Key Issues

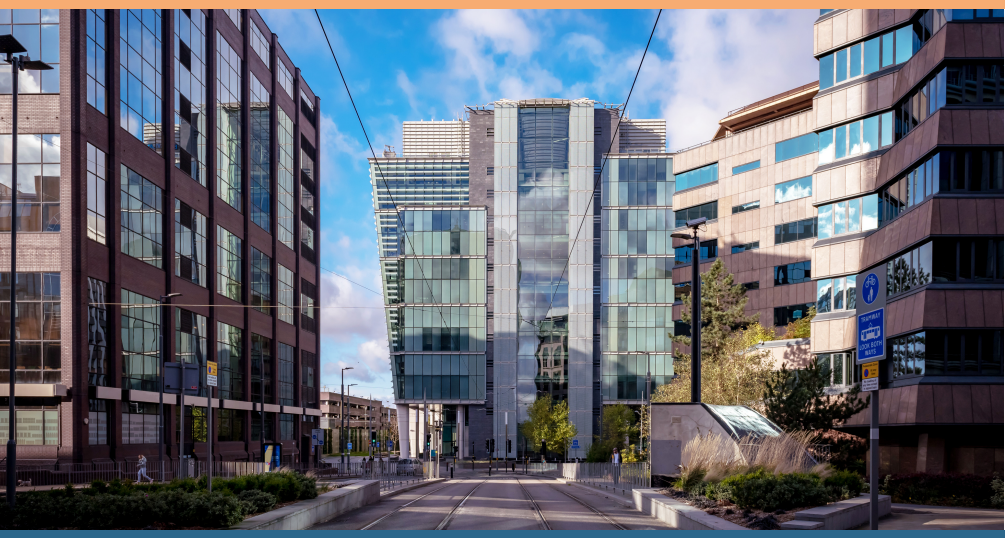
CAVETTA CONSULTING
Unlocking Capital Allowances

Purchasing Commercial Property

info@cavettaconsulting.co.uk
www.cavettaconsulting.co.uk

ARE YOU READY?

From 2014, a greater degree of due diligence and evidence is now required, and tax paying vendors must pool qualifying expenditure and make an "election" or "fixed value statement" on the sale of the property to be able to transfer any allowances.



From 2014, tax-paying vendors must pool qualifying expenditure and make an adequate election on the sale of the property. In addition, replies to Commercial Property Standard Enquiries (CPSE) must be detailed, and specifically address the questions being raised. The response, "The purchaser should make their own enquiries" will not be suitable going forward and should not be accepted by your advisors. Failure to adapt to the new changes, could mean your tax relief being lost.

If the capital expenditure has not been pooled and an appropriate election or fixed value statement agreed the parties have 2 years from the date of purchase to do so.

If a value cannot be agreed between the parties, an application should be made to an independent tribunal to determine the disposal value of the plant and machinery.

Types of Allowances

Plant and Machinery Allowances

These allowances are given, for qualifying items that are used in the course of a claimant's trade or profession. Allowances are given are 6% for assets that are deemed to be an integral part of the building and 18% for other qualifying items.

Annual Investment Allowance

The annual investment allowance (AIA) provides 100% tax relief on assets qualifying as plant and machinery, subject to an annual maximum and excluding cars. The maximum amounts have varied since AIA was introduced. The maximum amount currently is £1,000,000 to 31 March 2023. AIA can only be claimed in the year the asset is purchased.

Full Expensing

For UK companies only, the Government provides an unlimited, 100% first-year allowance, allowing a full deduction from taxable profits in the year that the expenditure is incurred. The expenditure must be incurred on or after 1 April 2023 but before 1 April 2026 and must be on new and unused assets. It must not have been bought to lease, (although corporate landlords may benefit in respect of background plant and machinery in a leased property).

Enterprise Zones

This is an enhanced capital allowance of 100% of qualifying expenditure for businesses investing in plant or machinery where the business is located in a designated in Enterprise Zones.

Lois Stirling
07909 962279 | 0131 610 0056
lois.stirling@cavettaconsulting.co.uk

Edinburgh Office:
5 South Charlotte Street,
Edinburgh, EH2 4AN

Alan Cadden
07703 334317 | 0141 432 0056
alan.cadden@cavettaconsulting.co.uk

Glasgow Office:
22 Montrose Street,
Glasgow, G1 1RE

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This briefing is intended to provide an introductory outline to certain aspects of the UK Capital Allowances regime. It should not be used instead of obtaining proper professional advice. The outline is for guidance only and is not an appropriate basis for decision-making.

Adding Value

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DUE DILIGENCE IS ESSENTIAL

Not with standing the new fixtures rules, a high degree of due diligence is now required, in advance of any transaction. In particular, the following things must be considered:

- **Are the replies to the Commercial Property Standard Enquiry (CPSEs) valid?**
- **Are clauses inserted into the Purchase Contract that reflect the capital allowances situation of the parties involved in the transaction specifically. The insertion of standard templates clauses are not recommended;**
- **Is your Section 198 Election valid?**
- **Has a vendor who owned the property before 31 March 2008, retained the general electrical, general lighting, external lighting and cold water systems or have they incurred expenditure repairing or improving these items;**
- **Has there been any previous capital contributions towards the costs of a tenants fit out costs.**

The change to the rules on claiming capital allowances in relation to fixtures contained in second hand properties has added further levels of due diligence which, if not completely understood and complied with, could result in either a hold up to the ideal being completed or a lesser sale price being realised.

