



HM Revenue
& Customs

Capital allowances for structures and buildings

Technical Note
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This technical note outlines a new capital allowance for structures and buildings from 29 October 2018. It provides businesses with information before draft legislation is published in Finance Bill 2018-19.

Introduction

1. The Chancellor announced at Budget 2018 that the government will introduce a new Structures and Buildings Allowance (SBA) for new non-residential structures and buildings. Relief will be provided on eligible construction costs incurred on or after 29 October 2018, at an annual rate of two percent on a straight-line basis.
2. This will improve the UK's international competitiveness. The UK currently has the lowest Corporation Tax rate in the G20 – which is set to decrease further to 17% in 2020 – as well as generous tax relief for research and development to support innovation. The SBA will further reduce the costs of doing business in the UK.
3. This SBA directly addresses a gap in the current capital allowances system, where no relief has been available for most structures and buildings, although capital allowances are available for plant and machinery that forms integral features of buildings, such as air conditioning. It is a longstanding request from business representative groups that capital investment to construct structures and buildings should be relieved, as is already the case for other types of investment. The Office of Tax Simplification recommended widening the current scope of capital allowances in their report earlier this year.¹ The government recognises the issue, and is responding. The SBA will ensure that expenditure on new commercial structures and buildings will be generally relievable over time through the tax system.
4. The introduction of the SBA represents a long-term commitment to improving the competitiveness of the UK as a destination for investment. Businesses factor future capital allowances into their investment decisions, and the SBA will improve the business case for new investments in structures and buildings.
5. Aspects of the design of the SBA that the government invites views on are underlined in this note and summarised in chapter 10. If you have any questions about this technical note, please contact our mailbox:
contact.capitalallowances@hmrc.gsi.gov.uk

Chapter 1 Aim of the relief

6. The aim of the SBA is to relieve the costs of physically constructing new structures and buildings. This will encourage investment in the construction of new structures and buildings that are intended for commercial use, the necessary works to bring them into existence and the improvement of existing structures and buildings, including the cost of converting existing premises for use in a qualifying activity. These assets are already depreciated in many businesses' accounts, but until now without tax relief being given on all the expenditure.
7. The SBA is intended to stimulate investment in structures and buildings that are intended for commercial activity. Neither land nor dwellings will be eligible for relief. Where there is mixed use - for example, between commercial and residential units in a

¹ ['Accounting depreciation or capital allowances? Simplifying tax reliefs for tangible fixed assets', June 2018.](#)

development - relief will be reduced by apportionment. No relief will be provided for work spaces within domestic settings, such as home-offices.

8. Relief will be limited to the original cost of construction or renovation, relieved across a fixed 50-year period, regardless of ownership changes.

Chapter 2 Outline of the relief

9. Businesses that incur qualifying capital expenditure on structures or buildings used for qualifying activities will be able to claim the SBA over a 50 year period to encourage investment in the construction of new structures and buildings and the improvement of existing ones. The SBA will be allowed as a deduction from profits at an annual rate of two percent. The relief will be available to businesses that chargeable to income tax and companies chargeable to corporation tax.
10. The two percent writing down allowance will be at a flat rate, calculated on the amount of original construction expenditure. There will not be a system of balancing charges or balancing allowances on a subsequent disposal of the asset. Instead, a purchaser will continue to claim the annual allowance of two percent of the original cost. This is intended to ensure that the cost of construction and renovation will be relieved over an average life of buildings. The amount eligible for relief will not be increased where a structure or building is purchased and where it has appreciated in value as this does not represent the cost of construction.
11. Relief will not be available for structures or buildings where a contract for the physical construction works is entered into before 29 October 2018 (see chapter 9). For speculative building and those structures or buildings constructed 'in house', relief will not be available where the construction activity began before 29 October 2018.
12. Anti-avoidance rules will apply to prevent manipulation of these rules.

