who owns a property situated within a designated area that is used for the purpose of any trade as stated above, and who incurs qualifying expenditure. 'Person' includes an individual or a company, and may be a landlord. Tax relief will be set against the profit of the trade carried on in the case of an owner occupier, or against rents received in the case of a landlord.

Where a tenant incurs building costs that are not relieved as revenue expenditure against trading income (i.e. repairs and renewals), those costs are qualifying expenditure. The tenant can claim the allowance as leasehold improvements.

4 HOW TO CLAIM AND RATES OF ALLOWANCE

A claim should accompany the return of income for the period in which expenditure was incurred. Confirmation of the cost incurred together with the location and use of the property will be required. Compliance with the time limits (see below) may require confirmation. A trader should submit a set of accounts that include the expenditure as capital and make a capital allowance claim with the accompanying income tax computation.

Tax relief is in the form of deduction of an allowance from income before being charged to tax. An initial allowance of up to 100% of the amount claimed can be made in the first year of claim. Any balance remaining will be relieved by an allowance of 4% of the amount claimed (i.e. 4% of cost) granted annually for each subsequent year until exhausted. An initial allowance is likely to result in an excess of capital allowances over annual profit. An excess can be carried forward in full in the same manner as a trading loss, but surrender as a group relief claim in the case of a trading company is restricted to 50% of an initial allowance, with any balance being carried forward. In the case of a landlord claiming relief against rental income, an excess can be carried forward for offset against future rents from the same building.

A balancing adjustment will be made (subject to time limit) when a building is sold. The tax written down value will be compared with the original cost (or sale proceeds if lower) and the difference will be a balancing adjustment (normally a charge). If the building continues to be used as trading premises as defined above, the new owner can claim an annual allowance against profits/rents, calculated by dividing the original cost (or purchase price if lower) by the number of years remaining out of 25 years following the year in which the building was first brought into use. A sale made later than 25 years after first use will not attract any balancing adjustment, nor will any further allowance be available.

5 COMMERCIAL AND DOMESTIC ACCOMMODATION

The use of a building can be part commercial ('the qualifying part') and part domestic, e.g. a ground floor shop or office with apartment(s) above. Where this occurs, the qualifying

expenditure is restricted to the cost of the qualifying part in all cases; irrespective of the scale and occupancy of the domestic part (e.g. a caretaker's flat).

The restriction may be determined by simple apportionment of the qualifying expenditure according to the floor area of the qualifying part over total floor area, but the Assessor reserves the right to use the actual cost of items that are not common and proportionate to each area of the building.

6 TIME LIMITS

6.1 Ramsey and Port St Mary

Planning application must be made before 6 April 2006. Construction work must be carried out and the cost payable between 6 April 2001 and 5 April 2008.

6.2 Peel

Planning application must be made before 6 April 2006. Construction work must be carried out and the cost payable between 6 April 2002 and 5 April 2008.

In a case where the time limit for planning application is met but part of the work is carried out before or later than the specified dates, an apportionment so as to determine the amount of qualifying expenditure will be made.

M Couch
Assessor of Income Tax

This practice note is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

Comments and suggestions for improvements of issued Practice Notes and suggestions for future Practice Notes are always welcome.

APPENDIX 1

The references of the Orders made are:

Statutory Document No. 391/01

INCOME TAX (CAPITAL RELIEF) (COMMERCIAL BUILDINGS ALLOWANCE) **(RAMSEY)**

ORDER 2001

Statutory Document No. 490/01

INCOME TAX (CAPITAL RELIEF) (COMMERCIAL BUILDINGS ALLOWANCE)

(PORT ST MARY) ORDER 2001

Statutory Document No. 379/02

INCOME TAX (CAPITAL RELIEF) (COMMERCIAL BUILDINGS ALLOWANCE)

