



AAT Webinar

- Hello and welcome to this CPD webinar on Capital Revenue Divide
- We are due to start at 19:00. You should not have any sound at this stage. We will be doing a sound check at 18:50.
- If you have any questions during the webinar please use the chat panel on the right hand side and direct your questions to 'all panellists'.
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Capital Revenue Divide

AAT Webinar
4 June 2015
Derek Allen

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The logo for the Association of Accountants and Tax Technicians (AAT), consisting of the lowercase letters 'aat' in a green, sans-serif font, with a horizontal line through the top of the 't'.



Coverage

- Why it matters
- Reasonable Care in a difficult area
- Materiality
- Legal position 30 April 2015
- Questions and answers
- Introduction chapter 1
- Receipts Chapter 2
- Expenditure Chapter 3
- Miscellaneous points and thoughts chapter 4
- Notes, slides and Q&A sent at end



Reasonable Care

- Mistakes at the Capital/ Revenue divide are a risk area
- Never negligence if wrong but tenable view taken
- VERY IMPORTANT! If it can be shown that the taxpayer took reasonable care then there is no penalty due.
- Large items deserve more care (and expense?)
- AIA currently £500,000 but after 01/01/2016 £25,000
- IMPORTANT that there is a clear 'audit' trail
- Leave big FOOTPRINTS!!!
- Disclosure and transparency after Veltema 2004
- Discovery – now 4 years

Business Profits

- Full amount of the profits
- UK GAAP s25 ITTOIA 2005 & s46 CTA 2009
- No deduction... capital ss33 &53
- Individual differential 10% and 62%
- Viscount Cave:
- ‘... when an expenditure is made, not only once and for all, but with a view to bringing into existence an asset on an advantage for the enduring benefit of the trade, I think that there is very good reason (in the absence of special circumstances leading to an opposite conclusion) for treating such expenditure as properly attributable not to revenue but to capital’.
- Abortive (see 3.7.2)



Receipts(1)

- Sale of trading stock or services revenue
- Assets? Watch balancing charge ! Plan
- Fixed Framework – Fleming, Barr Crombie, Lookers Ltd, Van den Berghs
- Normal incidence – Kelsall Parsons, Short Bros, Sunderland Shipbuilding,
- Glenboig Union Fireclay – measure not relevant (page 5 of notes)



Receipts (2)

- Burmah Steamship company
- London and Thames Haven Oil Wharves
- Countrywide Estate agents (£25 million)
- McLaren v Needham
- Evans v Wheatley
- Planning to use – sell canopy
- Brewers loans
- Mertrux Ltd v R&C [2011] UKFTT 398
- Philip Manduca v R & C [2013] UKFTT 234



Any Questions?



Expenditure (1)

- Toolkit guidance
- David Howell - Tomlin agreement – discovery
- Parnalls – outgoing partner – annuity commutation
- Anglo Persian (£300K)& Vodafone (£20m)
- Croydon Hotels
- Wimpey Waste management recurrence still capital

Expenditure (2)

- Leases – capital
- Richard Mills, Union Cold Storage, Stavely Coal and Iron (page 14 of notes)
- A repair is usually allowable, Odeon Theatres but Law Shipping is capital cost of acquiring
- Doctrine of entirety – chimneys
 - Hopegar Properties Ltd v Revenue & Customs [2013] UKFTT 331
- Modern methods – Robins Bros
 - Cairnsmill Caravan Park v Revenue & Customs [2013] UKFTT 164



Expenditure - recent developments

- G Pratt & Sons v R&C [2011] UKFTT 416 – repair of farm driveway (289 yards)
- Wills v R&C 2010 UKFTT 174 repair of outbuilding part of rented property
- Legal and Professional fees Market Southwest (Holdings) Ltd v Revenue & Customs (2010) UK FTT 121
- Fees to obtain a contract (abortive) see 3.7.2



Thank you for listening

Any Questions?



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