



Capital Allowances

The Commercial Property Standard
Enquiry Form (CPSE)

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Questions 32.1 - 32.10 relate to capital allowances within the property that is being sold.

Following the change in legislation introduced in April 2014, any commercial property transaction taking place after this date, capital allowances have to be:

- Included within the purchase contract
- Having been pooled by the vendor
- A joint election (s198CAA2001) agreed between vendor & purchaser

Otherwise the capital allowances on any qualifying items within that property will be lost for ever.

When looking to buy or sell a commercial property a key document supporting the main purchase contract is the CPSE replies "completed" by the vendor's solicitor, although these questions are often expected to be completed by the vendors capital allowances adviser - (see Q32.10).

Question 32.1 of the CPSE replies requires the vendor to initially provide the details of whether they held the property on capital account as an investor/owner or on revenue account as a developer/property trader.

Developers holding properties as trading stock have no entitlement to capital allowances, so in these circumstances the process for the purchaser is much simpler as they will become the first owner with entitlement to all available capital allowances.

Where the property is held on capital account the vendor is obliged to answer Q32.2 - 32.10 to establish the capital allowances that are being included with the sale of the commercial property.

Unfortunately all too often this element of the contract isn't treated with the gravity it deserves and experience has shown that answers can range from completely ignoring the questions to a simple "No", "N/A" and "unknown".

Clearly this prejudices the purchaser's position and is unacceptable.

Where these unhelpful and inconclusive replies have been further investigated, often the vendors and their solicitors have deliberately been unclear as they fear that including capital allowances within the purchase contract will lead to a balancing charge and an additional tax liability for the vendor.

This is not the case if the questions are answered correctly - only if the capital allowances included within the contract exceed the vendor's unrelieved pool will there be any tax charge for the vendor. This cant happen if the CPSE is completed correctly.

If the unrelieved capital allowances are correctly identified, pooled and a joint election entered into, there will no additional tax liability for the vendor, BUT the purchaser will secure a very valuable tax relief.

Getting the capital allowances wrong on the CPSE will not only result in allowances being lost forever, but can be a very expensive mistake to make as this very issue has resulted in claims against Professional Indemnity insurance, by disgruntled purchasers.

For your information, below are the CPSE questions - do you have the necessary details readily available to answer these questions?

To find out more information visit **elect.tax** or **click here** to book a free, no obligation consultation.



32. CAPITAL ALLOWANCES

NOTE: In this enquiry 32 "plant and machinery fixtures" means plant and machinery fixtures at the Property

32.1 Do you hold the Property on capital account as an investor/ owner-occupier, or on revenue account as a developer/ property trader as part of your trading stock? Please specify which.

[Redacted area]

32.1 Have you claimed capital allowances on plant or machinery fixtures or allocated any expenditure on such fixtures to a capital allowances pool? If so, please answer the supplementary questions in enquiry 32.9 in respect of that expenditure.

[Redacted area]

32.3 If you have not pooled any expenditure on plant or machinery fixtures:

- (a) will you do so if the Buyer asks you to?
- (b) if so, by when?
- (c) if not, why not?

[Redacted area]

32.4 If you bought the Property and cannot pool any expenditure on plant and machinery fixtures:

(a) please provide the name and contact details of everyone who has owned the Property since April 2014;

[Redacted area]

(b) please provide evidence that the most recent previous owner who was entitled to claim allowances pooled any expenditure on plant and machinery fixtures? Please answer the supplementary questions in enquiry 32.9 in respect of that previous owner's expenditure.

[Redacted area]



32.5 Please provide details of any plant and machinery fixtures which were paid for by a tenant, including any contributions made by you towards their cost.

[Redacted area]

32.6 Please provide details of any plant and machinery fixtures which are leased to you by an equipment lessor.

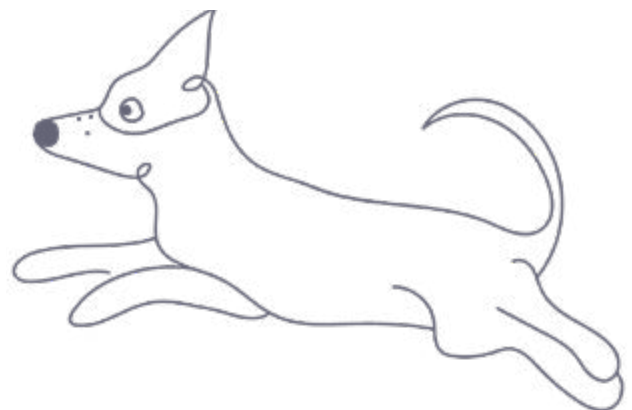
[Redacted area]

32.7 If the transaction is the grant of a new lease at a premium, and you are entitled to do so and the Buyer asks you to, will you enter into a Capital Allowances Act 2001 section 183 election for the Buyer to be treated as the owner of the plant and machinery fixtures for capital allowances purposes?

[Redacted area]

32.8 Please provide details of any expenditure on plant and machinery that you have treated as long-life assets, or any expenditure upon which you have claimed another type of capital allowances (for example, industrial buildings allowances, research and development allowances, business premises renovation allowances and so on).

[Redacted area]



Supplementary enquiries

32.9 For each plant and machinery fixture for which a claim has been made or expenditure has been pooled, please:

- (a) provide a description of that fixture;
- (b) state when that fixture was acquired;
- (c) state whether that fixture was installed by you, or already installed by a previous owner (please specify which);
- (d) state the amount of expenditure pooled in respect of that fixture; and
- (e) (where enquiry 32.2 applies) confirm that you will enter into a Capital Allowances Act 2001 section 198 election in that amount (or other appropriate amount, to be agreed) if asked to do so by the Buyer.

OR

- (f) (where enquiry 32.4 applies) confirm whether the most recent previous owner who was entitled to claim allowances entered into a Capital Allowances Act 2001 section 198 election and, if so, in what amount.

32.10 Please provide the name and contact details of your capital allowances adviser. Please confirm that we may make contact with him/her in order to obtain information about the matters dealt with in this enquiry 32.

