

### Capital Allowances When Buying A Property

One of the main problems for property investors and their advisors when buying a property is the issue of establishing what tax relief, in the form of capital allowances, is available. Often vendors do not know or the information they provide is not clear. This guide sets out the background to finding out what could be claimed and how to calculate the amounts.

#### Key points

- To claim plant and machinery allowances you must own the correct interest in land.
- If someone else has already made a claim on the plant and machinery fixtures, your claim will be restricted to what they "sold it for".
- Where no one has ever made a claim, a valuation is required to establish the claimable amount. This is based on the purchase price not the original cost of the building.

There are three main stages of an investigation into a capital allowances claim on a purchased property;

#### Stage 1: - What interest is being purchased?

The entitlement to capital allowances is given to the interest in land the person incurring capital expenditure has at that time. Usually buildings are constructed on the freehold interest but sometimes it could be on a long lease or other interest.

If a building is being acquired on a long-leasehold, it is essential that research is carried out to establish if this is the qualifying interest. Where a long lease of a building has been acquired, it is possible to get the entitlement transferred by means of an Election: this must, however, be completed and sent to HMRC within two years of the date on which the lease takes effect.

If a building has been purchased new from a developer, it is not necessary to enter into a Election providing the developer was not entitled to claim. (See CAA 2001, sections 183 & 184). Note that in order to claim IBA's, a CAA 2001, section 290 Election may be needed.

#### Stage 2: - Has any previous owner claimed capital allowances?

The next area of investigation is to establish if there have been any prior capital allowances claims on the plant and machinery fixtures within the property.

The statute aims to restrict the claim of a new owner to the amount the item was sold for by a previous owner. This is usually called the disposal value. Usually the disposal value will have been identified in the sale contract and would be part of an Election. This restriction applies to any disposal value brought into account since 23 July 1996.

As this research may need to span over 14 years and could involve numerous former owners, a systematic approach is, therefore, essential.

The first step is to check the purchase contract to see if there was any agreement or Election entered into concerning the capital allowances. The standard pre-contract enquiries now have a section dealing with capital allowances and these should give information about the immediate vendor and also on any Election they may have signed when they acquired the property.

If this does not show any prior claims, it is then necessary to identify all of the previous owners and to approach them to see they have made a claim on the plant and machinery fixtures within the property.

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### Stage 3: – The valuation

Once you have established that no other owners have claimed plant and machinery allowances, then it is necessary to carry out a valuation of the plant and machinery fixtures. This is known as a “just apportionment”.

This requires the purchase price to be split into land, buildings and plant and machinery.

These three components are then incorporated into the following apportionment formula;

$$= \frac{a \times \text{purchase price}}{(a + b + c)}$$

#### Example:-

New comfort cooled office unit, with a lift on a business park acquired for £700,000

The valuation inputs are as follows;

a = £120,000 = replacement cost of the plant and machinery

b = £320,000 = replacement cost of the buildings

c = £150,000 = land value

**PLANT & MACHINERY CLAIM = £142,300 = 20.3% OF PURCHASE PRICE**

#### Typical queries

There is a £1 Election in place is that all I can claim?

- it is still worthwhile checking that it relates to all of the items of plant and machinery within the property. Sometimes claims may have only been made on part of a property or just some of the plant items!

Even if there is a valid Election, for post 31<sup>st</sup> March 2008 purchases it is now possible to claim allowances on integral features that were not previously accepted as plant or machinery. This can include general power, lighting and cold water systems, as well as environmental features such as Brise Soleil.

Can I use the figures from the Quantity Surveyor on my new build office!

If the building is newly constructed, getting costs from the Quantity Surveyor is useful but the apportionment process must still be carried out. Failure to do this could result in an under-claim of 25%!

My Accountant tells me there is no point claiming because it will increase the CGT

Providing you sell a property for a profit, claiming capital allowances does not affect the base cost for CGT purposes. See TCGTA 1992, section 41(1).

I bought a building five years ago, am I too late to claim?

It is never too late to claim. Providing you still own it, a valid claim can still be made and over paid tax reclaimed.

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