

Capital Allowances on Commercial Property

What Property Investment Agents Need to Know



Background

Capital allowances can have a significant impact on any given property transaction. Whilst investment agents do not have to be experts in capital allowances, they should at least have a basic understanding of their value and how they may be used in the purchase or sale negotiations.

Issues

When buying or selling a property, any number of scenarios can arise in respect of capital allowances. The following represent just three:

- the seller is a property developer who has constructed the property and who cannot directly claim capital allowances.
- the seller has claimed capital allowances but is selling the property to a non-taxpayer or a taxpayer with a low effective rate of tax.
- the seller is a pension fund or other non-taxpayer selling to a taxpayer paying standard corporation tax at the rate of 26%.

Each of the above situations will give rise to very different capital allowances positions for buyer and seller and it is these differences that the acting investment agent must be aware of and factor into any negotiations – on price or other issues.

For example, if the seller is an insurance institution with a low effective rate of tax of, say, 8%, they could retain all the capital allowances that they have claimed to date and all allowances not yet claimed by requiring the buyer to enter into what is known as a section 198 election. This would fix the disposal value of the plant claimed at £2.

However, if the buyer were a high net worth individual paying tax at 40%, that buyer may be prepared to offer an additional capital sum for the seller to pass on the full benefit of the allowances to him. This is clearly something that the investment agent should be aware of as the tax value of such allowances can run to many millions of pounds depending on sale price and property.

Action to be taken

Right at the outset of any transaction when Heads of Terms are being agreed, consideration should be given to capital allowances. We recommend contacting us to establish what the issues are and to check how maximum value can be extracted from the allowances available.

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