Property Matters -
What Capital Allowances can I claim?

Mike Blackledge
Associate

01354 652304
mikeblackledge@whitingsllp.co.uk

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Capital allowances can be claimed by landlords' expenditure on "plant and machinery" which can reduce your profits and indeed create losses, the use of such is not covered here, but they can certainly be very beneficial.

The property in question is important and will determine the allowances that can be claimed and at what value, with claims ranging from 100% of the costs incurred to 3%.

For a standard residential letting, a claim for capital allowances is restricted on assets that are for use in a dwelling house, however at this point you would be looking to the rules that govern the replacement of domestic items, which was previously known as 'the renewals basis'.

However, if a landlord owns for example a block of flats, then capital allowances can be claimed on the "communal areas" which will include lighting, lifts, fire alarms etc, but not on the areas that are considered to be "dwellings".

This is also the case for houses of multiple occupation. Care is needed when either purchasing or maintaining and upgrading the property to ensure that the purchase contract and invoices are clear and provide you with the details required.

For those that have furnished holiday lets, the position is very different in that, although this is residential property, it is excluded from the "dwelling house" rule as this property is considered to be an asset in a trading activity.

The full range of plant and machinery allowances would be available for expenditure on plant used in commercial properties, and again care is needed when purchasing such properties, as the contracts will need to stipulate the historical claims for relief, to allow you to consider any future claims.

If you need more information, then please contact us.

Keeping it in the family

Harriet Sim
Senior Tax Manager

01353 662595
harrietsim@whitingsllp.co.uk

With house prices having increased exponentially over recent decades, and the fact that no one is getting younger, it's no surprise that people often ask about the possibility of gifting property down generations.

On top of the practical steps and costs of doing this, there are a number of tax implications that must be considered before proceeding with such an exercise. The most obvious tax to be aware of when gifting assets is Capital Gains Tax (CGT).

Gifts between 'connected parties' (family members) are disposals at market value, even if consideration is being received in return. So be prepared for HMRC to challenge any such value put forward. Where a property has been owned for a long period of time, it's likely to sell at a far higher value than what it was bought for. Unless the property has been your main residence throughout it's entire period of ownership, this will create a CGT charge which could be reportable and payable within 60 days. Furthermore, if you are not receiving consideration in return, thought should be given to how this liability will be met.

Another tax consideration is Inheritance Tax (IHT). I have previously highlighted this, but it's important to go back to the basics; whilst a gift may not be immediately subject to IHT, it could be chargeable on the event of a death within seven years. In certain situations, even if a death is expected within this time, a gift may still be advisable if the property is only expected to appreciate in value i.e. by obtaining future planning permission. But it is vital that each individual case is assessed by a professional.

There is also the matter of Stamp Duty Land Tax (SDLT). Where the 'chargeable consideration' (which includes the transfer of a mortgage) exceeds certain limits, an SDLT liability may arise. This is due within just 14 days.

There are many reasons why people may wish to gift property, and there are reliefs available and possible claims that could be made to help alleviate the tax issues. Seeking advice well in advance will ensure that necessary steps are taken, in the correct order.

An update on Stamp Duty Land Tax

Shamus Chaplin
Tax Technician

01284 752313
shamuschaplin@whitingsllp.co.uk

Stamp Duty Land Tax (SDLT) has over the last few years had many different changes, and I felt that a reminder of the main areas would be useful.

From the mini budget of September 2022, the SDLT rates were increased as follows:

Property, lease premium or transfer value	Rate	Additional Rate (+3%)
Up to £250,000	0%	3%
Between £250,001 & £925,000	5%	8%
Between £925,001 & £1.5mil	10%	13%
The remaining amount above £1.5mil	12%	15%

Whilst more favourable rates and thresholds apply where individuals are purchasing their first home, there are additional charges that need to be considered where additional properties are purchased (as shown in the table above).

The additional rate of SDLT stands at 3% currently and will apply where a residential property is purchased (in whole or in part) for more than £40,000 and the following conditions apply:

- You already own a property (in whole or in part) anywhere in the world with a value that exceeds £40,000.
- Your main residence has not been sold or given away before the purchase of the additional property.
- Where purchasing with other parties the additional rate must be applied to the whole purchase where one individual meets the conditions for the additional rate to apply.

