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REDUCING THE COST OF AN OFFICE OR PREMISES MOVE FOR TENANTS

Introduction

During the current recession, large numbers of corporate occupiers have decided to remain in their existing premises despite an expired lease, a current break option on their lease, or a pressing need to upgrade or relocate. The uncertainty associated with the recession, coupled with the significant up-front costs of moving premises conspired to produce a backlog of corporate occupiers that are now looking to move and incur the inevitable costs associated with that move.

There are several options available to a tenant that may offset and reduce the cost of moving premises;

1 - Utilise Capital Allowances more effectively

This form of tax rebate is generally allowable to taxpaying entities with an interest in a commercial property (freehold or leasehold) and who undertake capital expenditure upon that property. The Capital Allowances Act 2001 doesn't define qualifying 'plant and machinery' and as such, the majority of expenditure (typically up to 85%) associated with an office move can potentially qualify for tax relief. This can include items such as mechanical services, furniture, technical and/or IT equipment, carpets, certain partitions and lighting systems. The result can mean savings up to 25% of the total capital cost of the fit out.

The greatest benefit of these allowances is in the first year after expenditure, but significant ongoing savings will continue long after, providing significant incentives to investment. Enhanced Capital Allowances (ECAs), which relate to expenditure upon certain types of energy or water efficient equipment, allow 100% of the tax relief to be realised in the year the expenditure is undertaken. To qualify for 100% relief, the equipment will need to fulfil certain criteria under the ECA scheme. Potentially qualifying installations must, therefore, be considered early in the design and carefully specified to avoid losing valuable tax relief. The rewards offer significant post-tax savings on what is generally an expensive element of a refurbishment or fit out.

Another form of 100% first year tax relief is Business Premises Renovation Allowance (BPRA), a scheme designed to stimulate investment in under-utilised existing commercial buildings. Under the following criteria, large parts of qualifying expenditure may have its multi-year tax relief rolled up and realised in the first year after expenditure:

- Premises must be in an assisted area (more on this below).
- The premises must have been empty for more than 12 months before expenditure is undertaken.
- The premises must have been previously used for a commercial (non-residential) purpose.
- The premises must be converted for use or the intended use for a commercial purpose.

Assisted areas located in the UK are economically and socially deprived areas, including parts of the North West, the North East and the West Midlands. Major city centres covered include;

- Birmingham;
- Liverpool;
- Newcastle;
- Sheffield;
- Glasgow; and
- Belfast (including all of Northern Ireland).

Many corporate occupiers leave the assessment of what is qualifying expenditure to their accountants. Given, however, that the interpretation of Capital Allowances rules to property requires surveying skills, coupled with extensive knowledge of the design specification and function of mechanical and electrical equipment, many accountants will not have the expertise required to ensure valuable tax relief is not overlooked.

2 - Use Carbon Trust assistance

With the increasing focus upon the financial and environmental costs from carbon emissions that emanate from commercial buildings, the Carbon Trust is an important source of financial and strategic guidance. Davis Langdon's Banking Tax and Finance team collaborates closely with the Carbon Trust and through a series of nationwide joint seminars, aims to assist businesses reduce their carbon consumption and consequently to reduce their capital and operating expenditure of property they occupy. The following assistance is available to businesses:

- 0% business loans designed to be paid back with the savings made from efficient energy mechanical and electrical installations over periods of up to four years and on sums up to £500,000 for SMEs.

- Payable tax credits (19% of qualifying expenditure) to companies not currently declaring profits.
- Help and advice over the provision of equipment qualifying for ECAs that also have low energy consumption.
- Premises surveys, to identify 'easy wins' in reducing energy expenditure.
- Carbon foot printing to allow accurate assessment of carbon reduction strategies.
- Online training and support.

Our expertise in Enhanced Capital Allowances can allow a business to make significant savings on expenditure that was otherwise going to be undertaken. This only applies where we are involved early on in the project, to allow the accurate specification of qualifying equipment.

3 - Structure lease incentives correctly

The office leasing markets across the majority of the country are currently in a relatively depressed state. Consequently landlords are keen to provide incentives to would-be occupiers, to take space in their buildings. Depending upon the type of incentive and the specific wording in the lease, it is possible to structure an agreement so that the landlord or tenant obtains the benefit of any Capital Allowances arising from the fitting out works.

Ideally, there are two forms of lease incentive that will allow the occupier to receive an inducement and also benefit fully from any allowances arising on their fit out expenditure:

- A rent free period, generally offered at the start of the lease; or
- A reverse premium payment from the landlord to the tenant.

Where the landlord makes a capital contribution to the tenant *specifically* for items of plant and machinery within the fit out works, this will deny entitlement to allowances on those fixtures by the tenant, but will allow the landlord to claim relief in respect to the amounts incurred. There are structures that can be put in place which will favour the tax or negotiating positions of both parties, but consideration to outcomes must be made very early in the agreement process to achieve the desired result, suiting both parties.

For further advice concerning any of the issues raised in this briefing, please contact one of our key individuals detailed overpage, or alternatively call our helpline on 0800 526262. Information on other property tax related topics can also be found on our website at <http://bankingtaxfinance.davislangdon.com>.