Chapter 3 Key features of the SBA

13. The chapters that follow provide more detail on these key features, principally that:
 - a) relief will be given at a flat rate of two percent over a 50-year period
 - b) relief will be available for new commercial structures and buildings, including costs for new conversions or renovations
 - c) relief is available for UK and overseas structures and buildings, where the business is within the charge to UK tax
 - d) relief will be limited to the costs of physically constructing the structure or building, including costs of demolition or land alterations necessary for construction, and direct costs required to bring the asset into existence
 - e) relief is available for eligible expenditure incurred where all the contracts for the physical construction works were entered into on or after 29 October 2018
 - f) claims can only be made from when a structure or building first comes into use

- g) land costs or rights over land will not be eligible for relief, nor will the costs of obtaining planning permission
- h) the claimant must have an interest in the land on which the structure or building is constructed
- i) dwelling houses will not qualify, nor any part of a building used as a dwelling where the remainder of the building is commercial
- j) sale of the asset will not result in a balancing adjustment - instead, the purchaser takes over the remainder of the allowances written down over the remaining part of the 50-year period
- k) expenditure on integral features and fittings of a structure or building that are currently allowable as expenditure on plant and machinery, will continue to qualify for writing down allowances for plant and machinery including the Annual Investment Allowance (AIA) up to its annual limit
- l) SBA expenditure will not qualify for the AIA
- m) where a structure or building is renovated or converted so that it becomes a qualifying asset, the expenditure will qualify for a separate two percent relief over the next 50 years.

Chapter 4 Expenditure that will qualify for SBA or not

Qualifying expenditure

14. SBA will be available for capital expenditure on structures and buildings brought into use for the following qualifying activities:
 - a) a trade, including a ring-fence trade in the oil and gas sector
 - b) a profession or vocation
 - c) a UK or overseas property business that is an "ordinary" business for the purposes of the Capital Allowances Act 2001
 - d) a concern listed in section 12(4) of the Income Tax (Trading and Other Income) Act 2005 or section 39(4) of the Corporation Tax Act 2009 (mines, transport undertakings etc.)
 - e) managing the investments of a company with investment business, to the extent that any profits or gains from the activity are chargeable to tax.
15. Structures and buildings include offices, retail and wholesale premises, walls, bridges, tunnels, factories and warehouses. Capital expenditure on renovations or conversions of existing commercial structures or buildings will also qualify. The costs of construction will include only the net direct costs related to physically constructing the asset, after any discounts, refunds or other adjustments. Capital expenditure does not include costs that can be allowed as a deduction in calculating the profits of the business.

Dwellings

16. Expenditure on residential property and other buildings that function as dwellings will not qualify for the SBA.
17. Dwellings are buildings primarily intended or used for long-term residence. This would include university or school accommodation, military accommodation and prisons. The

definition of dwelling for the purpose of this relief will be consulted upon before being set out in legislation. Premises used as hotels and care homes will qualify for the SBA.

18. There will be no relief for expenditure on workplaces that are an integral part of a dwelling, such as home-offices.
19. The government welcomes views on the appropriate definition of a dwelling for SBA purposes.

Land

20. Expenditure on land or acquiring rights over land will not qualify for relief. This includes any legal costs and stamp duty, or any costs attributable to the obtaining of planning permissions, including the costs of public inquiries.
21. Where the business itself develops the structure or building, rather than acquires it, the cost of any land preparation necessary for construction will qualify for relief.
22. Where a structure or building is acquired from a developer, then an apportionment of the purchase cost from the developer will be required to separate the amount of the cost that is attributable to the land. The eligible costs will be the overall acquisition cost less the value of the land acquired.

Integral features and fixtures in structures and buildings

23. Integral features and fixtures that are functional assets within a structure or building, such as its lighting or heating system, will continue to qualify for relief as plant or machinery, as they do now, including the AIA within the annual limit, and will not be taken into account for the SBA.

