



IN THIS ISSUE... Pages 1, 2, 3, 4 & 5 **Capital allowances – plant and machinery special**
Pages 5 & 6 **Good news: recovery is taking place!**

Note from the editor



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I would like to welcome you to our September newsletter. This issue is the first to be sent to readers via email. If you are reading a paper copy of this newsletter and you would like to receive it by email in future, please send your name, postcode and email address to info@landtax.co.uk with the subject line showing 'E-newsletter'.

This issue focuses on capital allowances consultations the Government has issued recently on fixtures and equipment for renewable energy.

Our guest article this issue is from Tim Edwards of Sure-Track, a firm which

designs and makes covert tracking devices for vehicles. Gadgets such as these are a standard feature of spy movies (think James Bond, etc) where the hero tracks and locates the villain. I think the devices will be of interest to our readers who may wish consider the benefits of their installation into cars, tractors etc. Our previous guest articles have mainly been from professional advisors presenting the services they offer, so an article showcasing a product that can be touched and handled is a departure from the norm.

Capital allowances – plant and machinery special

David Ostle

Plant and machinery are items of a capital nature for tax purposes and so would attract no tax relief against revenue profits if it were not for the capital allowance legislation. This legislation in effect provides a set income tax relief for certain capital expenditure in place of depreciation on capital purchases. Depreciation is a cost in the profit and loss account of the activity. Depreciation rates are set by business owners often in conjunction with their accountants. As depreciation

rates are not set by HMRC they do not like them, which is why depreciation is added back when calculating taxable profits and capital allowances are deducted.

There is no all encompassing definition of plant and machinery in the legislation. Some things are specifically excluded and others specifically included as plant and machinery. There have been many cases through the courts over the years about what items

might be considered plant and machinery. These court decisions are often used in the decision making process when arriving at whether or not it is possible to make a claim in respect of a particular item.

Who can claim capital allowances on plant or machinery? Basically, any person who is carrying on a *qualifying activity* and incurs *qualifying expenditure* can claim.

...Continued on page 2

The legislation sets out a list of *qualifying activities*. The commonest activities for our clients are trades and rental businesses. HMRC do not allow allowances to be claimed where the property let is residential accommodation unless the property qualifies as Furnished Holiday Letting accommodation.

Bits and pieces...

HMRC guidance for the pig industry

HMRC have issued guidance in Revenue & Customs Brief 03/10 for the pig industry which is an agricultural sector known to invest heavily in buildings and structures with very short economic lives. This usefully sets out expenditure on certain fixtures such as feed systems, slatted flooring areas and movable adjustable pens, which may qualify as plant and machinery.

Qualifying expenditure is where a person pays for plant or machinery which is used wholly or partly for the qualifying activity and also owns the plant or machinery as a result of incurring the expenditure. Assets bought on hire purchase are treated as owned from the day of first use even though legal ownership does not pass until the option-to-purchase payment is made.

It is important to know the date the expenditure is incurred in order to identify the correct period in which to claim allowances. Usually, the date the expenditure is incurred is the date the obligation to pay becomes unconditional. If the date for payment falls more than 4 months after that date then the date of payment is substituted.

Allowances available include the Annual Investment Allowance (AIA) or the Writing Down Allowance (WDA). AIA is available on new expenditure of up to £100,000 (cut by

the Chancellor to £25,000 from April 2012). WDA's are available on new expenditure not qualifying for AIA or historic expenditure at 20% (George Osborne is reducing this to 18% from next April). If you would like to read more detail about these changes then please see our previous newsletter.

The current law on fixtures

Plant and machinery capital allowances can be claimed on fixtures. Before diving into HMRC's consultation document on capital allowances and fixtures, let me recap on the current capital allowances regime for fixtures.

What are fixtures? They are items of plant and machinery which are installed or fixed in or to a building (or land) so as to become, in law, part of that building (or land). Fixtures include any boiler, or water-filled radiator, installed in a building as part of a space or water heating system.

It will be increasingly important to identify costs eligible for plant and machinery allowances particularly since April this year when Industrial Buildings Allowance and Agricultural Buildings Allowance were finally withdrawn.

The most straightforward example would be where a person owning the freehold of a building, which is also used in the person's qualifying activity i.e. trade, buys and installs fixtures in the building.

The position ceases to be straightforward where the freeholder has granted a lease or other lesser interest in land than the freehold. There are rules to work out who is eligible to claim any allowances. Basically, to qualify for allowances:

- A person purchases plant or machinery
- The plant or machinery is used in that person's qualifying activity
- The plant or machinery becomes a fixture
- The person holds a relevant interest in the land at that time

Even more complexity is added if a person purchases plant or machinery for leasing separately to the lease of the relevant land. There are rules which decide whether it is the lessor or lessee (either the owner or the leaseholder) who can claim the capital allowances, but this is a complex area and I will not go into detail here. Do let me know if you would like this covered in a future edition.

