

## Property Capital Allowances

The Coalition Government continues to focus on maximising tax revenues. The latest focus is capital allowances claims on freehold commercial properties which, from 5th April 2012, are likely to be significantly changed. You are therefore advised to consider the following points.

HMRC are currently consulting on removing the provisions which allow retrospective capital allowances claims. Many commentators anticipate that from April 2012 onwards it will only be possible to make claims within two years of acquiring the property. There may therefore only be a six or seven month window available to make retrospective claims.

A capital allowances claim can be made in respect of plant and machinery included in the fabric of a building e.g. heating system, cooling system, alarms etc. Where this has not previously been done a retrospective claim can be made and the capital allowances claimed in current accounting periods to reduce current tax liabilities. Such a claim can be made regardless of the acquisition date of the property.

Historically it has not been attractive to make capital allowances claims in businesses which have losses or small profits as it would not be possible to obtain immediate relief. This is because the cost of making the claim can outweigh any immediate benefit.

As the ability to make any retrospective claim whatsoever may shortly end consideration needs to be given as to whether, even when relief is not immediately available, claims should be made and the relief "banked" in anticipation of future profits.

The making of a capital allowances claim does not affect the base cost of the property for capital gains tax purposes, any indexation allowance available on that base cost or the availability of Entrepreneurs Relief.

**If you believe you have property on which a capital allowances claim should be made please contact Chris Poston in our Manchester office or Paul Randall in our London office. Alternatively, please do not hesitate to get in touch with your usual contact partner at RPG.**



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# Property Capital Allowances

## Some important points

- Claims can be made by limited companies, partnerships, LLP's or individuals.
- For individuals excess capital allowances can be relieved against other income of the same tax year so even if a property business is loss making it may still be possible to obtain valuable relief against other income sources.
- The applicable tax rate can vary from 20% to 60%, depending on the owner and their marginal tax rate, it is therefore important to look at planning to access the relief at the best possible rate.
- The timing of any claim is important to ensure that positive cash-flow is achieved.
- A claim is unlikely to be cost effective for a property with an original cost of less than £250,000 as the plant and machinery element is calculated based on the original cost.
- The capital allowances regime is different for properties acquired before and after 5th April 2008. This can lead to advantages and disadvantages as more assets fall within the description of plant after that date but the rate of capital allowances available reduces.
- The level of plant and machinery within a property can vary significantly depending on the specification of that property. A level between 10% and 25% is reasonably typical.

## Example claim for a limited company

### Assumptions

XYZ Limited makes profits of £300,000 per annum.  
The marginal tax rate applying to its profits is 28%  
VAT is recoverable by XYZ limited in respect of this property

Its year end is 31st December  
XYZ Limited acquired a property for £2million in 2007

### Action

If a survey is carried out in September 2011 in respect of this property and identifies that 20% of the cost i.e. £400,000 relates to plant and machinery the company's tax liabilities would change as follows:-

### Consequences

The 2009 corporation tax computations would be amended and relief claimed of  $£400,000 \times 20\% \times 28\% = £22,400$ . This amount would be repayable with interest.

Charges in respect of the calculation of the claim would be  $£400,000 \times 3\%$  plus £750 survey fee = £12,750.

Tax relief in the 2010 tax computations would be  $£320,000 \times 20\% \times 28\% = £17,920$ . There would also be tax relief on the fees,  $£12,750 \times 28\% = £3,570$ . The 2010 tax liability, which falls due for payment on 1<sup>st</sup> October 2011, would therefore be reduced by £21,490.

The pool of tax relievable expenditure carried forward to be relieved in subsequent years would be  $£400,000 - £80,000 - £64,000 = £256,000$ .

### Total Benefit

On the basis of this example there would be a cash benefit of  $£22,400 - £12,750 + £17,920 + £3,570 = £31,140$  by 1st October 2011.

Further tax relief in respect of the £256,000 carried forward pool of expenditure, at say 25%, would amount to £64,000 and would be accessed over future years.

