

## Capital Allowances for Fixtures – The Impact of the HMRC Consultation

On 31<sup>st</sup> May 2011, HMRC published their Consultation document relating to the pooling of capital allowances on fixtures. This will affect all owners of commercial property and the impact for some could be significant.

### Background

One of the requirements of the statute, CAA 2001 s 185, is that a claim is restricted to the disposal value of any previous owner. This means that when making a claim for capital allowances on a purchased property the tax history of the property should be researched to ensure that there have been no prior claims. As this has to cover a period going back to 1996, it can prove to be an impossible task as some former owners may no longer exist or records have been destroyed.

HMRC consider it the responsibility of the taxpayer to obtain and prove details of the disposal value of former owners. As many claims are not made until some years after the purchase of the property issues of proof can be left unresolved. This could lead in HMRC's view to the duplication of capital allowances claims with a tax loss to the Exchequer.

### Proposals

The proposed changes are as follows;

- Businesses must pool their expenditure (make a capital allowances claim) within a reasonably short period after acquisition of the property. The proposed time limit is 1 – 2 years.
- Sellers and purchasers should in future submit a joint note of their mutual agreement of the capital allowances position with their tax returns.
- For historic expenditure, it is proposed that pooling should be carried out within 1 or 2 years from the commencement of the mandatory pooling rules. The presumption is that if the claim is not made within these time limits the allowances will be lost!

### Consequences

Whilst the proposals do have some logic to them, property owners and their advisors need to be aware of the following issues;

- Property Lawyers will need to have a much greater understanding of capital allowances as the sale agreement will require discussion of the amounts being claimed by the respective parties.

## *4-thought*

- Property Surveyors must ensure that capital allowances are included in the negotiations and must understand the value to respective taxpayers especially where there are differential tax rates.
- All property owners need to undertake a review of historic expenditure with their Accountants to ensure any unclaimed allowances are included in the next possible tax computation.

The above is only at the Consultation stage but it is likely that the proposals will be introduced, possibly in the Autumn.

If you require clarification of any of the above points or would like a free review of your or your client's properties please contact us.

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