

New Rules , New Opportunities?

Changes to the capital allowances rules introduced in the 2007 Budget have finally become law. From 1st April for Companies and 6th April for Income Tax payers there are a range of changes that you need to be aware of. These changes will have a significant impact on many property owners and will affect post-tax cash flows.

Plant and Machinery Allowances – Integral Features:

There is now a new category of plant and machinery to be known as 'Integral Features.' This has been introduced to more accurately reflect the true rate of depreciation of these items and the rate of writing down allowance (WDA) will consequently be 10%. The new category covers the following:

- Electrical systems, including lighting;
- Cold water systems;
- Space or water heating systems, powered systems of ventilation, air cooling or purification and any floor or ceiling comprised in such systems;
- Lifts, escalators and moving walkways.

This category will also cover thermal insulation of existing commercial buildings. Also, it is now possible to claim the 10% writing down allowance on environmentally friendly design features. Currently, only external solar shading (Brise Soleil) and active façades are allowed but it is envisaged that the allowable items will increase over time as energy- efficient design evolves.

Plant and machinery – General Pool

All other items of plant and machinery will be allocated to the general pool for which the rate of WDA is being reduced to 20% from 25%. There are still some 'grey areas.' Items such as fire alarms and intruder alarms are traditionally part of the electrical sub-contractors works, however, they should be allocated to the general

pool as they are separately itemised within List C, CAA 2001.

Sanitary fittings are also within the general pool, although the water pipes supplying them are now classed as integral features!

Plant and machinery – Long Life Assets

The rate of writing down allowance for Long Life Assets has been increased to 10%: this should effectively remove the majority of disputes about the working life of certain items of plant and machinery, as most are now classed as Integral Features. There are always exceptions and sprinkler installations, for example, will still need to be examined carefully to ensure they are correctly categorised. Don't forget, however, that the LLA rules do not apply to offices, hotels, retail shops or showrooms.

Annual Investment Allowance

A new Annual Investment Allowance has been introduced for the first £50,000 of expenditure on plant and machinery (excluding cars). This replaces the first-year allowance previously available to small and medium- sized enterprises. Whilst this may appear attractive, in that it is now available to all businesses, there are anti-avoidance rules to prevent multiple claims by groups of companies and in practice, many small businesses will be worse off.

The AIA is, however, relatively flexible in that it can be offset against expenditure qualifying for the lowest rate of writing down allowance. This means the remaining expenditure can be claimed at the 20% rate, where possible.

Enhanced Capital Allowances

With the reduced rate of writing down allowances for Integral Features, the claiming of energy- efficient plant or water saving technologies at the 100% rate for ECA's becomes even more important. The biggest benefit comes with the potential to claim energy- efficient lighting. Previously, lighting in many office

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buildings would not have been allowed for ECA's as it did not qualify in its own right as plant.

Planning a claim for ECA's in advance is still essential in order to maximise the amount of expenditure claimable at 100%. Just because an item is referred to as 'energy efficient' or a building has a BREEAM excellent rating does not automatically mean ECA's can be claimed.

Payable Enhanced Capital Allowances

One of the many criticisms of the ECA rules was that they only benefited profit making businesses: from April, however, it is now possible for loss-making companies to claim a tax credit equal to 19% of the loss.

Industrial Building and Agricultural Building Allowances; Enterprise Zone Allowances

Despite much lobbying, especially by the Hotel Industry, the announced phasing out of IBA's, HA's, ABA's and EZA's commenced in April.

The rate is reduced as follows:

3% or 75% for the year ending 31st March or 5th April 2009;
2% or 50% for the year ending 31st March or 5th April 2010;
1% or 25% for the year ending 31st March or 5th April 2011.

Where the year-end is different to the above then a pro-rata approach needs to be adopted.

Opportunities

Understandably, many people are going to be confused by the new rules and how it will affect them. The main actions you should be considering are as follows;

- Look back before looking forward! Have all possible claims been made on expenditure in previous years? Purchased properties are often an opportunity that is ignored as it can appear too difficult or too costly.
- Don't accept that a Section 198 Election detailed in the contract is always correct. Many Lawyers include Elections in their draft contracts without really understanding when they are needed!
- Even if there is a valid Election, for post 31st 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.
- The introduction of the £50,000 Annual Investment Allowance means that even small claims are now cost effective as the tax savings are received in the first year.
- IBA claims – although these are on the way out there are tax savings still to be claimed. Review IBA uses for changes of tenants each year and also ensure that the activities of tenants are properly investigated. A 'process' can cover many things!
- For new projects, pre-planning the ECA claim is essential. The contract documentation should include clauses that ensure qualifying products are specified and identified by the contractor or sub-contractor, wherever possible. Life-cycle costings should be made that reflect both the tax and energy savings

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