



## Capital Allowances

an introduction to 'allowances'  
and a guide to Section 198



## Capital Allowances - Basics

- Allows taxpayers to get tax relief for their expenditure on assets used in their trade – 'Plant & Machinery'
- They take the place of depreciation charged in the statutory accounts, which is not deductible for tax
- Allowances are designed to give tax relief over the useful life of the asset
- Legislation is contained within the Capital Allowance Act 2001, but amended almost annually



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## Plant and Machinery



## Understanding Machinery

- Machinery is not defined in statute or case law
- Use the every day accepted definition of machinery –  
***‘typically a device or assembly of interconnected fixed and movable parts, which transmits force to do useful work and often (but not always) has a power supply’***
- HMRC accept this with a few strange quirks . . .



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## What is NOT Plant?

- Expenditure on a **building**, including **land** - construction or acquisition
- Building includes assets which are:
  - incorporated into the building
  - not incorporated in the building, as the asset is moveable, but you would normally expect to find it in a building e.g a staircase
  - connected with the building



## Plant

- Plant is far more complicated  
no prescribed list from HMRC



### Case Law check list:

1. Must be **apparatus** used in trade (i.e. not stock)
2. Will have some **durability** (i.e. useful life > 2 years)
3. Will performs a specific **function** in the trade
4. If building would not be **complete** without asset then unlikely to be plant e.g. staircase
5. Is it **premises in** which or **with** which a trade is performed



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## Examples of plant

### Easily identifiable plant:

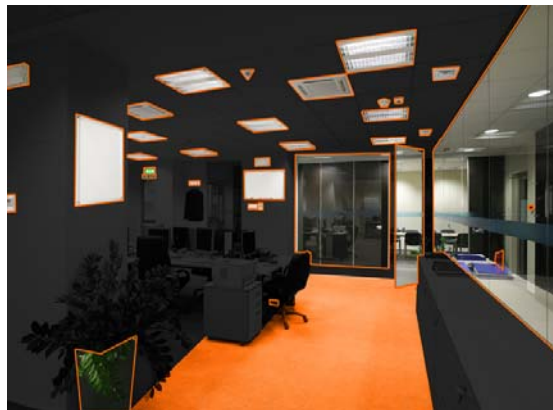
- Desks
- Chairs
- Computers
- Printers
- Cabinets



## Examples of plant

### Less obvious plant:

- Ducting
- Switches & sockets
- Demountable partitions
- Plumbing
- Cabling
- Lights
  - Air-conditioning
  - Fire sounders
  - Whiteboards
  - Pipes
  - Smoke detectors
  - Ambient items
  - PIR detectors
  - Etc.....





## Who Can Claim Capital Allowances?



## Who Can Claim?

**Any UK taxpayer** engaged in a **qualifying activity**:

- Companies
- Sole traders and trading partnerships
- Commercial landlords (NOT residential)
- Employees
- Owners of commercial property
- Furnished holiday property in UKK/EEA

**Exclusions:**

- The property **IS NOT** held within a pension fund, charity, government owned or traded as stock
- No relief on residential property (dwelling) unless a 'Furnished Holiday Let



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## How is relief given?

- On most assets relief is claimed at **18%** per annum of the cost of the asset, but on a reducing balance basis (“**Main Pool Allowances**”)
- On ‘**Integral features**’ assets listed below due to longer expected life of asset relief is claimed at **8%** per annum (“**Special rate pool allowances**”):
  - an electrical system (including a lighting system),
  - a cold water system,
  - a lift, an escalator or a moving walkway,
  - external solar shading
  - a space or water heating system, a powered system of ventilation, air cooling or air purification, and any floor or ceiling comprised in such a system



## Annual Investment Allowance (“AIA”)

- AIA available to most businesses, regardless of their size or legal form – accelerates tax relief to encourage investment
- For 2013 and 2014 the AIA is **£250,000**
- This means that the first £250,000 of expenditure on qualifying assets will be tax relievable in year of expenditure
- Previous years amounts are:
  - **£50,000** from April 2008 to April 2010
  - **£100,000** from April 2010 to April 2012
  - **£25,000** from 6 April 2012



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## Relief for commercial property owners



## Tax relief on a commercial acquisition

- The majority of taxpayers who own a commercial property can claim tax relief on a portion of the price paid for the property
- Tax relief may be available on up to a third of the price paid
- **Example on a £1m purchase there may be £350,000 of tax relief**
- This could be worth a cash tax saving of **£70,000** to a 20% taxpayer or **£140,000** to a 40% taxpayer
- Process is CAA2001 s.562 apportionment of the purchase price.....?!



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## Examples of fixtures

- Ducting
- Switches & sockets
- Demountable partitions
- Plumbing
- Cabling
- Lights
- Boilers
- Sanitaryware



- Air-conditioning
- Fire sounders
- Smoke detectors
- Pipes
- PIR detectors
- Etc.....



## How do I value my relief?

- As usual HMRC don't make it easy!
- The legislation requires a specialist valuation exercise to value the three elements of the purchase:
  - Land (Bare Site Value)
  - Building (Reconstruction Cost)
  - Fixtures in building (Replacement Value)
- Capital Allowances are then available on the value of the Fixtures
- Requires a thorough survey of the site to identify the qualifying fixtures
- But the benefits can be significant.....