BUYING NOTE:
PENSION FUNDS AND CHARITIES

CHARITIES AND PENSION FUNDS ARE STILL REQUIRED TO MEET THE CRITERIA OF THE FIXED VALUE REQUIREMENTS AND THE POOLING REQUIREMENTS SET OUT IN THE NEW FIXTURES RULES, WHICH CAME INTO FORCE IN 2012. A DUE DILIGENCE EXERCISE IS APPROPRIATE UPON THE PURCHASE OF THE PROPERTY IN ORDER FOR THE ENTITY TO MAKE A DISPOSAL VALUE STATEMENT ONCE THE PROPERTY IS SOLD.

How Capital Allowances Add Value

The main benefit of claiming capital allowances is that it may improve the cash flow for a taxpayer. In addition, claiming and maximising capital allowances has secondary benefits for the taxpayer including:

- Providing a means where the taxpayer has more working capital at their disposal.
- Making available more cash to pay lenders, therefore lowering the risk of the investment in the eyes of the lender.
- Gives the taxpayer the potential of using the available cash generated through claiming capital allowances, to make further investments, or improve other areas of the business.
- May in some circumstances create a payable tax credit from HM Revenue and Customs

For developers, the main benefit of considering capital allowances is not in terms of improving cash flow but in enhancing the property's value for sale. Highlighting to any potential purchaser, the value of any capital allowances, will enhance the property's saleability.

Adding Value

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HOW WE CAN HELP ADD VALUE TO YOUR PROJECT

At Cavetta Consulting, our objective is to provide support to our clients, allowing them to add value to their business. The proactive services (the best medium for maximising tax relief) that we provide include:

- **Reviewing clauses within the purchase agreement to ensure that they allow the purchaser to make a claim for capital allowances, if desired.**
- **Reviewing replies to CPSE to ensure that the responses provided (or received) are sufficient to ensure that a successful claim for capital allowances can be made going forward.**
- **Reviewing the capital allowances position before the contract for sale is completed. Ensuring that the vendor completes all the appropriate elections in accordance with the Capital Allowances Act 2001.**
- **Performing a capital allowances due diligence exercise, and establishing whether a claim for capital allowances has been made. HM Revenue and Customs may require evidence of the claims history back to 24 July 1996.**
- **Where we have established that you are entitled to make a claim for capital allowances in relation to the fixtures contained within the property, we can carry out a claim for capital allowances based on an apportionment of the purchase price in accordance with S562 Capital Allowances Act 2001. This exercise will require measuring the property, estimating the replacement cost of the building and carrying out a valuation of the land.**
- **Perform the relevant calculations where the property has been disposed of under a sale and leaseback transaction.**
- **Carry out a visual inspection of the property to verify the plant and machinery contained within the property.**

Types of Allowances

Land Remediation Expenditure

The aim of this relief is to remove the cost barriers associated with remediating contamination from land and buildings by giving a 150% deduction for qualifying expenditure for UK companies.

Derelict Land Relief

Similar to Land Remediation Relief this 150% incentive is given where land, whose development has been blighted by various kinds of enduring dereliction, is brought back into productive use.

Research and development

RDAs can be claimed for capital expenditure on R&D developments, assets used for R&D, and providing facilities for R&D. R&D capital allowances provide a 100% tax relief rate of the cost incurred and unlike regular capital allowances, they provide the tax reduction across a wide range of expenditure types.

Repairs and Maintenance

100% tax deduction available on certain refurbishment or maintenance costs deemed to be repairs and not improvements. It is important to note the changes to the rules in 2008 regarding the repair of integral features.

Structures & Buildings Allowance

This allowance applies to contracts for construction or purchases entered into on or after 29 October 2018. It provides a 3% flat rate relief of the qualifying items eg roof, walls, doors, on a straight-line basis over 33 years.

ABOUT US - SCOTLAND'S KEY CAPITAL ALLOWANCES VALUERS

At Cavetta Consulting, our directors have considerable experience advising businesses, property investors, landlords and occupiers on all capital allowances implications that impact their business.
The Company's vision is "To produce robust tax saving valuations for businesses that are produced using state of the art methods, that are fully independent, reliable and HMRC Compliant thus allowing every business we work to be financially better off and help them realise their goals."
Our mission is "To help businesses become financially better off by helping then realise the value of the tax savings in their property that is not contained within an invoice"

Our values are:

- We only accept an appointment if we can make that client financially better off
- We do not accept an appointment if we feel an accountant can already do the job.
- We use the same process for every client

Our fee structure is tailored to take account of the tax status of the individual or company and is designed to add value to your business. We offer free advice to small businesses at the pre-planning stage of their business to make them aware of the benefits the tax system allows, and a no obligation review of completed or potential schemes in order to determine whether a viable claim for property tax reliefs can be claimed. And we never under take a valuation if your accountant could claim or we can't add value.