Other reliefs

24. Allowances can be claimed once the structure or building comes into qualifying use. As with any capital allowance, qualifying expenditure can only be claimed once where separate provisions of the Capital Allowances Act 2001 might apply to the same expenditure. Therefore, where parts of a structure or building qualify for allowances as plant and machinery such expenditure will not also be allowed under the SBA. Capital allowances are not due on any costs deductible in calculating profits chargeable to tax, such as land remediation relief.

Overseas Buildings

25. Relief for expenditure on an overseas structure or building will be available on the same basis as for a UK structure or building. The structure or building will qualify for SBA where it is in use by the person claiming the relief for a qualifying activity and to the extent the profits of the activity are chargeable to tax in the UK.

Apportionment of qualifying expenditure

26. Where a structure or building is divided into separate parts, some of which qualify, an appropriate proportion of expenditure will qualify for relief. SBA will not be due where ten percent or less of the costs would meet the conditions for relief.

27. Shared areas which cover both use as a dwelling and commercial use will not qualify. This differs from the treatment of communal areas for capital allowances for plant or machinery where assets used in such areas can qualify.

Renovations and subsequent capital works

28. Capital expenditure undertaken on a structure or building after the date on which it enters into use will qualify for the SBA, but as a separate allowance. The allowance on such expenditure will also be two percent of the total, and can be claimed over the next 50 years, even if that period goes beyond the writing down period of the original construction costs on that structure or building. This relief will not feature a single “pool” of expenditure on an asset that is added to in subsequent periods.

Changes in the use of the structure or building

29. Where a structure or building that was originally used for a qualifying activity undergoes a change in use and becomes a dwelling (see above) then SBAs will no longer be available for the period for which the structure or building is in use as a dwelling. If a qualifying activity resumes in the building after a period of time then allowances will recommence but no relief will be given for the period of non-qualifying use.
30. Apportionment will be needed where there is a change in use part way through a period.

Chapter 5 Timing and amount of relief available

31. Relief for the SBA will be available from when the structure or building is brought into use for the first time for a qualifying activity.
32. Where an asset is being constructed for a qualifying activity that has not yet commenced, then expenditure will not qualify if incurred more than seven years before that qualifying activity commences.
33. The annual amount of relief deductible will be a flat rate writing down allowance of two percent of the qualifying costs. Costs qualifying for relief will be calculated separately for each structure or building. Where additional capital expenditure has been incurred on that structure or building after it enters use, relief on that additional expenditure will be calculated separately.
34. Where a company’s accounting period is less than a year, or similarly for those within the charge to income tax, the allowance will be reduced on a proportionate basis. Similarly, the allowance will be reduced if the asset is in use for a qualifying activity for only part of a tax year for income tax or a company accounting period.
35. If relief is not claimed, it will not be able to be carried forward to a later period and will be lost. This will simplify the claim process by ensuring that a consistent amount of relief is available each year over the whole of the 50-year qualifying period for each qualifying spend.

Disuse or change of use of a qualifying structure or building

36. Where an asset ceases to be used for an activity that qualifies for relief, then relief can be claimed for a further period of up to two years. After this point, no further relief can be claimed until such time as the structure or building is once again used for a qualifying activity.
37. Where a structure or building is damaged and can no longer be used for qualifying activity, allowances will remain available for a period of two years, allowing reconstruction work to take place. If the reconstruction takes longer allowances will not be available after that two-year period until the reconstructed structure or building comes back into qualifying use. This two-year period may be extended up to five years where the structure or building substantially no longer exists following extensive damage. Any new expenditure on reconstruction will qualify for relief in its own right, and will qualify for relief at the rate of two percent annually over the following 50 years. The total eligible cost will be net of any costs covered by compensation or insurance etc.
38. Where a structure or building is demolished, and the owner decides not to replace that building, it can continue to claim the SBA on that asset, for the remaining term of the previous structure or building.

Illustrative example

Company A builds a new commercial building on which the construction costs were £50m. 10 years later, there is a fire, which causes heavy damage. The building is partially insured, and insurance payments will cover £10m. The cost of rebuilding (including costs of partial demolition) are estimated at £12m.

