

Plant – Rogate Services Ltd

Farm Buildings as Plant

Much work is carried out by farm professional advisers on proving that farm buildings contain plant which qualifies for AIA. The delivery and installation of that plant, where possible and such costs are clearly identifiable, also qualifies for AIA.

With the AIA increasing to £500,000 in the 2014 Finance Act and this limit being promised until at least 31 December 2015, much work has been carried out on the tax efficiency of what does and, more importantly, what does not qualify as plant. Whilst tax cases such as *Weatherspoons* give a large amount of hope to professional advisers over what can be claimed, the recent *Rogate Services Ltd* served a blow for agricultural building which should, according to many industry commentators, qualify as plant.

A valeting bay is a building

The tribunal found that on general principles in this case that the valeting bay is not plant, concluding that it does not perform a function, unlike the dry dock in *IR Commrs v Barclay, Curle and Co Ltd* (1969) 45 TC 221. In that case, the raising and lowering of ships was deemed to be a function, meaning the building could qualify as plant, and thus capital allowances could be claimed.

It was decided, back in the *Rogate* case, that the valeting bay was a workshop designed to allow glass coat to be applied advantageously; it is like an office or workshop, being a place of work, which does not amount to plant, rather than an asset with which trade is conducted. The FTT also considered whether the valeting bay would be excluded from being plant because it is a building under s21 or a structure under s22 (CAA 2001).

It was decided that if the valeting bay could otherwise be plant, it was nevertheless still excluded from being so because it met the definition of a building as stated in s21. Even if the valeting bay was seen as not meeting the qualification criteria a building, it is considered to be a structure under the criteria of s22 (CAA 2001).

On this basis, the valeting bay was found not to be plant and so did not qualify for any capital allowances. This was deemed a huge disappointment to the farming community, who have tried to liken the situation presented in this case to agricultural buildings.

A building with a purpose but not a function to be plant

The facts of the case of *Rogate Services Ltd v Revenue and Customs* [2014] UKFTT 312 (TC) were that Rogate Services Ltd ran a Renault franchise and, as part of its agreement with Renault, had to have the capability of applying glass coat finish to the cars. Such an operation required the application of one of two products at a temperature of between 60 and 70 degrees. Equipment was used to apply the product, which consisted of hand-held buffing machinery. The taxpayer, Rogate Services Ltd, claimed that the 'valeting bay' in which the finish was applied was plant, as it was a necessary part of the process which enabled the glass coat application to take place. The argument was therefore that it had a function in the trade, that is, the bay was an asset 'with which' the entity traded, and thus qualified for plant and machinery for capital allowances purposes.

Building is not plant

HMRC disallowed the claim by Rogate Services Ltd on the basis that the valeting bay was a building for the purposes of Capital Allowances Act 2001 (CAA 2001), s21 and/or structure for the purposes of s22 and not within any of the exceptions and so could not be expenditure on plant as set out. HMRC defined the structure as an asset 'in which' an entity trades, thus failing the qualify criteria. Rogate appealed to the FTT against the decision made by HMRC.

The FTT denied the taxpayer's claim for capital allowances. Whilst they accepted that the walls had insulation material in them and that the floor was raised to assist in keeping the workspace above the ambient temperature, they did not accept the capital allowance claim. HMRC also accepted that the valeting bay was solely used for the application of glass coat, but asked the client to accept that it could be used for other purposes such as storage if required.

Plant and Buildings – the close line

This case is a timely reminder to the farming community that trying to achieve AIA on buildings is inherently difficult given the current regulations in place. The whole issue of function as plant must be considered very carefully. It could well be that only the plant and machinery contained within the building will qualify for these tax reliefs.

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