

A Guide To Property Purchases

In our experience, claiming plant and machinery allowances on fixtures within a purchased property is the issue that causes most confusion. The reasons for these problems are numerous but in order to make a valid claim it is important that the correct procedures are adopted.

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

Stage 1: - Establish if the interest acquired gives the purchaser the entitlement to make a claim.

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 a CAA 2001, section 183 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 section 183 Election providing the developer was not entitled to claim (section 184). Note that a Section 290 Election may be needed to claim IBA's.

Stage 2: - Check to see if there are any restrictions that could affect the claim.

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.

Section 185 acts to restrict the claim of a new owner to that of the disposal value brought into account by any former owner. Usually the disposal value will have been identified in a section 198 Election. This

restriction applies to any disposal value brought into account since 23 July 1996. As this research needs to span up to twelve 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 CAA 2001, section 198 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 if section 185 applies.

The best way to establish a list of the previous owners is to contact the Land Registry. They will provide a copy of all historic land registry documents showing the change of ownership for a relatively small charge. Other ways of identifying previous owners are to use property databases such as Egi or Focus.

Stage 3: – Just apportionment claim

If the stage two enquiries show that there are no prior claims, then it is necessary to carry out a valuation of the plant and machinery fixtures in accordance with CAA 2001, section 562. This is known as a "just apportionment".

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

- The land must be valued on an open market basis as a cleared site with planning permission for the current modern equivalent of the existing building.
- The cost of the buildings must be calculated on a replacement cost basis. This would usually be at a date based on the date of

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- purchase less the time to build the building.
- The plant and machinery is also calculated on a replacement cost basis.

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

$$= \frac{a \times p}{(a + b + c)}$$

Where;

a = replacement cost of the plant and machinery

b = replacement cost of the buildings

c = land value

p = purchase price

Example:-

New 3,500 sq ft comfort cooled office unit, with a lift on a business park acquired for £750,000

The valuation inputs are as follows;

a = £110,000

b = £320,000

c = £175,000

Plant and machinery claim = £136,360
Issues to be aware of;

If there is an Election in place, 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 fixtures!

If you can't get a response from a former owner, you can get an idea of whether they would have claimed from their Accountants or from looking at a copy of their company accounts.

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.

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%!

A sale contract may have a figure included for "fixtures and fittings". This is quite common for Nursing Homes and Hotels; however, this does not usually include plant and machinery fixtures. Make sure a proper valuation is carried out.

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).

It is never too late to claim:- even if a property was acquired ten years ago, providing you still own it a valid claim can still be made and over paid tax reclaimed.

For an indication of how much you or your clients could claim, just email us some details or complete an enquiry form on our website.

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