



Capital v Revenue Expenditure Toolkit

2010-11 Self Assessment and Company Tax Returns

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Introduction

Tax agents and advisers play an important role in helping their clients to get their tax returns correct. This toolkit is aimed at helping and supporting tax agents and advisers by providing guidance on the errors which we find commonly occur in relation to Capital v Revenue expenditure. It may also be helpful to anyone who is completing an Income Tax Self Assessment tax return or Company Tax return.

This toolkit should be used for financial years commencing 1 April 2010 for Company Tax returns and 6 April 2010 for Income Tax Self Assessment tax returns. Its use is entirely voluntary.

The content of this toolkit is based on our view of how tax law should be applied. Its application to specific cases will depend on the law at the relevant time and on the precise facts.

For further information on using this toolkit and reasonable care under our penalty system see **Toolkits to help reduce errors - essential information**.

For guidance on matters not dealt with in this toolkit you should refer to our Business Income Manual (BIM):

<http://www.hmrc.gov.uk/manuals/bimmanual/index.htm>

Areas of risk within Capital v Revenue expenditure

'Capital v Revenue expenditure' is a term used throughout this toolkit. It refers to the distinction of capital from revenue expenditure for tax purposes. Expenditure that is capital is generally not allowable as a revenue deduction in computing taxable profits. Depending on the nature of the capital expenditure it may be possible to claim capital allowances.

There is no single, simple test that can be applied to decide which items are capital expenditure and which are revenue. This can only be determined by reference to the relevant facts that applied at the time the expenditure was incurred. In addition the classification of items as capital or revenue expenditure is intrinsically linked to the particular circumstances and the exact nature of the trade. The same item may correctly be categorised as capital in one trade, and as trading stock in another.

Areas of risk within Capital v Revenue expenditure fall broadly into the following categories.

Record keeping

Good record keeping is essential as poorly kept records can contribute to difficulties in identifying whether a transaction is capital or revenue and treated correctly for tax purposes. It is therefore desirable to plan a system of record keeping that reflects the nature of expenditure clearly.

The distinction between capital or revenue expenditure for tax purposes can be complex and it is therefore important to consider the records kept and the business circumstances, for example whether the business has expanded, relocated or restructured during the accounting period or even merely attempted to do so.

For further guidance on record keeping see **Record keeping fact sheet** and **Records for Corporation Tax**.

Acquisition, improvement and alteration of assets

Risks relating to the allocation of expenditure to revenue rather than capital will often arise from work done in the course of the purchase, refurbishment or repair of an asset. For example business premises may be acquired or altered, or other fixed assets may be purchased or improved.

It can be difficult to identify that apparently similar items of expenditure should be treated differently, particularly where there are many invoices to be considered, or the exact nature of the work carried out is not immediately apparent.

Legal and professional fees

Legal and professional fees can be incurred for a wide variety of reasons, for example on the acquisition of property or other assets, or on changing the way the ownership of the business is structured. In some cases the fees will be related to capital transactions and so will not be allowable as revenue expenditure.

Finance costs

It is important to be aware of what is included in finance charges, and then to consider which factors may be relevant in deciding whether they are capital or revenue, and to what extent.

Transactions relating to corporate lending and borrowing are the subject of specific rules however, the aim of which is broadly to follow accountancy practice in recognising receipts and expenses relating to corporate debt.

IT costs

It can be difficult to distinguish the function that computer hardware, software and information technology perform in the business, what kind of asset they represent, or how the costs associated with them should be handled in the accounts and tax computations. There are a number of complexities to consider for expenditure in this area.

Corporate intangible assets

The corporate intangible assets regime represents a significant departure from the previous rules governing the capital or revenue treatment of intangible assets. The regime affects assets created or acquired by companies on or after 1 April 2002. In general, the tax rules relating to these assets follow the accounting treatment. So for example, if expenditure on qualifying assets is written off, normally by way of amortisation, the deduction for tax purposes will generally follow the same approach. Similarly, disposal proceeds on qualifying intangible assets would, subject to any statutory provisions, follow the accepted accounting treatment.

Using links within the document

[Blue underlined text](#) are links within this document.

Green bold text are hyperlinks to external documents on the internet (access to the internet is necessary to view these).

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<http://www.hmrc.gov.uk/contactus/particular-needs.htm>

Checklist for Capital v Revenue expenditure

	Yes	No	N/A
Acquisition, improvement and alteration of assets			
1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal and professional fees			
5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Finance costs			
9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
IT costs			
12	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Corporate intangible assets			
14	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

General

Yes No N/A

16 Has [depreciation](#) been added back to the accounts profit in the tax computation?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Explanation and mitigation of risks

Acquisition, improvement and alteration of assets

1. Has all capital expenditure on the purchase of assets been identified and allocated appropriately?

Risk

Capital expenditure on the purchase of assets may have been charged to the profit and loss account, for example, fixtures and fittings included in repairs and renewals, expenditure on items of computer hardware included in IT costs, or vehicles purchased included in motoring expenses.

