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tax matters

a tax supplement from **pkffpm accountants**

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Capital Allowances on UK Second-Hand Properties

When selling/purchasing a property, parties are quick to query the VAT and Stamp Duty implications but often fail to consider the Capital Allowance consequences.

Elements that determine the value of capital allowances transferred with the sale of a property include loose plant, machinery and fixtures.

In the case of loose plant and machinery, the sale price that the seller and purchaser agree will be the capital allowances transferred. However, where plant and machinery are 'fixtures' (integral features of the building such that if the building was turned on its roof the equipment that would stay in place), this can create difficulty in many property transactions.

In order to transfer capital allowances on fixtures there is a pooling requirement and a joint s.198 election must be made by both the seller and purchaser.

The seller must have pooled the value of the qualifying fixtures on their tax return before the sale of the property. Therefore it is in the purchaser's interest to ensure this is done prior to completion of contracts, as the seller will have little appetite to assist after this date.

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With the abolishment of Industrial Buildings Allowances (IBAs) in Finance Act 2007, costs on which IBAs were previously claimed cannot at a later date be 'pooled' as qualifying integral features. This means that no capital allowances can be transferred on fixtures that were attached to a building when IBAs were previously claimed.

In a s.198 election, the seller and buyer agree on a value for the fixtures as part of the sale negotiations (or at the very least a clause should be included to agree values at a later date). To be valid, an election must be made and submitted to HMRC within the two years of the transaction.

Where a property sale goes through without these negotiations having taken place, and where the purchaser and vendor fail to reach a joint agreement post sale, either party has up to two years to apply for a determination by the First-tier Tribunal.

Overlooking the s.198 election agreement as part of the sale process could give the purchaser scope to make an application to the First-tier Tribunal to fix the value of the fixtures transferred. This could create an unexpected balancing charge for the seller which will be subject to tax. From the point of view of the seller, it is in their interest to agree a value for fixtures with the purchaser as part of the sale negotiations.

It is in the seller's interest to minimise the value attributed to fixtures as any figure agreed will reduce the balance of their capital allowance pools. The purchaser will want to maximise the purchase price attributed to fixtures as they will be able to reduce their trading profits by this amount via capital allowances.

The mandatory pooling and obligatory s.198 and s.199 elections may have a huge impact on all parties involved in commercial property transactions, therefore it is important to involve your tax adviser prior to completion of contracts to ensure that you understand the potential capital allowance implications.

For more advice contact Malachy McLernon or any of our Tax Team TODAY...

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The Sugar Tax

The sugar tax, otherwise known as the Soft Drinks Levy legislation came into effect in the UK from the 6 April 2018. This tax applies to soft drinks and low alcoholic drinks (alcoholic content of up to 1.2%) which contain added sugar.

By Siobhan McCreesh
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Pure fruit juices and milkshakes are exempt. The tax is levied at a rate of 18p per litre on drinks containing 5–8 grams of sugar per 100 millilitres and at 24p per litre on those containing 8 grams or more. Packagers and importers of soft drinks are required to register for the levy and must file a quarterly online return with HMRC within 30 days of the end of each quarter. If a levy is overpaid, for example, if goods are exported, lost or destroyed, a levy credit can be claimed. For each reporting period, specific records need to be maintained for 6 years. These records must include the number of litres of liable drinks in each levy band, the amount of levy payable, details of any levy credit and any adjustments or corrections to previously submitted returns. Additional records must be kept by the packager and the importer containing details of the number of litres of liable drinks, where they were stored, dates of delivery and removal, details of who made the delivery and who transported the delivery from storage. As the levy only applies to packagers and importers of soft drinks and low alcoholics drinks, there are no reporting requirements for retailers. However, the cost of the levy could be passed on to retailers in an increased purchase price for soft drinks or low alcoholic drinks subject to the levy.

Sugar Tax in RoI

Similar legislation has been introduced in the Republic of Ireland where a Sweetened Drinks Tax came into effect on 1 May 2018. The tax applies to water and juice based drinks which have added sugar and a total sugar content of 5g or more per 100 millilitres. It is levied at a rate of 20 cent per litre on drinks containing between 5g and 8g of sugar per 100 millilitres and at 30 cent per litre if the drink contains 8g or more of sugar per 100 millilitres. The tax applies on the first supply of sugar sweetened drinks. An exemption is available if sweetened drinks are exported on a commercial basis. The supplier is required to register with the Revenue Commissioners in advance of the first supply and must comply with the legislative reporting requirements and pay the associated tax. The supplier must file a return within one month after the end of the accounting period during which the supplies were made. In RoI, the sugar tax has had a direct impact on consumers as the cost of sugar sweetened drinks has increased.

For more advice contact Siobhan McCreesh or any of our Tax Team TODAY...

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