

Capital Allowance Changes as of April 1, 2014



Service Leaders

Scott D. Davis, CPA, JD
Principal
sdavis@pragermetis.com
T 212.972.7555

Advisory Services

There are several changes in the area of Capital Allowance that have taken effect as of April 1, 2014. Failure to comply with these new rules could see commercial property purchasers lose their rights to fixture allowances beginning April 1, 2014.

The changes being made on April 1 affect purchasers of second hand property that contain plant and machinery and may prevent purchasers and all future owners from obtaining capital allowances. Capital allowances are vehicles that provide tax relief. This includes building fixtures such as central heating, lifts and so on. Allowances are available at the “special pool rate” of 8% on plant and equipment that is deemed by HMRC to be an “integral feature” of a building such as air conditioning. Plant and machinery classed in the HMRC’s designated “main pool” such as security systems, attract a tax relief of 18%.

The new rules present two obstacles. The first is that , in nearly all property transactions the seller and buyer must make a joint election agreement under Section 198 and 199 of the Capital Allowance Acts of 2001 on the value of the fixtures or refer the matter to the First-tier tribunal within two years of the transaction. The amount of which allowances are available will depend upon the price paid by the purchaser and the value agreed between the seller and the purchaser for the fixtures. If no election is made, or the matter is not taken to a tribunal, the purchaser will not be able to claim capital allowances on the plant and machinery acquired on the property purchase. Subsequent purchasers will also miss out on capital allowances.

The second rule is called the “pooling requirement” by HMRC. The pooling requirement dictates that property vendors need to notify HMRC about expenditures qualifying for allowances in order for the purchaser to be able to claim fixture allowances. The onus is on the buyer to demonstrate that both requirements have been met. Failure to follow the new rules could deny allowances to the purchaser and all future purchasers.

What this also does is require changes to the sales contracts beginning April 1, 2014 which will make no longer appropriate for a sale contract to be silent on value of the fixtures or for purchasers to leave capital allowances to be sorted out at a later date. Capital Allowances will need to be considered as part of the purchase agreement. Under the new rules purchasers will need full information on expenditures qualifying for allowances made by the vendor and previous owners. Purchasers also need assurances that appropriate claims were made before they enter into an election with the vendor.

At Prager Metis we understand Capital Allowance regulations and will help you determine the best course of action for your unique circumstances.