Unclaimed capital allowances? Engaging with a specialist surveyor

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When dealing with capital allowances, we consider when and how you should engage with a specialist surveyor.

Key Points

What is the issue?

It is more common than you might think for capital allowances claims to be either underclaimed or overlooked. Many people are still unaware that such allowances are available.

What does it mean for me?

The typical output from a good capital allowances specialist should be a detailed report which should prove an entitlement to claim allowances and then a breakdown of expenditure into qualifying expenditure.

What can I take away?

Working with a firm of capital allowances surveyors is like working with any trusted advisor and they should demonstrate they understand how your business works and how you work with your clients.

Health warning. This article focuses on the practicalities of engaging with a capital allowances specialist to build and submit one or more reliable and accurate capital allowances claims relating to capital expenditure on commercial property and structures. This expenditure could be incurred through buying, building, extending, refurbishing, improving or fitting out.

It is not a technical tax article, and my assumption is that readers will already be familiar with the tax treatment and benefits of capital allowances and the underlying capital allowances legislation – the Capital Allowances Act 2001 – and subsequent amendments and budget changes, such as the recent announcement on full capital expensing for plant and machinery expenditure.

I also assume that readers will already be familiar with the types of commercial properties and structures that qualify for capital allowances and be aware of the basic ‘tests’ for claimants:

- registered as UK taxpayer (for corporation or income tax);
- incurring capital expenditure;
- carrying out qualifying activity;

- holding the property or structure as a fixed asset (not trading stock); and
- owning the asset being claimed against at end of tax year in which claim is made.

Lastly, I assume that readers will already be familiar with writing down rates for capital allowances, annual investment allowance, full capital expensing, R&D allowances and other tax matters.

When to engage

It is becoming more and more likely that businesses or their tax advisers will be approached directly by capital allowances advisers to review capital expenditure when properties are purchased or when construction expenditure is incurred. This can be beneficial but is a more reassuring experience if you appoint the right firm.

Nearly all UK businesses and many private individuals incur expenditure on freehold or leasehold commercial properties and should seek to claim capital allowances on this expenditure. It is more common than you might think for capital allowances claims to be either underclaimed or overlooked. Many people are still unaware that such allowances are available.

There will be many areas of capital expenditure on commercial property which a qualified accountant or tax professional can analyse and report on perfectly well without input from a specialist surveyor. For example, expenditure on loose fixtures and fittings, production machinery and capital investments where there are detailed cost breakdowns should probably form part of normal client service.

With commercial refurbishment projects, it is clearly crucial to identify whether any expenditure would qualify as a like-for-like repair or renewal of part of an existing property and, if so, qualify for 100% tax relief when incurred. However, many substantial refurbishments or improvements to an asset will often be treated as capital expenditure.

Therefore, my focus is on expenditure outside the normal scope of an accountancy or tax professional where collaboration with a specialist capital allowances surveyor would be beneficial. This would include property acquisitions and disposals, and construction projects including new build, extension, refurbishment and fit outs.

As former quantity surveyors and project managers, we understand the cost of building projects and know the associated tax leakage can be substantial. Even those who believe claims have been maximised might be pleasantly surprised by a typical uplift of between 10% and 20% that can be found by specialists. In our experience, this relief is being underclaimed in many cases. Below are some of the common areas where unclaimed capital allowances relief can be found and improvements made:

1. Where there is a lack of construction cost and/or purchase information: Breaking down those costs can unlock additional elements for relief and improve the overall levels of claims.

2. When it is hard to analyse or accurately apportion all construction costs, such as preliminaries, professional fees and contributions for fit outs and other works.

3. In relation to the purchase of second-hand property: This is true even if there is a Section 198 (or other) election in place to fix the level of capital allowances transferring as part of the transaction. These are just some of the scenarios where additional claims can be made:

- if the allowances included in a Section 198 election, while agreed and signed at the time of a property purchase, have not been claimed within your tax computations;
- if Commercial Property Standard Enquiry (CPSE) replies say not applicable – these replies can often contain errors, leading to significant underclaims and missed opportunities;
- when you are going to use the property for R&D purposes;
- when the seller is a non-taxpayer, such as a government body or charity;
- if the seller held the property prior to 1 April 2008; and
- if the seller held the property as stock in their accounts and so could not make a claim.

