

Capital Allowances – Property in Joint Names

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Note: This manual is currently subject to review and may not reflect up-to-date position.



Introduction

This manual deals with the situation where property is acquired in joint names by spouses¹ or by civil partners but the expenditure on purchase is incurred by one spouse or civil partner. This is frequently done to facilitate succession rights. Where the property qualifies for capital allowances, the question frequently arises as to the amount of the allowance to be given to each spouse or partner.

General position regarding jointly owned property

Where property is jointly owned, capital allowances are granted on the basis that each individual has incurred an equal amount of the expenditure on the construction, purchase, etc. If an individual's income for a year of assessment is not sufficient to absorb the capital allowances for that year the excess capital allowances are carried forward to the next year.

Joint Assessment

Where property is purchased in joint names by a married couple or civil partners who are jointly assessed, Revenue is prepared to grant relief, where claimed, to the spouse or civil partner who incurred the expenditure on the construction, purchase, etc., that is to the spouse or civil partner who provided the funds.

Where the purchase of the property is funded partly by borrowings, the borrowings will generally be in joint names. Revenue is prepared to treat this part of the expenditure as having been incurred by the spouse or civil partner who makes the repayments.

This treatment is available where the property is purchased in joint names by a married couple or civil partners who are jointly assessed under Part 44 or Part 44A of the Taxes Consolidation Act 1997. This includes cases where they have opted for separate assessment within joint assessment.

To claim this treatment, the irrevocable written agreement of both spouses or civil partners for this treatment must be provided to Revenue, together with an irrevocable undertaking from the spouse or civil partner to whom the relief is to be given to accept any balancing charge which may arise in relation to the expenditure.

The practice does not apply where the main purpose or one of the main purposes of the scheme or arrangement is the avoidance of tax.

¹ This information was originally published in Tax Briefing 37.