D6 Dikes, sea walls, weirs, drainage ditches

All of these items are included in list B at s. 22. As such, these items are all excluded from the definition of plant and machinery and no allowances are due.

HMRC guidance confirms that plant and machinery allowances will not be given "on the provision, construction or acquisition" of such assets.

The meaning of "weir" was considered in the *SSE Generation* case, in which the following comments were made (at paragraph 48):

> "The meaning given for 'weir' in the Oxford English Dictionary is 'a barrier or dam to restrain water, esp. one placed across a river or canal in order to raise or divert the water for driving a mill-wheel; also, the body of water retained by this means, a mill-dam; now gen., a dam, of which there are various forms, constructed on the reaches of a canal or navigable river, to retain the water and regulate its flow.'
>
> The other structures in Item 6 are 'dike', 'sea wall' and 'drainage ditch', all structures which are designed to control or regulate water levels. When one thinks of a weir one generally thinks of the fast-flowing inclined slopes with fixed thresholds adjacent to locks on rivers or canals, and designed to ensure that the water level upstream is maintained at a navigable level. These definitions or common usages of the word 'weir' all involve either the regulation of levels within an existing flow of water or a temporary diversion of water from an existing flow before it is returned to that flow after it has served its purpose. I do not consider the word is apt also to describe a composite structure which is designed to abstract water completely from a flowing stream and which incidentally includes a structure which has the effect of raising the water level by a few feet in order to facilitate this function."

Law: CAA 2001, s. 22 (list B, item 6)
Case: *SSE Generation Ltd v HMRC* [2018] UKFTT 416 (TC)
Guidance: CA 22020

D7 Disability Discrimination Act

There are certain statutory obligations on those who provide services to the public regarding ease of access to the premises. In broad terms, providers of such services are obliged to make reasonable adjustments to their premises to remove obstacles that would prevent disabled people from using their services.

The costs of making these changes will sometimes be revenue expenditure, on which tax relief can simply be claimed in the year. Other costs will need to be capitalised and the issue then arises of whether or not the expenditure will qualify for capital allowances.

The relevant part of the former HMRC guidance is reproduced at **Appendix 3**. Where appropriate, the guidance has also been incorporated into the relevant sections of this A to Z commentary.

D8 Dishwashers

Dishwashers are included in list C at CAA 2001, s. 23, both specifically and as falling within the general category of machinery. They clearly fall within the definition of plant and machinery if used in a normal way, for the purposes of a qualifying activity.

Law: CAA 2001, s. 23 (list C, item 5)

D9 Displays and similar equipment

Display equipment is included in list C at CAA 2001, s. 23. Item 4 refers to "display equipment" and item 15 includes a reference to "signs, displays and similar assets". As such, display equipment may qualify as plant even though affixed to a building.

In practice, there should be no problem claiming plant and machinery allowances for such items.

Although capital allowances are not given for shop fronts as such, HMRC instruct their tax officers to "treat showcases associated with a shop front that are distinct from the structure as fixtures and fittings".

Law: CAA 2001, s. 23 (list C, items 4, 15)
Guidance: CA 22110

D10 Docks and dry docks

Docks are included in list B at s. 22, alongside a range of similar assets ("a dock, harbour, wharf, pier, marina or jetty or any other structure in or at which vessels may be kept, or merchandise or passengers may be shipped or unshipped").

As such, docks are in principle excluded from the definition of plant and machinery and no allowances are due. HMRC guidance confirms that plant and machinery allowances will not be given "on the provision, construction or acquisition" of such assets.

There is an exception, however, given at item 23 in list C at s. 23. This is for "the provision of dry docks" (with a further exception for certain jetties or similar assets at item 24). Inclusion in this list does not guarantee that a dry dock will qualify for plant and machinery allowances but the point can be considered on ordinary case law principles.

A dry dock is, in one sense, clearly the premises or setting within which a business may be conducted. However, the *Barclay, Curle* company successfully argued that a dry dock was an item of plant. The court decision was a narrow one (three to two in favour of the company) but as it was in the House of Lords it carries weight over all lower courts. Lord Donovan, giving one of the majority opinions, held that:

> "The dry dock ought, I think, for present purposes to be regarded as a whole, with all its appurtenances of operating machinery, power installations, keel blocks, tubular side shores, and so on."

On that basis, he concluded that the dry dock was an item of plant:

> "This dry dock, looked upon as a unit, accommodates ships, separates them from their element and thus exposes them for repair; holds them in position while repairs are effected, and when this is done returns them to the water. Thus the dry dock is, despite its size, in the nature of a tool of the Respondents' trade, and therefore, in my view, 'plant'."

Expenditure on excavation was also held to be "expenditure on the provision of machinery or plant".

HMRC have commented, in connection with the principles applied in *Barclay, Curle*:

> "The cases where a structure was held to be plant show that a building or structure can be plant if and only if it is apparatus for carrying on the business or employed in the business rather than being the premises or place in which the business is carried on."

The decision may be contrasted with that in the *Anduff Car Wash* case considered under **Car wash apparatus** above.

