Key Issues

CAVETTA CONSULTING
Unlocking Capital Allowances

Selling Commercial Property

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

ARE YOU READY?

From 2012, tax-paying vendors must pool qualifying expenditure and make an adequate election on the sale of the property.

From 2012, you as a tax-paying vendor, 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. Failure to adapt to the new changes, could not only mean tax relief being lost for the purchaser, but also an unwelcome balancing charge for the you, the vendor.

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 to ensure you have claimed on all assets and that these claims are brought into account in advance of any transaction. In particular, the following things must be considered:

- **Look at the wider tax implication of disposing of the property. In particular, consideration should be given for the potential claw back of any claimed allowances;**
- **Have you completed Section 32 of the CPSEs correctly?**
- **Does the Purchase Contract have a clause that suits your preferences to keep or sell capital allowances? The insertion of standard templates is not recommended;**
- **If required, have you prepared a valid Section 198 Election?**
- **Consider whether any disposal of assets that or not fixture or have been elected as being 'short life assets' will result in a balancing charge;**
- **Ensuring all expenditure has been pooled, the tax written down value confirmed and the tax returns are fully up to date;**
- **Tell the market that capital allowances are available. This is particularly relevant where the vendor has owned the property before 31 March 2008;**

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.

SELLING 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. FAILURE TO BE ABLE TO PAST ON A FIXED VALUE STATEMENT TO THE PURCHASER MAY MEAN A REDUCTION IN THE SALE PRICE ACHIEVABLE AS THE PURCHASER CAN NOT CLAIM THE RESULTANT TAX RELIEF.

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 Ċavetta 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 represent your preferences for keeping or selling the allowances.**
- **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 requires that the evidence of claims be documented to the extent of a previous one of the property going back to 24 July 1996.**
- **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.**

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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.