

Mandatory Pooling of Capital Allowances for Fixtures

HMRC's response to the Consultation

With the publication of their response to the consultation document on the mandatory pooling of fixtures issued on 6 December 2011, it appears that HM Revenue & Customs have listened to some of the concerns of the accountancy profession, whilst also tightening up on what can be claimed, by who and when.

The main objective of the response is that HMRC have now sought to clarify that "expenditure on a fixture can only be written off once against taxable profits over its economic life".

To this end the new legislation places responsibility on to the seller and purchaser of commercial properties to agree what level of pooled expenditure is to be sold/purchased as a result of the property transaction. This takes effect for all expenditure incurred on or after 1 April 2012 for Companies (6 April 2012 for Individuals and Partnerships).

This agreement is to be achieved using the current legislation under:

- Section 198/199 CAA election, where the seller & purchaser make a joint election, which effectively fixes the value of the pool.
- Section 563 CAA where the parties are unable to agree on a value within two years of the transaction, resulting in the matter being referred to the First Tier Tribunal for a decision.

The new legislation makes the availability of Capital Allowances to a purchaser of fixtures conditional on the following three points:

- Previous qualifying expenditure being pooled prior to any property sale.
- The seller and purchaser agreeing (within a two year period from the transaction date) to fix the pool value.
- A written statement from a past owner confirming the disposal value of the pool that he has some time earlier been required to bring into account.

Quite clearly the first two bullet points will be the main focus for the majority of property transactions.

With the onus being placed on the seller/purchaser to agree figures there is a clear opportunity for the accountancy profession to maximise the tax position for their client, by ensuring all qualifying items are pooled prior to the point of sale enabling a S198 election to be put into the sale agreement. This can be easily achieved by a targeted survey of the commercial premises that are to be sold or purchased to identify all qualifying fixtures.

The final area which this publication deals with is qualifying expenditure that can be claimed by a new owner on any fixtures that have not already been relieved under the Business Premises Renovation Allowance (BPPRA) scheme.

Also published on 6 December was revised Capital Allowances legislation on the treatment of items that qualify for Feed-in Tariffs (FIT) and the Renewable Heat Incentive (RHI).

Changes to the Capital Allowance treatment on solar panels means that for expenditure incurred on or after 1 (or 6) April 2012 on certain solar panels will no longer qualify for Enhanced Capital Allowances if payments are received under either the FIT or RHI schemes for the electricity produced.

Allowances will however still be available to be claimed in the special rate pool & the Annual Investment Allowance will still be available for this expenditure.



The ReCap team at Abbey Tax has been providing a Capital Allowances Surveying Service to accountancy practices for the past five years and has identified over £60 million of qualifying expenditure. For more details of this service and how it could benefit your firm, please contact our ReCap team on **0870 167 0790** or email **recap@abbeytax.co.uk**.