

Capital allowances on Student Accommodation

Introduction

Many property investors throw away thousands of pounds in tax relief every year as a result of lost or under claimed Capital Allowances on property acquisitions. For some owners of student accommodation this could be due to the simple fact that they are not aware that tax relief is available!

Tax relief on residential property

Capital Allowances are not usually given on residential property or as they are termed in the statute "dwelling houses". Bespoke student accommodation is not, however, caught by this exclusion and there is the potential to claim plant and machinery allowances on items such as kitchens, bathroom fittings, heating and electrical installations etc.

The eligibility of Student Accommodation has recently been thrown into some confusion. Until December 2008, the guidance given by HMRC was as set out below;

CAA01/S531

There are several references to dwelling house in CAA2001. The term appears in Part 2 (plant and machinery allowances), Part 3 (industrial buildings allowance) and Part 10 (assured tenancy allowances).

There are also references to dwelling in Parts 3 and 6 (research and development allowances).

For Part 10 (ATA) dwelling house is given the same meaning as in the Rent Act 1977 (CAA01/S531). It is not defined for other Parts but is read in the same way.

*A **dwelling** house is a building, or part of a building, which is a person's home. A person's second or holiday home is a dwelling house as is a flat that is used as a residence. A block of flats is not a dwelling house although the individual flats within the block may be. University halls of residence, accommodation used for holiday letting, a hospital, a nursing home or a prison are not dwelling houses.*

In December, however, Revenue & Customs Brief 66/08 was issued. This gives a much narrower definition as can be seen from the following;

"We consider that communal areas are not dwelling houses. Areas to which tenants do not have access are also not dwelling houses. However, all other areas are dwelling houses".

HMRC have now confirmed that properties acquired before 29 December 2008 will not be affected by the revised interpretation.

Further clarification from HMRC is still awaited but if strictly applied, however, it could reduce potential tax savings but claims can still be made.

The valuation

Making a claim on a purchased property is not a straight-forward matter. In order to submit a claim to HMRC on a purchased student property, a valuation is required which must be based on an "apportionment" of the purchase price.

The "apportionment" must adhere to the HMRC/ Valuation Office guidelines which require the separate valuation of the land, buildings and plant. The aggregate value is then reconciled to the overall purchase price using a method as set out in the Valuation Office manual.

Often an investor will also purchase items of loose fixtures and fittings such as beds, chairs, settees etc. These are sometimes called Chattels and should not form part of the just apportionment calculation.

If the property has been previously owned by another investor, then the claim could be restricted to the original cost, or an alternative amount agreed by election between parties (see below).

The restrictions do not apply to new buildings sold by developers, or buildings where there has been no claim for allowances by anyone who owned the property on or after 24 July 1996.

The Restrictions

Where plant and machinery allowances have previously been claimed, the maximum allowable amount available to the purchaser will be restricted to the prior claimants disposal value. This disposal

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value is required to be equal to the purchaser's apportionment of the purchase price, subject to a maximum of the amount of capital expenditure incurred by the prior claimant.

In practice, the seller will want to minimise and the purchaser maximise this value. Further complications will arise when there has been an intervening owner who had no interest in Capital Allowances.

When the seller has claimed allowances, both they and the purchaser may make an election under Section 198 of the Capital Allowances Act 2001 as to the amount attributable to plant and machinery fixtures, which will be accepted by HM Revenue & Customs in lieu of an apportionment based on the sale price. The amount cannot be more than the expenditure incurred by the seller on the fixtures, nor the price paid for the property, but can be as little as £1.

A £1 election value will allow the seller to retain the benefit of the capital allowances to the detriment of the purchaser. On the other hand many purchasers will want the value to be the maximum possible and certainly no less than tax written down value.

In the absence of an election or contract provisions, it is open to the purchaser to challenge the seller's disposal value on the basis that it is not equal to the purchaser's apportionment, subject of course to knowing the limits that apply.

Improvements or conversion works

As well as being able to make a claim on the purchase expenditure, if you or your clients, have refurbished, extended or

improved the building, additional tax allowances could be available. Where works are "repairs", the expenditure should be treated as a revenue cost. If, however, the works include improvements or extensions, these are capital items and capital allowances could be available.

What to do when you sell

When a property is being sold, it is essential that an Investor enters into a Capital Allowances Act 2001, Section 198 election with the purchaser. This will mean that any potential repayment of the tax relief already claimed is avoided and it may even be possible to obtain the benefit of some additional tax relief even after the property has been sold allowances can still be claimed.

The section 198 election must be submitted to HMRC within two years of completion of the sale.

How much can be claimed?

There are no set guidelines as to the potential value that can be claimed as each property is different.

If you would like an indication of the potential savings, or if you are not certain whether your property will qualify for tax relief through capital allowances, we would be pleased to provide you with a free initial review.

Just email us some details, or alternatively complete the enquiry form on our website.

Any queries? Call 01905 619224

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