

CAPITAL ALLOWANCES - PART 2

PROPERTY IMPLICATIONS.....

From a property point of view, by far the most important of the allowances available in the property field was, until very recently, Industrial Buildings Allowance, but its relevance here is, to put it mildly, curtailed by the fact that it is in the process of being abolished and, barring any further sudden changes, will have disappeared altogether by April 2011.

Nevertheless, it cannot be ignored and an outline of its provisions may be helpful.

Firstly, it is what its name implies; an allowance for Industrial Buildings, which are defined as those in which "goods are subjected to a process". This means that it applies to factories but not to offices or retail shops. Needless to say, as we are dealing with the law, matters have become more complicated than that over the years, and IBA gradually expanded to cover buildings in which goods were stored in advance of the crucial "process" and, vitally, after that process had been completed but before delivery to a customer who would not "process" them again before they reached their ultimate user or consumer. This brought it dangerously close to the storeroom behind, in particular, a combined wholesale and retail shop, and thus gave rise to litigation in the course of which the definitions have been argued about extensively. Recently a company which constructed a building purely in order to store imported double-glazing units succeeded in obtaining the allowance after two court hearings despite the absence of any processing whatsoever. Anyone interested may care to look at the case of HMRC v Maco Door and Window (UK) Ltd. Surprisingly, perhaps, IBA also applies to privately owned roads, tunnels and bridges; how those can be described as buildings, let alone ones in which manufacturing takes place, is a point which seems not to have troubled whoever drafted the rules! It is also specifically extended to include hotels.

Secondly, it is a relief designed to cover buildings intended to last for an extended period, fixed for this purpose at twenty-five years. The cost of a qualifying building can be written off against tax on a straight line basis at 4% per year; there were complicated rules to cover sales of such buildings within that period, but they no longer apply; the buyer now simply takes over the relief to which the previous owner would have been entitled. This is not as attractive as it sounds, as the 4% is reduced to 3%, 2% and 1% over the next three years, leading to total abolition in April 2011. In practical terms, this means that anyone contemplating the purchase of an I B now would be well advised to ignore the allowance altogether; if it cost, say £500,000, he would be entitled at most to relief of £15,000, £10,000 and £5,000 in the first three years and nothing after that, so, at the highest rate of Corporation Tax, the relief would be worth

£8,400 and would not, therefore, be likely to be a significant factor in the decision.

The very similar "Agricultural Buildings Allowance", which obviously covers farm buildings, houses for farm workers and, perhaps surprisingly, fences but not the cost of the land itself, is also being abolished over the same three year period.

There are, of course, the usual exceptions and privileged cases. Factories in Development Areas qualify for a 100% allowance in the first year, as does the conversion of derelict premises into new factories. Confusingly, this relief is to run until April 2012, so there will be one year during which IBA will survive on an all or nothing basis, after which it will continue as "Business Premises Renovation Allowance", although only in Development Areas or Northern Ireland and for future use for trade purposes. In partial compensation for the ending of IBA, there is to be a new category of asset qualifying for Capital Allowances as Plant and Machinery under the slightly tautologous title of "Integral Fixtures". Up to now, items fixed permanently to buildings, such as lifts, heating systems and water pipes have been rigidly excluded from claims to Capital Allowances, but they will now be allowed, albeit at a reduced rate of 10%. The first £50,000 of expenditure attracts the new 100% Annual Investment Allowance, so a company buying substantial amounts of normal plant and integral fixtures in the same year will wish to apply that to the Integral Fixtures first, as the any remaining balance will be able to written off more quickly if it attracts the 20% rate.

There has been an attempt to prevent future legal disputes by producing a "short unambiguous" list of Integral Fixtures, but the authors of that list are clearly not very confident about that as they also refer to a number of possible items and state, for no obvious reason that their list will not include kitchens or lavatories as that would undermine the "simplicity, certainty and consistency of the new rules"! This seems likely to be the subject of many disputes in future years.

This is, of course, no more than a broad review of a rapidly changing tax regime, and there is no substitute for detailed and specific examination of the precise circumstances when anyone is considering a property purchase or project.

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