At the time of the fire, Company A is claiming SBA at a rate of £1m per year. For the period after the fire, Company A continues to claim SBA while it decides on a replacement. If it rebuilds, it will continue to claim SBA for the remaining 40 years of the original building, while the net costs of rebuilding (£2m, taking into account insurance receipts) may be claimed as a new investment over 50 years. If it does not rebuild, it may continue to receive a “shadow SBA” on the original construction costs.

Qualifying expenditure on structures or buildings by the Crown or person not chargeable to tax

39. Where construction costs are incurred by the Crown or other person not in the charge to UK tax, or where income from the qualifying activity is not within the charge to UK tax notional allowances at an annual rate of two percent will be calculated and deducted from the qualifying expenditure. Any person subsequently acquiring the structure or building will be entitled to the remainder of qualifying expenditure reduced by the notional allowances.

Acquiring a ready built asset

40. Where a business acquires an unused asset that has already been constructed by a developer the qualifying expenditure will be the price paid by the business less any amount relating to land. A valuation will be required to separate the amount of the land cost from the cost of the structure or building.

Disposals and acquisitions of assets

41. Where an asset that has qualified for relief is sold, the new owner will be able to claim the annual relief for the remaining part of the 50-year period if it is used for a qualifying activity and continues to be used for a qualifying activity. Relief for the period in which the disposal takes place will be apportioned.
42. There will be no balancing adjustments on disposal. However, for chargeable gains purposes a person's allowable cost of the asset will be reduced by the total amount of relief that they have claimed.
43. Where the SBAs are transferred to a new owner, the amount of the original expenditure on construction may need to be verified if SBA is not already being claimed. The buyer will then be entitled to claim the remainder of relief on the basis of costs they have not themselves incurred. To ensure that relief is given on an agreed amount, there will be a need to retain evidence of actual costs incurred where a building or structure has qualified for relief and provide this to a purchaser.

Illustrative example

Company A buys a new office building from a developer at a total cost of £15m of which £5m relates to the land leaving a construction cost of £10m. It brings it into use for the purposes of its trade at the beginning of its accounting period ending on 31 December 2021. The annual writing down allowance will be

£10m x 2% = £200,000 SBA each year, for 50 years.

On 31 December 2030 the building is sold to Company B for use in its trade. The price paid was £12m of which £7m relates to the land.

Company B will be entitled to claim SBA on the original construction costs of £10m, less the portion already received by company A.

Company A will have received SBA for 10 years totalling £2m. The allowable cost when calculating its capital loss on the land and building (which are a single asset for capital gains purposes) is reduced by that amount. The capital loss of £3m (£15m less £12m) is therefore reduced to £1m.

In 2032 Company B decides that the building needs improvement and it becomes unoccupied for two years during a £4m renovation project. The company can

continue to claim the original £200,000 allowance because this period it is less than two years (or up to five years where the building substantially no longer exists following extensive damage). When the building is brought back into use then a separate SBA of £4m x 2% = £80,000 can also be claimed from 2032 onwards.

