

Capital Allowances

Tax Relief for Fixtures in Buildings

There is often scope to obtain significant tax relief for fixtures in commercial buildings. We are able to review your position to ensure these valuable reliefs are claimed.

Recent key changes with regard to fixtures impact on the sale or purchase of property. This highlights the significance of ensuring that information on fixtures is available and that you enter into the transaction well-advised.

If you own a commercial property and have not claimed capital allowances on all relevant fixtures then it may be possible to make a substantial claim.

Purchasers of commercial property need to ensure that:

- the vendor has allocated the fixtures expenditure to capital allowance pool, and
- both parties agree the value attributable to fixtures to pass on sale.

If the above requirements are not met then the ability to claim capital allowances on these fixtures will be lost to the purchaser and any future owners.

Vendors also need to take advice to ensure they are not exposed to an unexpected tax charge.

Structure and buildings allowance

The 2018 Budget introduced a new structure and buildings allowance (SBA) which will provide 2% tax relief for the cost of new or renovated commercial structures, where construction commences on or after 29 October 2018. Relief will be limited to the original cost of construction or renovation, relieved across a fixed 50-year period, regardless of ownership changes. No balancing charges or allowances will apply, so there will be no clawback on sale - the allowances will pass on to the next owner.

Care will need to be taken to consider when contracts are entered into for construction or where there are residential elements to a property. The allowances can be claimed once the building comes into qualifying use. When the property is sold the SBA claimed will reduce the base cost of the asset, thereby increasing the eventual capital gain. The new relief brings tax relief for investment in property forward, instead of having to wait for the eventual sale.

Fixtures claims

It is possible to claim capital allowances on fixtures within a building. This includes plant and machinery (e.g. fitted kitchens, sanitary ware, alarm systems and data cabling), as well as integral features (e.g. hot and cold water systems, lighting, electrical systems and air conditioning). If the previous owners of a building were unable to make a claim for capital allowances then an opportunity may exist for you to claim based on the unrestricted market value of plant and machinery. We can undertake a review, in conjunction with qualified surveyors, to identify qualifying expenditure and reduce your tax liability or obtain a tax refund.

Integral features

As part of the 2018 Budget, the Chancellor decided to reduce writing down allowances for integral features in properties (such as heating and lighting) from 8% to 6% from April 2019. In addition to the obvious transfer of tax relief from existing structures to new structures, the Government expects to raise tax overall from this combination of capital allowance measures. However,

the net effect is likely to benefit certain businesses in particular, such as farmers who typically won't have large integral features claims on barns etc, and landlords of commercial sheds, since they will be able to claim allowances on the 'shell' whilst the occupier's allowances for integral features will reduce.

From 1 January 2019 the rate of the annual investment allowance, which provides for 100% tax relief, increases from £200,000 to £1m for a two year period to encourage investment. It is most tax efficient to claim this against integral features first, particularly with the decelerating rate of relief.

Plant and machinery writing down allowances remain at a rate of 18%.

Is it applicable to me?

Properties where capital allowances have the greatest potential to add value include hotels, holiday parks, furnished holiday lets, nursing homes, medical premises, pubs and modern offices. The value of fixtures is often in the region of 10% - 30% of the purchase price, so a capital allowance review is a worthwhile exercise and can generate substantial tax relief.

Example

The partners in a partnership purchased a building costing £1.5m in November 2018. No capital allowances on fixtures had been claimed by the previous owners, a pension fund. A survey is carried out which identifies that £300,000 of fixtures qualify for capital allowances. As higher rate taxpayers, the partners may benefit from £126,000 of tax

relief over the life of the claim.

Commercial Property Standard Enquiries (CPSE)

The importance of the information provided on the CPSE form has been highlighted as a result of the rule changes. The purchaser will need to ensure that their solicitor receives full and proper answers on section 32 of the CPSE form. We can assist you with this process and analyse what the information provided means in relation to your tax relief.

Fixed value requirement

The vendor and new owner must jointly agree on the value of fixtures for tax purposes. This is normally achieved by a tax election within two years. We provide advice in relation to property transactions and assist with the commercial negotiations. It is also key for vendors to have an election in place to ensure they do not have an unexpected clawback of the allowances they have previously claimed.

Mandatory 'pooling' requirement

The rules introduced in 2014 brought in a 'mandatory pooling' requirement which means a buyer can only claim capital allowances if the vendor has first included the qualifying expenditure in their tax computation. It is therefore important that any qualifying expenditure is identified, as vendors are likely to be forced to do so on sale. Note that if a vendor fails or refuses to pool expenditure on fixtures (where it is possible to do so) there is no way for the purchaser to 'retrieve' the expenditure for capital allowances purposes - allowances on those fixtures will be lost to all future owners of the property.

Planning opportunities

- Opportunities exist to claim additional capital allowances on fixtures outside of an election. This can often be the case for expenditure such as cold water systems and general electrical wiring incurred prior to the introduction of 'integral features' in 2008.
- Claiming capital allowances on fixtures has no impact on the capital gains payable when the building is sold.
- Ensure that the value of chattels (moveable items) is separated out as these items are not subject to the fixtures election. There is also no SDLT charged on chattels, whereas it is charged on fixtures.
- Non-taxable entities (such as pension schemes and charities) should ensure that a full capital allowance history is available because this will be of great interest to any subsequent purchaser.
- From the vendor's position the 'saleability' of a property is likely to be enhanced if the vendor can offer full documentation regarding fixtures and their tax history.

Information required

It is essential to ensure that all of the necessary information regarding fixtures is available on a property sale. Whilst it is the purchaser's responsibility to demonstrate that all of the requirements have been satisfied, most of the historic data will be in the hands of the vendor. A degree of 'due diligence' will be required and purchasers may also seek warranties and indemnities from vendors in this matter. Joint elections which set the value of fixtures have become an essential part of most property transactions.

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