

Tax **Property**

Tax relief is available in many instances when you fit out a pub, but many operators don't realise what is and is not included. Aubrey Calderwood explains



Energy and water-efficient items may be eligible for tax relief

A little light relief...

BUYING, REFURBISHING or fitting out a pub can be an expensive business. But valuable sources of tax relief lie within these very costs which, when used fully, can result in significant tax savings.

However, all too often these tax relief schemes (introduced by the government to encourage investment and stimulate economic growth) are overlooked entirely or, at best, under-claimed by pub owners.

Where capital allowances are being claimed, often the pub and leisure industry seems to focus on quite obtuse areas, as the decision in the latest of yet another pub tax case has recently demonstrated.

In this case, (*Mrs CA Andrew v The Commissioners for HM Revenue & Customs (HMRC) TC 00799 – November 1, 2010*), the claimant ran a rural pub and claimed capital allowances for a garden gazebo that smokers used following the introduction of the anti-smoking legislation. HMRC originally disallowed the claim, but at appeal it was held to be an item of 'plant & machinery' and therefore eligible for tax relief.

Over the years, a variety of taxpayers ranging from Scottish & Newcastle to, more recently, JD Wetherspoon, have rightly looked to the courts to establish which items

of capital expenditure capital tax allowances can be claimed for.

But while these tax cases have undoubtedly led to significant levels of tax relief for pub companies, we believe that too much emphasis is given to establishing whether this item or that is an item of 'plant', at the expense of taking a more strategic view of the other and sometimes much more valuable, tax reliefs available.

The government is now focusing tax incentives for capital expenditure projects much more towards investment in 'green' properties and the reuse of existing buildings.

For the pub industry, this represents significant opportunities for tax planning as, on the whole, new pubs tend to be located in existing premises such as old banks, high street shops, etc.

There are a couple of tax incentive schemes in particular that are often overlooked but where the tax relief arising could be considerable.

BPRAs

The first of these – Business Premises Renovation Allowances (BPRA) – are available for bringing back into commercial use premises, in so-called 'disadvantaged areas', that were formerly used for commercial purposes

but have been vacant for at least a year.

This is an extremely generous tax incentive whereby 100 per cent of the refurbishment cost of a qualifying property is available to offset against a company's tax liability.

So, for every £100,000 of expenditure incurred converting a building to a pub (or any other commercial use, for that matter), £28,000 would be saved in tax. In other words, the refurbishment would be tax-free!

The incentive is only available to expenditure incurred on existing premises, so extensions and the additions of more floors would not qualify.

The term 'disadvantaged area' may give the impression of desolate tumbleweed-strewn town centres but there are literally thousands of these areas up and down the country, often in very desirable locations. For example, many parts of Glasgow city centre qualify, as does the whole of Northern Ireland.

BPRAs are due to end in April 2012 so, as they say, act now to avoid disappointment.

ECAs

The second tax incentive scheme is the Enhanced Capital Allowance scheme (ECA) which is available for

investment in energy and water-efficient technologies.

A large proportion of a pub fit-out will involve the installation of what's classed as 'plant and machinery' items, and therefore eligible for tax relief, such as air conditioning, extract ventilation, heating and hot water systems, toilets and lighting installations.

However, unless these are energy and water-efficient plant, the rate at which you can claim tax relief on them will be greatly diminished.

If they are ECA-qualifying items of plant or machinery, you will be able to claim 100 per cent tax relief on the expenditure in the year incurred (or a 19 per cent tax rebate if you're loss-making). But if they are not on the ECA list, the tax relief is only claimable at 10 per cent per annum (reducing to eight per cent next year).

The message therefore, is plan ahead and ensure your design team incorporates as many ECA-qualifying items into your fit-out as possible – to help you save tax, potentially reduce your running costs and show your green credentials. ■

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