Chapter 7 Treatment for leasing transactions

44. Ordinarily, where an asset is the subject of a lease, both the lessor and the lessee will be eligible to claim SBAs in respect of any qualifying expenditure that they themselves incur on construction works as long as each is using the asset for a qualifying activity, usually a property investment business for the lessor. The SBAs will be linked to the person's particular interest in the structure or building.
45. Where a person is entitled to SBAs in respect of an asset which they lease, and the lease expires or terminates before the end of the 50 years, then the SBAs will be able to be transferred to the person holding the retained interest, as long as they hold their interest as part of a qualifying activity.
46. There will be certain cases where the granting of a lease is substantially no different from a purchase of the interest in land. As a result, the entitlement to claim SBAs available to the lessor will need to be reduced and allocated instead to the lessee. There will be straightforward situations as illustrated by these examples:
 - a) a lease at full market rent with no lease premium would mean that the lessor would be able to claim SBA against their property business
 - b) the grant of a very long lease (say 999 years) at a token ("peppercorn") rent for a large capital premium is akin to a sale and the lessee rather than the lessor would be entitled to claim SBA if the conditions are met.
47. However, leasing arrangements can be more complex and the government proposes a method to determine how the allowance of the lessor should be reduced and allocated to the lessee that is based on the current rules that businesses need to apply when calculating their tax liability on the grant of a lease.
48. The tax rules treat part of the premium received on the grant of a lease as income and the amount that is treated as being disposal proceeds is reduced accordingly. This means that for shorter leases a very large proportion of a premium is treated as income. The capital gains rules then treat the grant of a lease as a part disposal and a proportionate part of the cost of the asset is deducted from the proceeds to calculate the chargeable gain.
49. The government's view is that to reflect situations where the grant of a lease is akin to the sale of the property interest the following rules will apply:
 - a) where the amount paid as a capital sum for a lease (including the element of a lease under 50 years allocated to capital) is 75% or more of the sum of that capital amount and the value of the retained interest in the property, then the lessee will become entitled to the full amount of the SBA attributable to the asset being leased

- b) where only part of the property is subject to a lease the test will apply only to that part and allowances will transfer if the capital sum is 75% or more of the value of that part
- c) where this is less than 75% all the allowances will stay with the lessor
- d) where the term of the lease is not more than 35 years, all the allowances will stay with the lessor
- e) the value of the interest in the property retained by the lessor will include the value of the right to receive the rent due under the lease.

Illustrative example

Company X owns a building on which it claims the SBA, the building including land cost £25 million. It then grants a lease over the entire building to Company Y which will use it in its trade. The term of the lease is 40 years and Company X will receive a premium of £50 million but only a token rent is payable. Company X's retained interest in the property is agreed to be £10 million.

The income tax rules mean that for a 40-year lease 22% of the premium is chargeable to income tax leaving £39 million as capital gains proceeds.

The proportion of the capital gains base cost that can be deducted is calculated as disposal proceeds using the formula: disposal proceeds / (disposal proceeds + value of asset retained). This is 39 / (39 + 10), approximately 80%.

Because the lease is for over 35 years and more than 75% of the capital gains base cost is applied in calculating the gain, this means that Company X is no longer entitled to claim SBA. Company Y will be able to claim instead.

Chapter 8 Anti-avoidance provisions

- 50. The relief is designed to act as an incentive for businesses in respect of qualifying capital expenditure. To ensure that relief can be obtained only for genuine business costs on actual construction works, anti-avoidance rules will deny or restrict the relief in appropriate circumstances. Rules will be included in the legislation to prevent manipulation of the relief for a tax advantage, including for commencement purposes and across the relief more widely.
- 51. The relief is available on construction works that commence on or after 29 October 2018, including direct costs required to bring the asset into existence. In the past, the government has seen arrangements that seek to exploit the availability of capital allowances and other incentives. In particular, there will be rules to prevent leases being used to give more than one party separate interests in the same structure or building.
- 52. There will also be a rule to disallow relief through attempts to manipulate contracts, such as by revising or revoking agreed contracts for construction works entered into before

29 October 2018, or other arrangements with a main purpose of obtaining relief for construction works that commenced before that date. Relief will be unavailable wherever contracts were in place, or preparatory or construction work commenced, before 29 October 2018. Demolition, site clearance or similar 'enabling' works will not in themselves constitute a means for eligibility of a project.

