



# TAXline

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FROM APRIL 2018

## AROUND THE WORLD IN TAX

Taking a look at recent  
progress towards a better  
international tax system





#### 064. CAPITAL ALLOWANCES: TRAPS IN TERMINOLOGY

Capital allowances can be particularly complex (as well as especially valuable) in relation to commercial properties. That complexity is often compounded by the use of imprecise terminology.

At the broadest level, the term 'capital allowances' includes (for example) research and development allowances (RDAs) and the now withdrawn business premises renovation allowances (BPRAs), just as it includes plant and machinery allowances (PMAs). So the use of phrases such as 'capital allowances and RDAs' should be avoided.

#### Fixtures

The word 'fixture' is defined for PMA purposes to denote plant or machinery that is so installed or fixed in or to a building (or other land) as to become in law part of that building or land (s173, Capital Allowances Act 2001 (CAA 2001)). As such, fixtures (in their capital allowances sense) are a subset of plant and machinery: all fixtures are plant or machinery, but not all plant is a fixture.

Whereas a set of accounts may have headings such as 'fixtures and fittings' and 'additions to property', we need to reassign the assets in question when it comes to claiming PMAs. Tables and chairs (undoubtedly in the former category in the accounts) are not fixtures, but they are still plant; toilets and fire alarm systems (probably not in 'fixtures and fittings' in the accounts) are fixtures for capital allowances purposes (and are therefore, by definition, plant).

That quite simple difference between the tax and accounting terminology is at the root of many misconceptions about capital allowances.

#### Integral features

Since 2008, the concept of 'integral features' has been a statutory term. By a sleight of statutory wizardry (s33A, CAA 2001), expenditure on such items as general electrics and lighting and heating systems is treated as if the expenditure were on plant or machinery.

All of the items classified as integral features are in practice affixed to the property and are therefore classed as fixtures for capital allowances purposes (even though, once more, they will not be labelled as such in the accounts). So

the legislation requires us to differentiate between 'integral features' (a statutory term) and 'other fixtures' (not a statutory term, but the most accurate way to draw the distinction). Once more, we can therefore say that integral features are a subset of fixtures.

#### Confusion of terminology

There has been a recent tendency in some quarters to use the term 'integral features' in circumstances where the user clearly intends to refer to all fixtures. However, these are not synonymous and the distinction really does matter!

The terms 'embedded features' and 'embedded fixtures' (and, even worse, 'embedded capital allowances') have also become quite widespread, perhaps in a bid to simplify the perceived complexity. These expressions are non-statutory and have no official meaning: do they refer to fixtures in general, to integral features or to something else altogether? The use of these ambiguous terms is unnecessary and unhelpful, and often indicates an underlying lack of clarity about what is really being discussed.

**Contributed by Ray Chidell, Claritax Books, and Jake Iles, Six Forward Capital Allowances**



#### 065. NOTIFYING HMRC WHEN A COMPANY BECOMES ACTIVE

HMRC's *Agent update 64* contains a reminder that companies must notify HMRC within three months of becoming active, which means carrying on any business activity, trading or receiving income. This includes, buying, selling, advertising, renting a property and employing someone.

HMRC has published guidance, *Corporation Tax: trading and non-trading* ([tinyurl.com/TX-CTXT](http://tinyurl.com/TX-CTXT)), to clarify what counts as business activity and starting to do business.

Notifications must give the date the company became active and the date to which the annual accounts will be made up. HMRC will use this information to update your clients' records. HMRC says: "This will ensure the correct notice to file is issued and minimises delays when returns are received. It will also prevent incorrect late filing penalties being issued."

Agents can send the client information online. You can access the tax registration online service from the 'Your HMRC services' pages once logged in to the HMRC online service for agents. Select the 'Register for taxes' link and follow the on-screen instructions. To use this online service you will need your client's 10 digit UTR and Companies House CRN, plus your client's three-digit office number; if you do not know what this is you should use 623.

#### 066. UPDATED GUIDANCE ON CORPORATE INTEREST RESTRICTION

In February, HMRC published updated guidance on the corporate interest restriction (CIR) (see [tinyurl.com/TX-CIR1](http://tinyurl.com/TX-CIR1)). The update is to make the guidance clearer and to reflect the changes being made by the Finance Act 2018 in order to ensure the rules work as intended.

The CIR rules are complex but broadly they restrict UK interest and similar deductions for a group's net interest expense (above a £2m *de minimis*) under one of two rules:

A. a fixed-ratio rule, being the lower of:

- 30% of the UK tax earnings before interest, tax, depreciation and amortization (EBITDA); and