

CAPITAL ALLOWANCES CHANGES – ACT NOW!

The Government has introduced two significant conditions to be met before property buyers can claim capital allowances. If these conditions are not addressed at the time of the transaction, then the lost tax relief to the buyer can be a catastrophic cost, which could have a direct impact on the rental and capital yields. This may reduce the market value of the property.

Background

Capital allowances are valuable tax reliefs available in respect of expenditure on plant and machinery. This includes plant and machinery that is a fixture or an integral part of a building such as lifts, air conditioning, heating and sanitary ware. Allowances are available at 8% on integral features of a building such as air conditioning and lifts but at 18% on other plant and machinery. In some cases, allowances can be available at 100% on energy efficient expenditure.

Where a building containing eligible plant and machinery is purchased, capital allowances should be available to the purchaser. The amount of allowances that are available will depend upon the price paid by the purchaser and the value agreed between the seller and purchaser for the fixtures.

Changes

The new rules are made up of two parts:

- A fixed value requirement ; and
- A pooling requirement

Tax reliefs arising from claiming capital allowances can result in valuable cash savings. In certain cases up to 25% of the property could have eligible allowances!!

Fixed Value Requirement

A fixed value requirement has been in effect since April 2012 and applies to properties acquired from this date and must be satisfied if a purchaser of 'second-hand' fixtures is to claim allowances.

It requires that where a seller of a property has claimed capital allowances on the fixtures within it, the seller and purchaser must make an election within two years from date of completion setting out the value attributed to the fixtures. If they cannot agree, either party may apply to the HMRC's Tax Tribunal for this value to be determined. If the election is not made, or a direction from the Tax Tribunal is not applied for within the two year period, the purchaser is not able to claim capital allowances in respect to plant and machinery acquired. . Subsequent purchasers are also prohibited from making a claim

Pooling requirement

The pooling requirement has come into effect from 1 April 2014. From this date, the seller will have to 'pool' its expenditure on plant and machinery in a chargeable period when it owns the property in order for the allowances to be passed on to the purchaser. 'Pooling' means adding the expenditure to the seller's pool of expenditure qualifying for capital allowances, although the seller does not have to claim allowances.

The pooling requirement will only apply to a seller who was entitled to claim capital allowances and not to a non taxpayer such as a charity or pension fund or to a seller holding property as a trading asset. Nevertheless it could prove valuable in the future for such non-tax payers, if the historical information on capital allowances is retained by them.

All commercial property owners should review their portfolio to establish if they have any unclaimed allowances. We can help you with this process by identifying and quantifying any unclaimed allowances. Once identified and quantified, the allowances can be included in your current tax return and generate a tax saving for you, and avoid the loss of this relief to future owners.

If you don't act now, valuable capital allowances could be lost forever! This could have an impact on a transaction!

Those looking to acquire commercial property should ensure they take professional tax advice on the capital allowances position at an early stage as part of the acquisition process. Should you wish to talk through the above changes, speak to your contact person at our practice or [Khilna Malde](#) / [Viral Haria](#).

Godley & Co.
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