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## Financial benefits



Purchase Price	£525,000
Allowances	£187,000
Owner's tax saving	£ 74,800

For a 20% tax payer each £100,000 of allowances is worth £20,000 in recoverable and mitigatable tax, for a 40% tax payer £40,000



## Financial benefits



Nursing Home

Purchase Price	£3,178,764
Allowances	£1,226,429



## Financial benefits



Hotel

Purchase Price	£11,487,230
Allowances	£4,190,034



## Furnished Holiday Let

### Special Rules apply

- Property can be in UK and EEA
- Must be available to let for a minimum of **210** days
- Minimum period is actually let is **105** days in a year
- Any losses may only be set against the same FHL business



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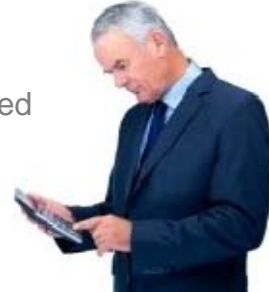
## Points to note

- A capital allowances claim does not impact your capital gains position
- We can go back indefinitely to identify CAs as long as the assets are still owned

### Restrictions

- Each asset has only one capital allowances 'life'
- If a prior owner of the asset has claimed CAs then the purchaser's claim is restricted to the amount not yet claimed
- We have to prove that no prior owner since July 1996 has claimed CAs

The good news is that very few have!



## Section 198 CA 2001

commercial property transactions



## S198 elections

Where a seller has claimed Capital Allowances on a sale. The seller and buyer can agree a value for those CAs to be transferred across at:

- Value can be anything between £1 and original cost
- **Seller** will want to agree a value for £1 – get to keep allowances
- **Buyer** will want to agree a value at original cost – get maximum allowances
- Both parties must sign the election and submit to HMRC



## Transferring CAs on Property Transactions (pre-April 2014)

If seller has claimed CAs already:

Seller	Buyer
<ul style="list-style-type: none"><li>• Must bring in disposal value</li><li>• Can agree s198 election value to transfer allowances – <b>will want to agree a low value</b></li></ul>	<ul style="list-style-type: none"><li>• CA claim restricted to seller's disposal value</li><li>• Can agree s198 election value to transfer allowances – <b>will want to agree a high value</b></li></ul>



## Transferring CAs on Property Transactions (pre-April 2014)

If seller has **not** claimed CAs already:

Seller	Buyer
<ul style="list-style-type: none"><li>No issues</li></ul>	<ul style="list-style-type: none"><li>Best case scenario for buyer</li><li>Buyer has an unrestricted claim for CAs on fixtures in the building on a proportion of the purchase price</li><li>CAs up to 35% of purchase price available</li></ul>



## Finance Bill 2012

**Impacts all commercial transactions after 1 April 2014**

- Affects buyer if CAs position not considered – for the buyer to claim CAs on the property following conditions **must** be met within 2 years of transaction date:
  - Pooling requirement** – Seller **must** have claimed CAs on the fixtures included in the sale
  - Fixed value requirement** – Buyer and seller must negotiate and agree the value that the fixtures will transfer across at.
  - If a value cannot be agreed the matter can be referred to 1<sup>st</sup> Tier Tribunal



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## Transferring CAs on Property Transactions (post-April 2014)

Buyer can only claim CAs if seller has claimed previously

If seller has claimed

Seller	Buyer
<ul style="list-style-type: none"> <li>• Must bring in disposal value</li> <li>• Seller can agree s198 election to transfer allowances</li> </ul>	<ul style="list-style-type: none"> <li>• Buyer <b>must</b> agree with seller for CAs to be transferred between £1 and original cost by signing s198 election</li> </ul>



## Transferring CAs on Property Transactions (post-April 2014)

Buyer can only claim CAs if seller has claimed previously

If seller has **not** claimed

Seller	Buyer
<ul style="list-style-type: none"> <li>• No action required</li> </ul>	<ul style="list-style-type: none"> <li>• Buyer <b>cannot</b> claim CAs</li> </ul>



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## Advising clients



### Current owners/sellers

- Have you claimed the CAs you're entitled to?
- Could you generate a higher sale price by claiming CAs as buyers will want to access your tax relief?
- Can you retain allowances by agreeing a £1 value for CAs?

### Buyers

- Include clauses in contract that seller will assist you to identify CAs within 2 years of transaction
- Ensure CAs are raised as soon as possible in the transaction



negotiations



## RIFT Process



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## The five stage process for clients

Based on some initial information gathering, our process for identifying unclaimed tax relief:

1. **Historical checks** - We carry out due diligence in to the tax history of the property to establish any potential restrictions to claim
2. **Initial entitlement assessment** - We provide an accurate estimate of the allowances we expect to identify

Provided the client is happy to proceed:

3. **Detailed Survey** - Our specialist surveyor visits the property
4. **Full technical report** - The surveyor values each element eligible for tax relief and writes a full technical report
5. **Approval and submission** - The report is sent to the client and their accountant for approval. If agreed it is submitted it to HMRC



## Questions?

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