Plant and machinery allowances such as AIA and WDA may be available for fixtures as described above in the introduction. An exception is that AIA is not available for leased fixtures. Also, one needs to remember that fixtures may fall within the definition of 'Integral Features' and so if AIA is not available, the WDA should be at the lower rate of 10% (8% from next April).

HMRC's reasons for consultation on fixtures

The reason HMRC are consulting on changing the law is that they are aware of taxpayers who are using the existing legislation to:

1. Obtain allowances on more than the original cost of fixtures
2. Accelerate the obtaining of allowances

...Continued on page 3

The first point arises where buildings are sold. It is common for a buyer and seller to identify the amount of the sale price relating to fixtures but it does not always happen. Should the sale contract not show a split of the cost attributable to fixtures then the legislation provides for a 'just and reasonable' apportionment.

Where buyer and seller cannot agree an apportionment then the legislation allows the parties to apply to the tribunal to determine the split. HMRC's view seems to be that taxpayers who are not agreeing an apportionment between themselves are also not applying to the tribunal to agree the split.

So rather than buyer and seller including the same value for fixtures, the seller is including a low figure for fixtures (thus minimising the risk of a claw back of capital allowances claimed on disposal) and the vendor is including a high figure for fixtures to increase the capital allowances available.

Bits and pieces...

NI plastic card is no more

For some, a milestone in your teenage years used to be receiving through the post your National Insurance Number on a plastic card the size of a credit card. How many of us still have ours tucked away in our wallets or other safe place? As part of HMRC's efforts to implement the Chancellor's austerity measures teenagers will soon be sent a letter rather than card. I wonder if HMRC have considered the costs of sending replacement letters for those lost in the post, eaten by the dog, lost down the back of the sofa?

Interestingly, a person who claims capital allowances has no obligation to claim expenditure when incurred. The expenditure can be claimed several

years later and any unrelieved costs 'pooled'.

According to HMRC, certain specialist capital allowance advisors have been successful in using these 'loopholes' to make late capital allowance claims for purchasers.

HMRC also identify existing anti-avoidance legislation and legislation enabling elections to fix apportionments on disposal as not working in all cases. They consider some taxpayers have been able to accelerate the obtaining of allowances using these rules.

Proposals for fixtures

To seek to prevent allowances being claimed on more than the cost of the fixtures, HMRC are proposing

1. That all businesses must pool their expenditure on new or second hand fixtures within a short period
2. The buyer and seller of a building must agree the amount of the price relating to fixtures and report it to both their Tax Offices

The short period envisaged by HMRC is one year (possibly two) from acquisition. One might think it would be sensible to link this period to the filing deadline of the return for the business. Whilst mentioning businesses, HMRC in their examples at least are viewing this from a company perspective presumably because those buying and selling buildings where there is likely to be a large value to fixtures will be companies. Companies have a variety of dates for filing returns unlike individuals, partnerships and trusts.

Interestingly, HMRC are proposing that mandatory pooling will not apply initially to 'historic fixtures' i.e. those where expenditure was incurred before the introduction of any changes to the current regime, where the fixtures are still owned, but the expenditure has not yet been pooled (claimed). However, HMRC are consulting on whether they will require 'historic fixtures' to be pooled within a period of 1 – 2 years after the mandatory pooling rules for new expenditure are introduced.

There is going to be an important period in which expenditure on second hand buildings and 'historic fixtures' will need to be reviewed and costs relating to fixtures claimed or the ability to claim allowances will be lost. Please speak to your consultant if you wish to review your position.

Capital Allowances and generating renewable energy

Our previous newsletter included a guest article about investing in hydro-electric projects. This commented on the capital allowances available on expenditure incurred.