Mitigation

Consider whether any items of capital expenditure on the purchase of assets might have been treated as revenue expenditure in the profit and loss account. Developments in the business, such as relocation or expansion, may suggest potential areas in which this may have occurred.

A review of accounts such as repairs and renewals, other expenses, motoring expenses etc may reveal items of a capital nature, which are not allowable as revenue expenditure. However a capital allowances claim may be possible.

For further guidance on distinguishing capital from revenue expenditure see [BIM35005+](#).

For further guidance on capital allowances see our [Capital Allowances Manual \(CA\)](#).

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2. Have all items of expenditure on the improvement or alteration of an asset been treated correctly?

Risk

When a business carries out refurbishment of an existing or newly acquired asset, such as a property, some or all of the expenditure may relate to improvement or alteration of the asset. This expenditure will normally be capital for tax purposes, but it may have been included in repairs and renewals or other profit and loss account headings in the accounts. It is not possible to treat some of the expenditure on improvements as 'notional repairs'.

Mitigation

Where a business carries out work to repair or refurbish either a new or an existing asset, review the expenditure to identify any items that represent improvements or alterations rather than repairs and ensure that they are treated as capital expenditure as appropriate for tax purposes.

Explanation

A repair to an asset restores it to what it originally had been and is normally an allowable revenue expense. For example the cost of replacing roof tiles blown off by a storm. The cost of alterations, however, are normally capital for tax purposes as they involve improving or changing an asset and so providing an enduring benefit to the business, rather than simply restoring it to its previous state. For example extending the area of the roof or taking off the roof and building another storey.

For further guidance see [BIM46900+](#).

A repair or replacement of a part of an asset using modern materials may look like an improvement, but if the new materials are broadly equivalent to the old materials then the cost is

normally an allowable expense. For example, replacing single-glazed windows with double-glazed windows.

If the work results in the renewal or replacement of an asset as a whole, then all of the expenditure incurred should be treated as capital expenditure.

The possibility of expenditure on improvement or alteration should particularly be considered where a newly acquired asset is being subjected to a change of use, and therefore needs to be altered to adapt it for its new purpose.

For further guidance on improvements and alterations see [BIM46904](#).

There are also special capital allowances rules relating to expenditure on specified 'integral features' of buildings, such as electrical systems, water systems and lifts. Under these rules if the expenditure represents more than 50 per cent of the cost of replacing an integral feature, the expenditure is to be treated as capital expenditure for tax purposes. Capital allowances will be available however.

For further guidance see [CA22310+](#) and [CA22340](#).

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3. Has any expenditure on essential repairs to a newly acquired asset been treated correctly?

Risk

If an asset cannot be used as soon as it is acquired because of its poor condition, or the purchase price was substantially reduced to reflect the need for repairs, then the cost of those repairs may be capital expenditure.

Mitigation

Identify any instances where the business has acquired an asset at a reduced cost because essential repairs are required, and the business is prevented from bringing the asset into use until the repair work is done. Consider whether these repair costs should be treated as capital expenditure.

Explanation

There are circumstances in which the cost of repairs may constitute capital expenditure even though the work does not improve the asset but merely restores it to an acceptable condition.

Factors that may be relevant are:

- whether the asset could be used in the business without being repaired
- whether the asset could only be used in the short term as its long term use was dependent upon the repairs being carried out
- whether the purchase price of the asset was substantially reduced because the asset needed repairing.

Example

A business purchases a vehicle that has failed its MoT and cannot be used. Carrying out the repairs necessary to obtain an MoT certificate will not improve the vehicle. However it will contribute to the cost of acquiring an asset of lasting benefit to the business. In these circumstances the cost of the repairs constitute capital expenditure for tax purposes and a revenue deduction is not available in computing the taxable profits. However a capital allowances claim may be possible.

For further guidance see [BIM46906](#) and [BIM35450+](#).

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4. Has any incidental expenditure incurred when acquiring or disposing of an asset been treated correctly?

Risk

Incidental expenditure incurred when acquiring or disposing of an asset should be treated as capital expenditure. The most common example of such expenditure is legal and professional fees incurred in acquiring or disposing of an asset. Incidental expenditure may also include the cost of such items as the transportation and installation of the asset.

Mitigation

Consider whether any incidental costs have arisen as a consequence of the acquisition of new assets or the disposal of assets. Review the profit and loss account for any such incidental costs of a capital nature, and ensure that they are treated appropriately.

Explanation

Expenses incurred in the course of capital transactions are not allowable as revenue expenditure, except where incurred by a company in relation to intangible assets, where the corporate intangible assets regime may apply.