It should be noted that a further 2% charge will be applied where residential property is acquired by non-UK residents from 1 April 2021.

Repayment of SDLT

The rules surrounding additional SDLT charges presents a new problem where an individual acquires a 2nd property before they dispose their 1st. In the first instance this will attract the additional 3% surcharge. However, HMRC allow a grace period of 3 years where if the first property is sold a claim can be made to repay the additional SDLT paid.

Refund claims will not qualify where the following applies:

- If either you or your spouse still own any part of your previous home
- The higher rates still apply to you for any other reason

Whilst there is no requirement for repayment claims to be completed by solicitors or accountants, it is strongly recommended that you seek professional advice, as the criteria needed for successful claims is specific and requires detailed consideration.

Should you require any assistance with the above matters, please do not hesitate to contact us.

Non-Resident Landlord Scheme (NRLS)

Richard Alecock
Associate

01638 712267
richardalecock@whitingsllp.co.uk

Non-resident landlords are people who have UK rental income and whose usual place of abode is outside the UK.

The NRLS taxes the UK rental income of those individuals, companies, trustees and partnerships.

Additionally, NRLS applies to both spouses if they jointly own a UK property and will be treated as separate landlords. Therefore, both spouses would need to apply for NRLS individually.

The letting agent who manages the property of a non-resident landlord is responsible for deducting the tax from the landlord's UK net rental income after allowable expenses and pay this tax to HMRC.

If the landlord does not have a letting agent and receives over £100 a week rent, then a NRLS would still need to be operated.

Letting agents, advisors and tenants who have to use the scheme must account for tax each quarter. This means for the 3-month periods ending on:

- 30 June
- 30 September
- 31 December
- 31 March

However, non-resident landlords can apply to HMRC for approval to receive rental income with no tax deducted.

HMRC will give approval and register the landlord for self-assessment if:

- Their UK tax affairs are up to date
- They have never had any UK income tax obligations
- They do not expect to be liable to UK income tax for the tax year in which the application is made.

If you believe you are or due to become a non-resident landlord and wish our team at Whitings to review your position, please let us know.

Whitings Chartered Accountants LLP

Bury St Edmunds Office
Greenwood House, Skyliner Way,
Bury St. Edmunds, Suffolk. IP32 7GY
Telephone: 01284 752313
bury@whitingsllp.co.uk

Ely Office
George Court, Bartholomew's Walk, Ely,
Cambs. CB7 4JW
Telephone: 01353 662595
ely@whitingsllp.co.uk

Kings Lynn Office
Norfolk House, Hamlin Way, Hardwick
Narrows, Kings Lynn, Norfolk. PE30 4NG
Telephone: 01553 774745
kingslynn@whitingsllp.co.uk

March Office
15B Hostmoor Avenue, March,
Cambs. PE15 0AX
Telephone: 01354 652304
march@whitingsllp.co.uk

Mildenhall Office
Willow House, 46 St. Andrews Street,
Mildenhall, Suffolk. IP28 7HB
Telephone: 01638 712267
mildenhall@whitingsllp.co.uk

Peterborough Office
Eco Innovation Centre, Peters Court, City Rd,
Peterborough, Cambs. PE1 1SA
Telephone: 01733 564082
peterborough@whitingsllp.co.uk

Ramsey Office
108 High Street, Ramsey,
Huntingdon, Cambs. PE26 1BS
Telephone: 01487 812441
ramsey@whitingsllp.co.uk

St Ives Office
Raleigh House,
14C Compass Point Business Park,
Stocks Bridge Way,
St Ives, Cambs. PE27 5JL
Telephone: 01480 468931
stives@whitingsllp.co.uk

St Neots Office
First Floor, Phoenix House,
2 Phoenix Park, Eaton Socon,
St Neots, Cambs. PE19 8EP
Telephone: 01480 470755
stneots@whitingsllp.co.uk

Wisbech Office
12 & 13 The Crescent, Wisbech,
Cambs. PE13 1EH
Telephone: 01945 584113
wisbech@whitingsllp.co.uk