Background

The Structures and Buildings Allowance (SBA) is a new tax relief that extends the capital allowances regime to the construction and conversion costs of non-residential buildings and structures. Relief was initially available at a flat rate of 2% for 50 years. Finance Act 2020 increased the rate to 3% with effect from 1 April 2020. The time it takes to relieve qualifying expenditure will therefore be reduced from 50 years to 33 and four months. SBA can be claimed on both UK and foreign properties, where the business is within the charge to UK tax.

Though the SBA is a welcome opportunity for tax relief, there are complex rules governing how it interacts with other capital allowances provisions and chargeable gains. Businesses need to ensure they carefully analyse and segregate costs, and adhere to strict administrative requirements to be eligible for relief.

Non-residential buildings and structures

The SBA is only available where the first use of a building or structure is for non-residential purposes. This could, for example, apply to offices, barns and factories. The exclusion of residential properties does not precisely mirror the residential exclusions for plant and machinery allowances, so it is possible for a property to qualify for plant and machinery allowances, but not for the SBAs.

In a mixed use development, costs can be apportioned between residential and non-residential purposes, and SBAs claimed on the non-residential element. The rules do not allow for an estimation of costs; only actual costs can be relieved.

Construction and conversion

The SBA can be claimed on the construction costs of new structures and buildings where the contract for construction was entered into on or after 29 October 2018. Complex rules apply where construction planning and activity straddles this date. Relief cannot be claimed on the cost of acquiring the land and associated fees, or on land reclamation, remediation or landscaping.

The costs of conversion and renovation, and the costs of repairs incidental to those activities can also qualify for the SBA. These costs are treated as if they are construction costs; a new 50 year period commences in the same way as if expenditure was incurred on that part of the building for the first time. Where a business converts or renovates part of a building on which the SBA has previously been claimed in respect of earlier construction costs, it will need to maintain separate records and calculations.

Sale, purchase, and demolition

When a business sells an asset on which the SBA has been claimed, the right to claim the remaining SBAs over the remainder of the 50 year period will generally transfer to the new owner at tax written down value. Entitlement to SBAs will cease if the building or structure is demolished.

There is no balancing adjustment. The SBAs already claimed will instead be factored into the calculation of chargeable gains on the sale to prevent relieving the same expenditure twice. This effectively claws back a SBAs claimed prior to sale or demolition. In certain circumstances, therefore, claiming the SBA can provide an acceleration of tax relief which would otherwise be claimed on disposal.

The SBAs will, in most cases, be restricted to the actual construction costs incurred. It will be necessary to obtain this information from the developer for SBAs to be available on the acquisition of a non-residential building. This may be problematic where developers consider this information to be commercially confidential or where the allowance statement has not been prepared or retained.

The allowance statement

A new administrative requirement has been introduced with the SBA, requiring claimants to keep a specific record of the actual costs being claimed. This written statement must contain information on the construction contracts, amount of expenditure and the use of the building. Failing to prepare a statement, or obtain a statement from the previous owner of the property can prevent the business from being eligible for relief.

Interaction with other reliefs and taxes

Businesses must be very careful where a building or structure qualifies for both the SBA and other capital allowances. Generally, other capital allowances take precedence over the SBA, such as Research and Development Allowances and Land Remediation Relief. A detailed cost segregation analysis is likely to be needed to ensure the different elements of a construction or renovation project are relieved under the correct provisions and the maximum amount of relief is claimed. Property qualifying for the SBA will not usually be eligible for the Annual Investment Allowance.
Leases

It is possible for a tenant to claim SBAs in certain circumstances. This will depend on the length of the lease and the amount of the lease premium (if one has been paid) in relation to the market value of the retained interest in the property. It is important to consider the availability of the SBA and which party is entitled to claim it when planning construction or conversion works on let property.

Other points to note

There are complex rules regarding co ownership, additional VAT liabilities and rebates. These areas require specialist advice to maximise a business’s relief claim.

How can Smith & Williamson help?

The SBA can be valuable relief for businesses, provided that the strict rules are carefully navigated. Taking tax advice prior to entering into a construction contract will give a business the best chance of making full use of this relief. Smith & Williamson can provide an analysis of costs and eligibility to ensure your business receives the maximum relief for construction and conversion costs.