Law: CAA 2001, s. 22 (list B, item 5), s. 23 (list C, item 25)
Case: *CIR v Barclay, Curle and Co Ltd* (1969) 45 TC 221
Guidance: CA 22020, 22050

D11 Dogs

HMRC accept in principle that a guard dog may be plant for capital allowances purposes. The dog is likely to function as apparatus with which the trade is carried on. The same applies to working dogs used on a farm.

In practice, there may be room for discussion about the tax relief in some circumstances. If the dog is handled by a trained security guard, there should be no restriction on claiming tax relief for the full costs. But if the owner of a pub or shop lives above the business and keeps a dog that can move around at night, it will be a question of fact to determine whether it is really a working guard dog or merely a family pet. In this case, it is possible that everyday costs (food, vet bills, etc.) will be disallowed on "wholly and exclusively" principles, but that a part of the initial cost will still qualify for capital allowances.

If the dogs are bought in, the cost figure will be clear. If they are bred and/or trained by the business, the ongoing costs may be allowable as revenue expenditure. If not, there is an argument that the costs should be capitalised and that allowances can then be claimed on such costs.

Law: CAA 2001, s. 205
Guidance: CA 21220

D12 Door furniture

The *Disability Discrimination Act* guidance, reproduced at **Appendix 3**, confirms that no allowances are normally due for **Doors**. However, it does also indicate that mechanical door *handles* are accepted by HMRC as machinery on which allowances can therefore be claimed.

At CA 21010, too, HMRC state that "door handles with moving parts are machinery". At 21200, the HMRC guidance includes the following:

> "A door handle would normally be an integral part of the door to which it is affixed, with the result that it would not qualify for PMAs. Any subsequent replacement of the door handle would then count as a repair of the door. However you should not in practice refuse a PMA claim where this is the treatment adopted in the computations. Some mechanical handles can in any event constitute machines in their own right."

If a door handle can qualify as plant (even, by implication, where it is not mechanical), it seems fully justifiable to claim plant and machinery allowances on the cost of any door closer attached to the door. The same principles would apply to panic bolts, push bars, floor springs, locks and even hinges and it is understood that up to 40 per cent of the cost of a door may fall into these categories.

Door mats will normally qualify in their own right, as chattels rather than fixtures.

Law: CAA 2001, s. 21 (list A, item 1), s. 23 (list C, item 1)
Guidance: CA 21010, 21200

D13 Doors

Doors are included in list A at s. 21 and in principle they do not therefore qualify as plant or machinery. Nevertheless, some doors (or parts of doors: see **Door furniture**) may qualify in particular circumstances.

CA 21230, based on the Revenue's earlier *Football League* letter (see **Appendix 2**), indicates that automatic exit doors and gates at a football ground "would normally qualify as plant or machinery". As

machinery, such items would be protected (by item 1 in list C at s. 23) from the restrictions in list A.

It is thought that any electric or electronic doors should qualify as items of "machinery". This would be subject to any HMRC argument that the principal purpose of the doors is to enclose the interior of a building (see s. 23(4)). The author's view is that such an argument would fail, as the principal purpose of the door is not to enclose the interior but precisely to break through the enclosing exterior so as to allow ingress and egress.

Any remote opening devices (push pads, etc.) will also qualify.

HMRC have confirmed that, in principle, a reinforced door could qualify as a security asset under the special rules given at s. 33. See **Personal security**.

HMRC accept that the door of a **Squash court** may qualify for allowances.

Fire doors

Fire doors will not generally qualify as plant, simply because they are still doors. It is difficult to argue that fire doors would fall within the wording "sprinkler and other equipment" in list C. The interpretation of "other equipment" would necessarily be coloured by the word "sprinkler" and it seems unnatural to call a door "equipment".

In *Wimpy*, fire doors were held not to be plant. ("The commissioners found that these items played no part in the activities of the trade. Because of fire regulations they merely enabled the premises to be used. The commissioners therefore rejected the contention that the items were plant and I think they were entitled to do so.")

HMRC certainly take the view that fire doors do not qualify. For example, at CA 22230, there is the following para:

> "Treat expenditure that does not already qualify for relief (either an allowance or deduction) that is incurred by a person carrying on a qualifying activity in taking required fire precautions in respect of premises used for the qualifying activity as qualifying expenditure for PMAs. For example,

expenditure on a fire door can qualify under Section 29 but only if its installation is required by law."

Section 29 is now repealed, so no claim is possible under that section, but the wording clearly shows the HMRC view that allowances are not available on ordinary principles for fire doors.

There is a possible argument that the doors can qualify if they are linked to electronic controls, on the grounds that they are then machinery. This seems odd but the term "machinery" is given a very wide definition in practice. The point does not appear to have been tested.

As regards the push bar or panic bolt on a fire door, see **Door furniture** above.

See also **Double glazing.**

Law: CAA 2001, s. 21 (list A, item 1), s. 33
Case: *Wimpy International Ltd. v Warland* [1989] BTC 58
Guidance: CA 21230, 22130, 22230, 22270