To recap, plant and machinery allowances are available as described in the introduction to capital allowances above. In addition, if the equipment qualifies for Enhanced Capital Allowances (ECA), then a first year allowance of 100% can be claimed. There are two categories of expenditure on which ECA are available which are most likely to apply to renewable energy installations:

1. Energy saving plant and machinery
2. Environmentally beneficial plant and machinery

...Continued on page 4

Energy Saving Plant and Machinery must:

- Be unused and not second hand
- Involve incurring expenditure or entering a contract to purchase
- Meet Treasury requirements

How do you find out about whether the equipment (or a component of a larger item) you plan to buy meets Treasury requirements? The quickest way might be to visit the following website: <http://etl.decc.gov.uk/etl/default.htm>

The Treasury requires manufacturers to get their products to pass various assessments. If they pass the assessments are then listed individually if they fall within the following categories:

- Air-to-air energy recovery
- Boiler equipment
- Compressed air equipment
- Heat pumps for space heating
- Heating ventilation and air conditioning equipment
- Motors and drives
- Radiant and Warm Air Heaters
- Refrigeration equipment
- Solar thermal systems
- Uninterruptible Power Supplies (UPS)

Products in the following categories are not listed individually on the website but you can find guidance on the website as to how to check equipment you are buying does meet the Treasury requirements:

- Automatic monitoring and targeting (AMT)

- Combined heat and power (CHP)
- Lighting
- Pipework insulation

If you buy equipment on which you want to claim ECA then best practice to support any claim for ECA in a tax return is to keep a copy of the purchase invoice, take a screen print from the website showing the qualifying product and documentation from the supplying/installing company.

It is worth remembering that it may be possible to claim ECA on some additional direct costs relating to the equipment including:

- Direct transportation
- Direct installation
- Professional fees

By Statutory Instrument, HMRC have said that in order to qualify for ECA the following types of equipment will require a Certificate of Energy Efficiency:

- Combined heat and power (CHP)
- Certain types of Automatic monitoring and targeting (AMT)

The legislation goes on to consider the situation whereby a product has its Certificate of Energy Efficiency revoked. If this happens, then for capital allowance purposes the certificate is deemed never to have existed. Thus if a return has been made in which a ECA claim has been made in respect of a product with a certificate then the taxpayer is obliged to notify HMRC of the fact the ECA claim needs to be removed and additional tax paid. Taxpayers have a 3 month deadline to tell HMRC once they become aware of the product ceasing to qualify.

How do you know if your product's qualifying status has changed? The website will show a 'removed' date next to the product. This will give an indication that the product may have ceased to qualify but further detective work will be needed as this could simply mean the product is no longer being made.

HMRC's reasons for consultation on ECA

Feed-in Tariff (FIT) and Renewable Heat Incentive (RHI) schemes are government schemes aimed at encouraging renewable energy generation and renewable heat technologies. The government is in both schemes providing long term tariff support payments.

Bits and pieces...

HMRC's error

Some of our readers may have received their self assessment statement of account after 31 July due to HMRC's error. If you are one of these lucky people then interest will not be charged on tax paid late provided your payment reaches HMRC before 27 September.

The aim of the consultation is to 'fix a rate of capital allowances for such expenditure that is both fair and certain, and ensure more consistent treatment between businesses'.

The consultation document points out that under the existing capital allowance rules:

1.9 Currently, only one of the technologies that qualify for FITs would qualify for ECAs, although more (but not all) of the technologies that are likely to qualify for RHI payments may qualify for ECAs.

...Continued on page 5

1.10 In relation to standard WDAs, there may be doubt over whether the equipment should, or should not, be treated as an integral feature or whether it should be correctly treated as a long-life asset. Indeed, precise application of the current capital allowances rules to plant and machinery which could qualify for FITs or RHIs may give a different result in different circumstances.

Proposals for FIT and RHI

Basically HMRC's proposal is to withdraw the ability to claim ECA completely where the new equipment could qualify for a FIT or RHI tariff payment, whether or not an application is made for a FIT or RHI tariff payment. In its place will be the ability to claim a writing down allowance of 10% (presumably 8% from next April). This seemingly removes a valuable incentive to invest but I suppose in

these times of austerity (I had to get that word in somewhere) the government cannot provide both the tariff support payments and tax reliefs.

If you are thinking of making an investment you may wish to consider doing so before next April when the proposals are expected to be implemented.

It is interesting to note that if you have an existing installation to which extra capacity is added on which RHI tariff support would not be available, then the equipment for the additional capacity may still qualify for ECA.

Also, the ability to claim writing down allowance will be available irrespective of the ability to claim a tariff support payment under FIT or RHI.

Tracking Devices

And finally, to feed into (no pun intended) our guest article, I thought I

would consider the capital allowance position if a client were to purchase a tracking device.

Allowances should be available where a person carries on a qualifying activity and incurs qualifying expenditure. A qualifying activity could be a trade or a rental business to name just two common activities our clients might be engaged in. The person wishing to claim the allowance must own the device.

The question is then whether a tracking device will be plant or machinery. My view would be that a device should be plant or machinery.

The allowances available include the Annual Investment Allowance at 100%, or if this has been fully used (or is not available) then Writing Down Allowance at 20% (18% from next 5 April).

Good news: recovery is taking place!