(PEEL) ORDER 2002

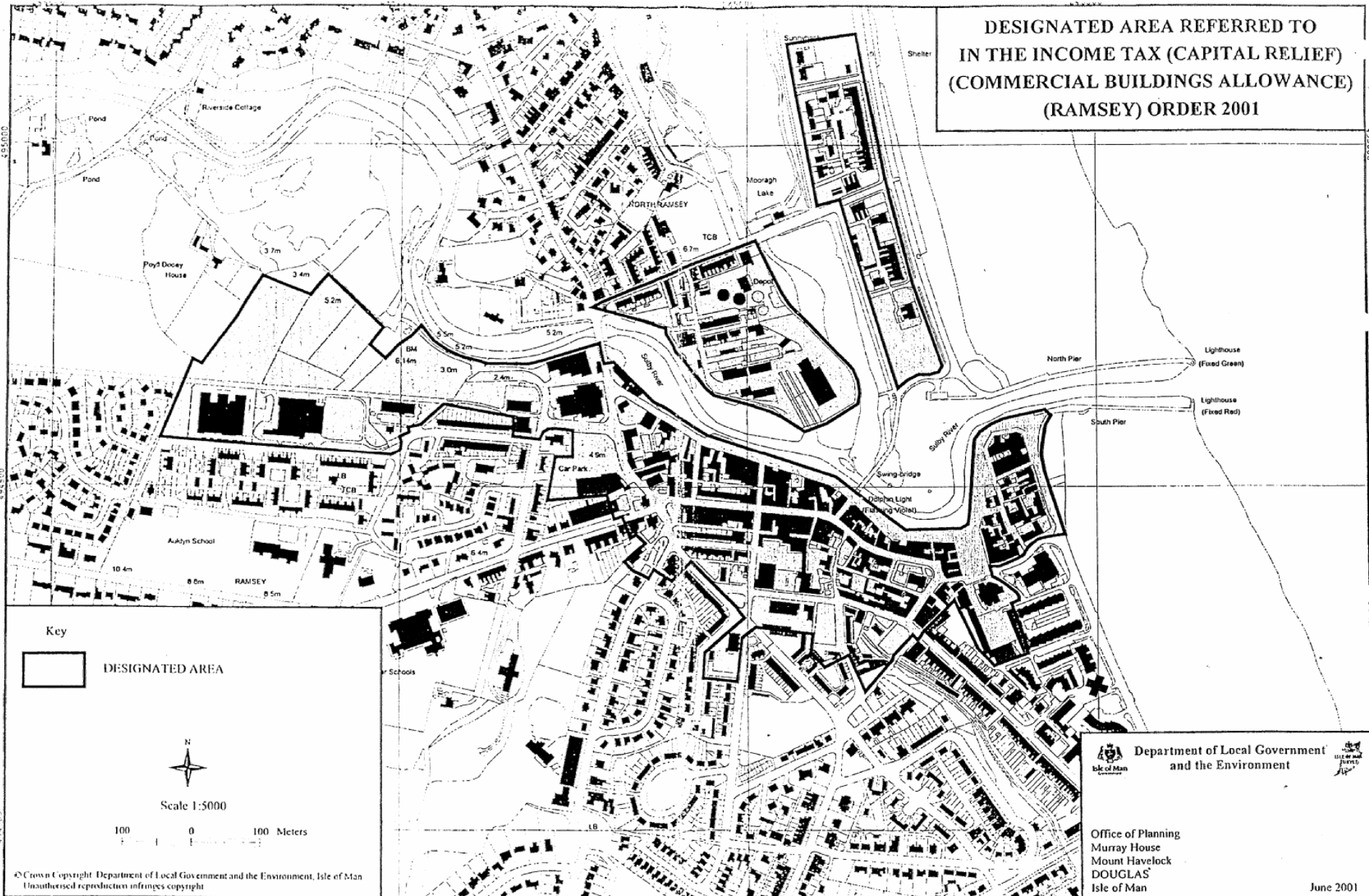
Amendment Orders extending SD 391/01 and SD 490/01 for one year are:

S D No. 77/04 (Ramsey) and S D 76/04 (Port St Mary)

