



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:

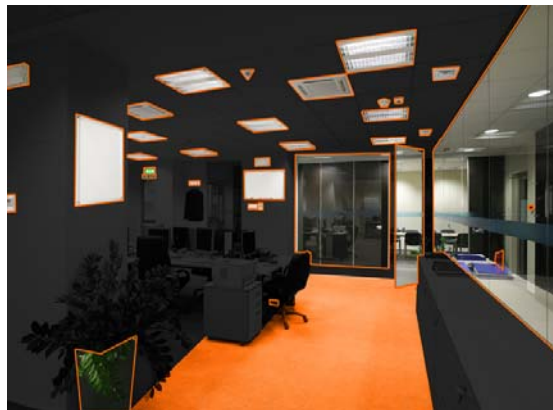
- Desks
- Chairs
- Computers
- Printers
- Cabinets



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
- **£250,000** from 1 January 2013 for two years



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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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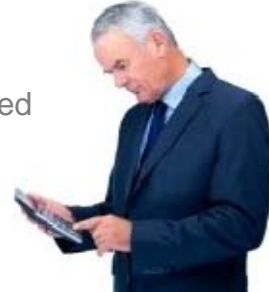
Points to note

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



Transferring CAs on Property Transactions (pre-April 2014)

If seller has not claimed CAs already:

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



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



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



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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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