Chapter 9 Commencement conditions

53. The relief will apply to newly constructed commercial structures and buildings where all the contracts (not letters of intent) for the physical construction works of the structure or building (including any contract for preparatory works) are made in writing, and are entered into (signed and dated by the bound parties) on or after 29 October 2018. Similar rules will also apply to all the contracts for construction works, including any contracts for physical preparatory works in whole or in part, involving renovation or conversion of existing structures and buildings for a qualifying use.
54. Where construction is undertaken by an internal workforce, for example by contract or on payroll, the relief will apply where that physical work commenced on or after 29 October 2018.
55. Where a new structure or building is bought from a developer, the relief will be available where the written contracts held by the developer for the physical construction works of the structure or building are entered into on or after 29 October 2018.
56. In most cases, "construction works" are likely to include any preparatory work for the land on which the structure or building is constructed. Where such a written contract for preparatory work has been entered into before 29 October 2018, the structure or building will not qualify for SBA. This will be the case notwithstanding that the remainder of the constructions works to complete the structure or building are effected under separate contracts entered into only on or after 29 October 2018. Any contract in place for preparatory or construction work before 29 October 2018, or effectively replaced after this date by termination or withdrawal, will invalidate the SBA being available for such claims. This includes where physical preparatory or construction work ceases and recommences, or where such physical works are undone and then subsequently redone.
57. However, in some circumstances the preparatory work will be unconnected to the eventual structure or building. For example, where a site has been cleared of an existing building but no new structure or building is planned on the site at that time, the preparatory works are unconnected to any future contract entered into to construct a new structure or building. If the first contract for construction of the eventual structure or building is entered into on or after 29 October 2018, the structure or building may qualify for SBA. Demolition, site clearance or similar 'enabling' works will not in themselves constitute a means for eligibility of a project unless linked explicitly to the actual structure or building intended for relief, including where this occurs through phased construction.
58. Where framework or call-off contract arrangements are agreed, the test will be whether the written contract requires particular works to be undertaken within the period of the framework, that relate to the construction of a specific building. In practice, this means

that any 'master' contract, to which other contracts operate subserviently, must refer to a specific structure or building not merely a construction project or an overall scheme.

59. Anti-avoidance rules will apply to prevent any manipulation of these commencement rules. This includes, where existing contracts are revised, or revoked where new contracts are entered into, with a main purpose of accessing the allowances. Rules will also exclude the use of contractual options where these do not form obligations to undertake construction, but instead rely upon timing for proceeding with that activity.
60. Assets qualifying for relief will not be entitled to the AIA, which is intended for qualifying plant and machinery costs up to the annual limit.

Scottish Law

61. The government will ensure these proposals take account of Scottish law. The proposals are not intended to affect devolved taxes in Scotland, as this relief is a reserved matter under schedule 5, paragraph A1 of the Scotland Act 1998. As such, no Legislative Consent Memorandum is required for the enabling power. However, draft regulations will seek to take account of where concepts differ under Scottish law.

Chapter 10 Next steps

62. The Government will include powers to introduce the SBA in Finance Bill 2018-2019 and thereafter issue a technical consultation on draft secondary legislation. The statutory instrument for the SBA will be made after Royal Assent of Finance Bill 2018-2019. The government has decided to legislate in this manner to provide taxpayers with certainty that the SBA will come into force as soon as possible, but we still intend to consult on the details of how it will be applied. The government will publish a draft of the proposed secondary legislation on the SBA, and will consult on it over the winter, ahead of this being laid before Parliament after Royal Assent is granted to the Finance Bill.
63. The government welcomes views on the following aspects of the SBA:
 1. To ensure the necessary exclusion of residential use, are there specific types of buildings or activities for which the draft legislation should provide?
 2. It has been necessary to reflect situations where the grant of a lease is akin to a sale of a property interest. Is the proposed boundary of 35 years for the transfer of the SBA from a lessor to a lessee appropriate?
 3. Are there specific issues regarding overseas property that require specific provision in the draft legislation?
 4. The government has proposed a period of disuse during which the structure or buildings retains its eligibility for relief – up to two years ordinarily, or up to five years where it substantially no longer exists following extensive damage. Are there any significant practical problems would prevent the proposed policy from working?

64. There are some features of the regime where consultation will be more productive through meetings. HMRC and HMT will set up these with interested parties. Any representations should be sent to: contact.capitalallowances@hmrc.gsi.gov.uk by 31 January 2019.