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A farmer's livelihood is dependent on a number of defining factors, some of which are out of their control. Weather and disease play a large part in the success or failure of their crops or livestock, and the impact of a bad spell can be devastating. But there is another factor that can put a farmer's livelihood at risk: THEFT.

In 2007, theft of farm and estate machinery rose by 40%, and it's a problem that is refusing to go away. Far

more than a case of petty crime, farm machinery is big business on the black market, and organised gangs are now stealing to order. Many of the items stolen in the UK end up being shipped abroad, and are in demand in areas like Eastern Europe, where construction is booming. Tractors, trailers and other high value equipment found on farms and estates can be worth thousands of pounds to criminals, and in rural areas, they present themselves as a low-risk, high-reward job.

Once a stolen vehicle is in a container heading across the Channel, it is harder to retrieve. Latest statistics suggest that only 5% of assets reported stolen are ever recovered. The impact that this has on the agricultural and estate industry is massive. Not only does machinery theft mean a loss of expensive equipment, it also has a direct impact on the continuity of the business, and on the loyalty of customers.

It is therefore important that farmers and estate owners take steps towards protecting their assets, to try and minimise disruption to their working lives. Beyond taking the usual precautions to secure your property there are a number of technologies around that can help in the fight against theft.

GPS Asset Tracking has been around for a long time – most people have a general awareness of how the technology works. However this also includes the criminal fraternity. In a market where being discrete can make all the difference between a successful recovery and the tracking device being found and disabled, GPS products have a number of disadvantages:

- GPS requires a lot of power and tends to need external power if it is to last for any significant time. This requires professional installation to wire in and rules out non-powered assets and assets used infrequently. It also means that wires can be traced back to help a thief locate the tracking device on the vehicle.
- In order to achieve ‘continuous asset tracking’ you need something that’s continually transmitting, which is great for fleet management, but also great for thieves with a scanner as they can ‘hear’ these transmissions which tell them there is a device to look for.
- The GPS positions come from satellites which require line of sight. If the asset is indoors, undercover or inside a container for example, it can’t be tracked. GPS also requires an antenna on the surface of the vehicle which can be easy to spot, again alerting thieves to the presence of a tracking device.

It’s not surprising that recovery statistics often highlight how woefully

inadequate GPS-based tracking devices are when it comes to getting your stolen assets back. Given that they were designed for fleet management purposes, and marketed as a theft/recovery solution when nothing better existed, this isn’t entirely surprising. Now, however, there is a new solution that utilises existing GSM mobile phone technology.

Sure-Track, has been involved with GSM-based asset recovery ever since Orange first provided Location Based Services for their SIMs back in 2002. Unlike traditional GPS devices, GSM-based devices are completely wireless and use the GSM mobile phone network to position as well as communicate. They wake briefly every 1-2 hours, to check for messages, making them virtually undetectable. We have had customers phone us saying they have taken their machinery to bits in their workshop but can’t find where they fitted the device.

It has taken a long time for this relatively new technology to gain credence with insurers. They have focused almost exclusively on backing products accredited by the UK’s independent Motor Insurance Repair Research Centre, Thatcham to CAT5 level. However for our customers the technology needs no proving. In fact 91% of all our customer’s vehicles reported stolen have been recovered within 9 hours. Our private recovery network plays a large part in this. In the event of a theft we assign a field-based finder to physically locate your asset. As well as using GSM our device also has a Radio Frequency device built in which helps the finder zero in on the location of the asset before liaising with the police and the owner to effect recovery. This results in faster, more effective contact with the police and faster recovery times.

Sure-track’s product has now received Thatcham CAT7 accreditation, so insurers are starting to take note and offer discounts for installing our product, and we are still the only company to have a tracking product accredited to Diamond level by Sold Secure.

In a market where companies can put together or brand foreign devices very quickly, we are still the only company that oversees and manages all aspects of the supply-chain, from in-house design to UK-based production, distribution, sales, monitoring, finding and servicing. In addition to the tracking devices we supply our sister company sells motion-sensitive camera systems for video evidence and ‘Smoke & Dye’ packs which can cover any would-be thief with permanent dye and microdots.

There is no doubt that farmers and estate owners need to find new ways of reducing the instance of theft. Whether it’s theft of machinery, unauthorised use of equipment, theft of items in storage, cable theft or just the peace of mind in knowing where your property is – by installing an asset recovery device, you could be cutting your costs, protecting your assets, and keeping your business working for you. So all you have to worry about now is the weather.

For more information on our products and services, or to find out a bit more about how the technology can work for you, please contact us and we will be happy to help. Our web address is www.sure-track.co.uk

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