4. In relation to historic expenditure: Many people think they can only claim capital allowances in the year that expenditure is incurred. This is not the case, if qualifying assets are still owned when a retrospective claim is made. There are no time limits in claiming these tax reliefs – expenditure made 10 or 20 years ago may qualify.

The typical output from a good capital allowances specialist should be a detailed report which should prove an entitlement to claim allowances and then a breakdown of expenditure into qualifying expenditure (plant and machinery allowances, research and development allowances, structures and buildings allowance and contaminated land remediation relief, though it could also include more specialist areas such as mineral extraction allowances) and non-qualifying expenditure.

How to engage

Collaborative relationship: As with any trusted adviser, a firm of capital allowances surveyors should understand how your business works and how you work with your clients. It is all about providing specialist support to jointly ensure the best client result and not producing reams of marketing material showing inflated claims, complex terms and conditions of business, and a pushy approach. They must also understand where you and your client are in terms of your annual client service cycle to avoid where possible additional work such as re-working tax computations and re-submitting tax returns.

Clear boundaries: A good specialist should understand who does what in terms of engaging with clients and delivering services. Unless your intention is to become a specialist yourself, it is probably enough that you understand the triggers for making a claim and the likely client benefit. Of course, it should also be your decision whether the specialist engages with your clients direct, with or through you.

Professional qualifications: The specialist should be accredited by Royal Institution of Chartered Surveyors (RICS) and have in-depth knowledge of capital allowances legislation. Assuming you have your own tax capabilities, it is a moot point whether they need tax qualifications as this can blur boundaries. RICS accreditation ensures technical and ethical standards. Professional indemnity insurance will be in place, as well as an independent procedure for handling issues and complaints.

Experience and expertise: While the fundamental principles of surveying and cost analysis are transferable skills, an established firm should have sector experience so they can tackle any issue they face. They should also be able to prove their ability and provide referees.

Credibility with HMRC: Many specialists have established track records with HMRC, though this a little harder to achieve now with fewer local inspectors in post. HMRC will view their reports as ones prepared by professionals in line with current guidance and best practice. This will reduce the risk of HMRC investigation, increased tax bills, interest or penalties.

Ability to liaise with all claim stakeholders: After the rule changes introduced from April 2012, it has become essential that a capital allowances specialist can liaise with property lawyers during property acquisitions and disposals to review and advise on the correct completion of pre-contract enquiries (CPSE.1) and the drafting of contract clauses so the entitlement to allowances for the business can be protected. Especially with claims relating to construction expenditure, it is critical that an advisor can understand and build relationships with professionals who provide construction, cost and project management support, both in-house and for external providers.

Client focus: It should go without saying that it is fundamental that a service provider can provide services on time, to budget and of the agreed quality, and that there is clear communication between all parties. It is important that timely responses can be provided when clients are buying or selling property.

Commercial sensibilities: A good advisor will have sector knowledge and should be able to provide an accurate estimate of the expected level of unclaimed allowances available to your client and, based on your overall knowledge of a clients financial and tax affairs, to work with you to establish immediate tax savings and cash-flow benefit over time.

Client fees: A good partner will be flexible to work on different fee bases depending on the situation, particularly if the engager audits the business where a contingent fee approach may not be suitable.

Work with people you like and trust: It used to be said that trust was intangible; however, studies now have shown that trust between advisors is based on a combination of credibility, reliability, willingness to collaborate and an ability to put themselves in your shoes and not act selfishly.

Try before you buy: I know we’re not talking about shopping; however, it’s important to test the water before committing to a partner. You need to be comfortable with their way of working from initial client engagement to billing and payment collection.