PMA tax relief for containers

While there is no specific ruling for self storage containers in regard to eligibility for plant and machinery allowances (PMA up to 100% relief), the case history in regard to similar portable items suggests that shipping containers used for the purpose of self storage would not be considered plant and hence not eligible to be claimed under the PMA.

Merely posting the containers as plant and machinery in your bookkeeping software is not enough, they must pass the definition of plant derived from case law. The fact that they can be moved is also less relevant than the intention for them to be moved, and their function within the business.

The test of whether an item is apparatus used in carrying on a business, is sometimes called the functional test. It is set out in the case of Benson v The Yard Arm Club Ltd. 53TC67. In that case Buckley LJ said:

"The functional test provides the criterion to be applied. Is the subject matter the apparatus or part of the apparatus employed in carrying on the activities of the business." In Benson v The Yard Arm Club Ltd., the company claimed plant and machinery allowances on an old ship that was adapted for use as a floating restaurant. The capital allowance claim was refused. The ship was the structure within which the restaurant trade was carried on, rather than apparatus with which it was carried on.

In another Court of Appeal judgement Shaw LJ said, "a characteristic of plant appears to be that it is an adjunct to the carrying on of a business and not the essential site or core of the business itself."

Note that the functional test is not whether an asset has a function. All business assets have a function. The functional test is whether the asset functions as apparatus used in carrying on the activities of the business. For example, an asset that functions as the business premises is not plant. It is not apparatus used in carrying on the activities of the business.

Containers can qualify but only if they are used by the business as a shipping container that is both moveable and intended to be moved through its business life and the primary purpose of the container is to move goods. E.g., a haulier or remover who is using the container to move items could claim it as plant.

If the container is used as a permanent fixture, then it is not classed as plant and machinery. In self storage this is further reinforced by the fact that you rent the unit out, hence you are earning revenue directly from the container while it is on your land. This further supports the building definition over the plant definition.

Also in portable offices, the general rule is that if an office is on site for more than 12 months then it becomes a fixture and is not claimable. There is a case where the company shifted the office to different positions on the site, but it remained on site. This was also dismissed as it was considered to have not left the site and had been used for office purposes on site for the duration.

Hence to have any chance of claiming the allowance you would have to move the container off-site for an extended period of time or take it out of service. However, even in this case it could be arguable that the container is an integral part of your business as you are renting it out on site and not using it for moving stock.

REFERENCES

High Court of Justice (Chancery Division) Court of Appeal

Benson (H.M. Inspector of Taxes) v Yard Arm Club Ltd - 15 January 1979 England & Wales

In the Court of Appeal, it was also contended for the Company that ships and hulks were by their very nature "plant", on the authority of John Hall, Junior & Co. v. Rickman [1906] 1 KB 311, and capital expenditure on them therefore qualified for capital allowances.

The Court of Appeal, dismissing the Company's appeal, held that the hulk and the barge, though chattels, were the premises where the business was carried on and not apparatus employed in the Company's commercial activities.

Applying this to self storage, the containers while normally considered plant, are the premises where the business is carried out hence not considered plant in this instance.

Government Guidance note - CA22100 - Plant and Machinery Allowances (PMA): buildings and structures: caravans CAA01/S23

A caravan is plant if it does not occupy a fixed site and is regularly moved as part of normal trade usage, even if it is only moved from its summer site to winter quarters.

Self storage containers are not moved and do occupy a fixed site, hence applying the same logic as caravans they would not be considered plant.

St. John's (Mountford and another) v Ward 49TC524

Prefabricated buildings are not plant even if they can be taken down and re-erected somewhere else. The school claimed PMAs on a prefabricated gymnasium and laboratory. The capital allowance claim was rejected. All that the gymnasium and laboratory did was provide housing in which the school's activities could be carried on. They were not apparatus with which the school's activities were carried on. The buildings contained plant but that was not enough to make the buildings themselves plant.

Note the reference to the fact that the building could be taken down and re-erected did not automatically make it qualify for plant.

'List C' (S23(3))

Expenditure on any item in the list below, List C, is also saved from the exclusions. However, the legislation does not say that an item in List C is plant. An item in List C has to pass the normal tests for being plant in common law before allowances are due.

List C does not operate by analogy: for example item 33 which refers to fixed zoo cages does not apply to any other form of animal shelter such as kennels or stables.

……..21 - Moveable buildings intended to be moved in the course of the qualifying activity.

Self storage containers are not intended to be moved in the course of the business, so would not be covered by this exclusion.