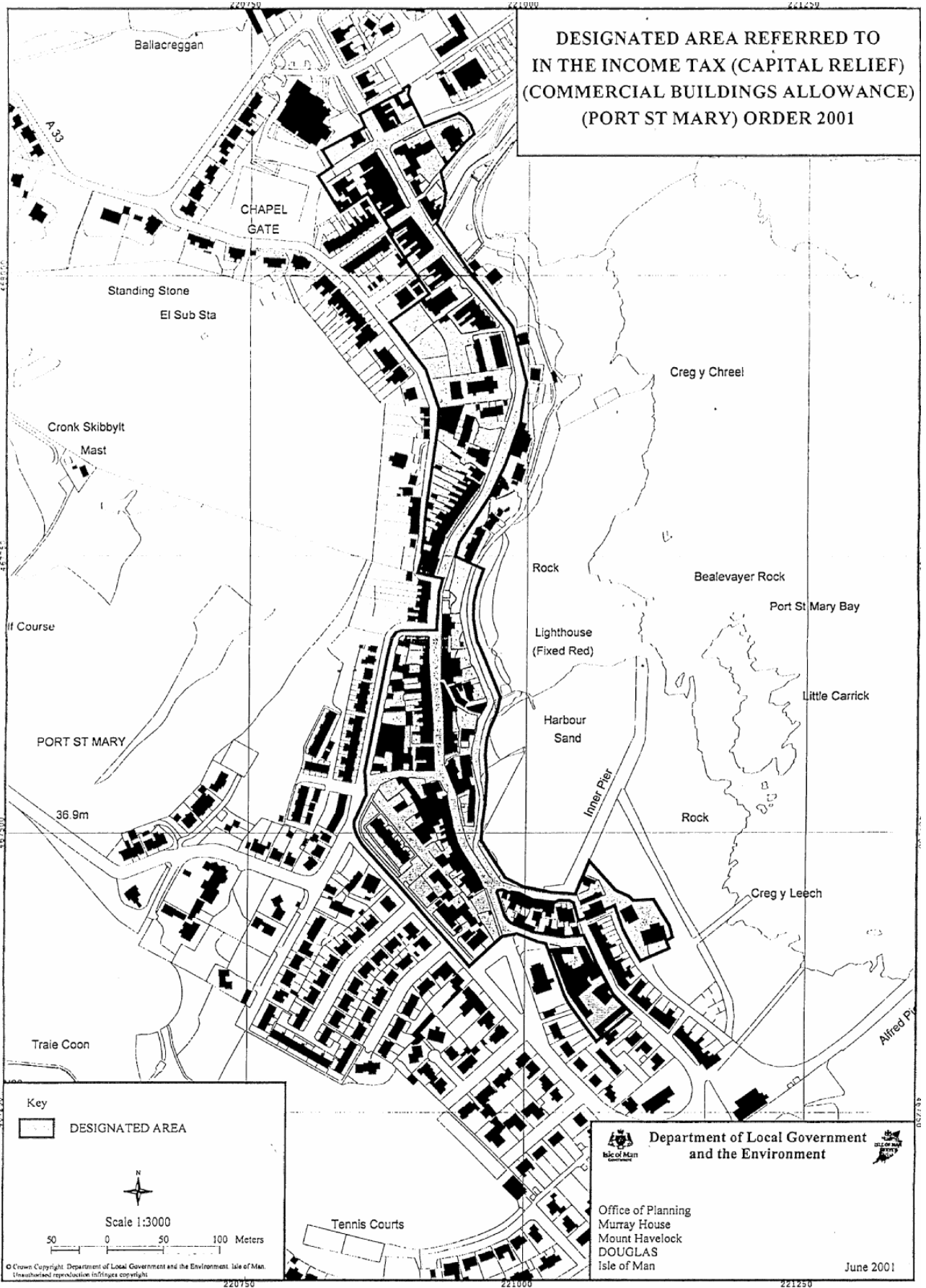
Amendment Orders extending all orders to 6 April 2006 (planning application) and 5 April 2008 (construction work) are:

S D No. 25/05 (Ramsey), S D No. 24/05 (Port St Mary) and S D 23/05 (Peel)

APPENDIX 2



APPENDIX 3



APPENDIX 4

