

Grain silo is plant

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Good news for farmers.

In *S May and others v HMRC [2019] UKFTT 32*, the whole cost of a new grain facility (silo) was accepted as plant as opposed to a storage barn by the First-tier Tribunal (FTT). HMRC's *Capital Allowances Manual* states: 'Treat a grain silo as plant where, together with its attendant machinery, it performs a function in distributing the grain so that acts as a transit silo rather than a warehouse' (CA22050).

Mr May is an arable farmer, growing cereal crops. He built a silo to dry his grain and claimed plant and machinery allowances (PMAs) for the whole cost of the silo. HMRC accepted that the ventilation equipment in Mr May's grain silo qualified for PMAs, but such apparatus amounted to only approximately one-fifth of the total cost of the silo.

The ventilation equipment contained within the silo dried the grain and included an air inlet vent on one side of the building with an extractor fan opposite to draw air across. When the outside air was drier than the grain, a central control switched on the pedestal blowers, and the drawn-up air removed moisture from the grain as part of the drying process.

HMRC disputed the silo's active function in the business and took the view that it should be treated as a barn or shed. Mr May argued that all the components including the structure were integral to the function and such a view was accepted by the tribunal.

In arriving at its position, the FTT considered two points:

- whether this facility is a 'silo provided for temporary storage' within the meaning of list C in CAA 2001 s 23; and
- whether this facility is 'plant or machinery' within the meaning of CAA 2001 s 11(4)(a).

The tribunal was of the view that Mr May's structure constituted business apparatus on which full capital allowances can be claimed. The current legislation states that expenditure on a 'building' (CAA 2001 s 21) or a 'structure' (CAA 2001 s 22) cannot qualify for PMAs.

The FTT not only found that the drying process required moveable items within Mr May's silo facility, but also the structure of the building was integral to the success of the process. Mr May's silo was specifically designed, built, and used to store, condition, and maintain grain through a continuing process of aeration. The tribunal noted that the cost of the silo was much more than a general-purpose agricultural building, and its features made it unsuitable for other agricultural uses. The tribunal was satisfied that it was a silo within the meaning of list C item 28.

The tribunal considered that the grain could not be stored in the silo as it could not be kept for much longer than nine or ten months without deteriorating and it was only held until it could be sold. As Mr May's business was growing and selling grain and not storing it, then Mr May holding his stock was just part of the activity of selling the grain.

The tribunal concluded that the silo facility dried and conditioned grain; and that all its components, including the structure, were integral to this operation and constituted business apparatus.

Therefore, the tribunal considered that the cost of the silo facility was eligible for plant capital allowances in full even though it was a 'building', provided it was possible to prove that the structure of the building was integral to its successful performance – which it was, and so Mr May won his appeal.

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