



## Enquiries Before Contract

The following enquiries before contract are taken from section 19 of CPSE.1 (version 2.9)

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- 19.1 Do you hold the Property as an investor on capital account or as a trader as part of your trading stock? Please specify which.
- 19.2 Has HM Revenue & Customs (HMRC) accepted, or has the Seller or any person connected to the Seller (within the meaning of sections 575 and 575A of the Capital Allowances Act 2001 (CAA 2001)) submitted to HMRC, any claim for capital allowances in respect of any item of plant or machinery included in the Transaction that is a fixture (a Fixture) within the meaning of section 173 of the CAA 2001? If so, for each such claim please state:
- (a) the date the Fixture was acquired;
  - (b) whether the Fixture is an integral feature within the meaning of section 33A of the CAA 2001;
  - (c) whether the claim was in respect of Fixtures installed by the Seller or already installed by a previous owner;
  - (d) the value of the claim; and
  - (e) the proposed disposal value.
- 19.3 If the Seller or any person connected to the Seller (within the meaning of sections 575 and 575A of the CAA 2001), has not submitted a claim to HMRC for capital allowances in respect of any Fixtures to be included in the Transaction, will the Seller be willing to agree in the contract that no such claim will be made by the Seller or any person connected with the Seller?
- 19.4 If the Seller acquired the Property on or after 24 July 1996, is the Seller aware of any claims for capital allowances in respect of any Fixtures to be included in the Transaction accepted, submitted or to be submitted to HMRC by a previous owner? If so, for each such prior claim please state:
- (a) the date the Fixture was acquired by the previous owner;
  - (b) whether the Fixture is an integral feature within the meaning of section 33A of the CAA 2001;
  - (c) the name of the previous owner;
  - (d) whether the claim was in respect of Fixtures installed by the previous owner or already installed by a prior owner;
  - (e) the value of the claim; and
  - (f) the disposal value.
- 19.5 Have any of the Fixtures included in the Transaction been included in an election either under section 198 or section 199 of the CAA 2001 or section 59B of the Capital Allowances Act 1990? If so, please provide a copy of such election notice(s).
- 19.6 Are there any items of plant and machinery included in the Transaction that are subject to the long funding lease provisions set out in Part 2, Chapters 6 and 6A of the CAA 2001? If so, please provide details of such assets.
- 19.7 Please provide details of any Fixture included in the Transaction that is subject to a nil disposal value by virtue of section 63 of the CAA 2001.
- 19.8 Please provide details of any Fixtures upon which expenditure has been incurred by a tenant, or that are subject to an equipment lease within the meaning of section 174(1) of the CAA 2001.
- 19.9 Please provide details of any plant or machinery that is not a Fixture but is included in the Transaction.



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- 19.10 Please confirm that none of the plant and machinery (whether or not a Fixture) included in the Transaction has been or is likely to be treated as a long-life asset in accordance with Part 2, Chapter 10 CAA 2001.
- 19.11 Does the Property form part of an area either currently or formerly designated as an enterprise zone? If so, when was the area designated? Please supply details of any claims made for capital allowances on an enterprise zone building forming part of the Property.
- 19.12 Have you or any other person claimed (or is any person entitled to claim) industrial buildings allowances on the Property, excluding any claims covered under section 19.11 above? If so, please provide the following details in relation to all expenditure on the original construction of the Property and on any alteration to it (and where items of expenditure have been incurred at different times, please provide the details in respect of each separate amount of expenditure incurred):
- (a) the relevant interest (within the meaning of section 286 of the CAA 2001);
  - (b) the amount of expenditure;
  - (c) the date when the expenditure was incurred;
  - (d) the date of first use;
  - (e) the name of any current tenant(s);
  - (f) the use made of the building by current and previous occupiers (with dates);
  - (g) any periods of non-qualifying use;
  - (h) the value of the claim;
  - (i) the residue of qualifying expenditure before sale; and
  - (j) whether any expenditure was incurred by a trader holding the Property as part of its trading stock.
- 19.13 Have you or any other person claimed (or, in relation to any period prior to completion, will any person claim) research and development or scientific research allowances in respect of the Property or any other asset to be included in the Transaction? If so please provide details.
- 19.14 Have you or any other person claimed (or, in relation to any period prior to completion, will any person claim) business premises renovation allowances in respect of the Property or any other asset to be included in the Transaction? If so please provide details.
- 19.15 Have you or any predecessor in title made a contribution to another person's expenditure which is either expenditure on or relating to the Property on which industrial buildings allowances are available or expenditure on any plant or machinery within the Property? If so, please provide details.
- 19.16 Where the Transaction is the grant of a lease:
- (a) if the lease is over 50 years in duration, will you, if requested, make a joint election with us under section 290 of the CAA 2001 in respect of the Transaction; and
  - (b) if requested, will you make a joint election with us under section 183 of the CAA 2001 enabling us to claim capital allowances on Fixtures in the Property and included in the Transaction?

**In addition to the above enquiries, Capitus recommends that the following enquiries are made:**

1. Did you build the property or did you acquire the property second-hand?
2. If you acquired the property, did you acquire your seller's full interest in the property or an inferior interest to that held by the seller?
3. Are you selling your full interest in the property or an inferior interest (e.g. a long lease)?
4. Have you incurred any capital expenditure on provision of any fixtures during your period of ownership of the property and if so, have you claimed capital allowances in respect of such expenditure?

For further information, please contact Aubrey Calderwood [calderwood@capitus.co.uk](mailto:calderwood@capitus.co.uk)