For further guidance on the corporate intangible assets regime see **BIM35501** and **Corporate Intangibles Research & Development Manual (CIRD) CIRD10000**.

Costs such as Stamp Duty or legal and professional fees, for example architects', engineers' or surveyors' costs, incurred when acquiring or disposing of an asset should be treated as capital expenditure.

Costs incurred in bringing a new asset into use, such as transporting it to its intended site or erecting and installing it should also be capitalised as part of the cost of the asset. However the cost of removing trading stock, stores, equipment or plant and machinery for the purpose of relocation to new premises will generally be allowable in computing the taxable profits, where the relocation is not part of a more general plan to expand the business.

For further guidance see **BIM35120** and **BIM42530**.

Professional fees, such as legal costs, survey fees, architects' fees, or quantity surveyors' fees, may qualify for capital allowances as expenditure on the provision of plant or machinery if they relate directly to the acquisition, transport and installation of the plant or machinery.

For further guidance see **CA20070**.

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Legal and professional fees

5. Has any expenditure on an unsuccessful attempt to obtain an asset or other advantage for the enduring benefit of the business been treated correctly?

Risk

When a business incurs expenditure on an unsuccessful attempt to obtain an asset or other advantage that will be of enduring benefit to the business the expenditure is classified as capital for tax purposes, just as it would have been if the attempt were successful.

Mitigation

Establish whether the business was involved in any unsuccessful attempt to obtain an asset or other advantage for enduring benefit of the business during the period, and if so whether any related legal and professional fees or other costs incurred are capital for tax purposes. These costs are not allowable as revenue expenditure for tax purposes, except where the corporate intangibles regime applies.

Explanation

Incidental expenditure incurred in trying to obtain something that will be of enduring benefit to the business is normally not deductible for tax purposes, even if the attempt was unsuccessful. The costs incurred in these circumstances are sometimes known as 'abortive expenditure'.

A typical example of 'obtaining something of enduring benefit' is the acquisition of an asset, but it may also mean trying to dispose of, or alter a burdensome asset, if the advantage delivered by doing so is sufficiently enduring.

An example of abortive expenditure, depending on the nature of the trade, is the cost of an unsuccessful planning application. If the application is successful the expenditure will be capitalised. Where the application fails, and no asset is acquired or modified, the expenditure will normally be charged to the profit and loss account, but should be treated as capital expenditure for tax purposes.

For further guidance see [BIM35325](#).

However where the abortive expenditure relates to an attempt to obtain an intangible asset by a company, rather than a sole trader or partnership, the expenditure may be covered by the corporate intangible assets regime, in which case the accounting treatment may be followed for tax purposes.

For further guidance on the corporate intangible assets regime see [BIM35501](#) and [CIRD10000](#).

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6. Has any expenditure incurred in connection with the capital structure of the business been treated correctly?

Risk

Legal and professional fees incurred in connection with changes in how the ownership of a business is structured are generally regarded as capital for tax purposes and not allowable as a revenue deduction. For example, changing from a sole trader or partnership to a limited company is a change in the capital structure of a business, as is a change in the membership of a partnership.

Mitigation

Establish if any legal and professional fees have been incurred on issues relating to the ownership or capital structure of the business, and ensure they have been treated correctly.

Explanation

Fees incurred in connection with the acquisition, alteration or enhancement of how the ownership of a business is structured should generally be disallowed. This will include costs incurred on items such as the following:

- forming, varying or dissolving a partnership
- the incorporation of a sole trader's or a partnership's business
- a partnership becoming a limited liability partnership
- defending a petition by shareholders to wind up a company

For further guidance see [BIM46435](#).

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7. Have any costs incurred on the recruitment of additional partners to a partnership been treated correctly?

Risk

Costs incurred by a partnership on recruiting new partners will normally be allowable as revenue expenditure. However, there are some circumstances in which these costs may be viewed as capital expenditure for tax purposes and so would not be allowable as a revenue deduction.

Mitigation

Where a partnership has incurred expenditure on the recruitment of a new partner or partners, check the circumstances surrounding the recruitment. Examples of where it may be necessary to consider whether the recruitment costs are capital expenditure include:

- Where the admission of the partner has a fundamental impact on the structure of the firm's business. However this must involve more than a mere expansion of the business.
- Where the partner is recruited as part of the acquisition of a business.
- Where the new partner's capital contribution is a material factor in the recruitment.

In any of these circumstances however, whether or not the costs of recruitment are capital expenditure will be a question of fact and degree.

Explanation

In general, the cost of recruiting both equity and salaried partners to a partnership, whether they are replacement or additional partners, is revenue expenditure. In most cases the firm is paying to recruit a fee earner, who will generate profits for the firm, not to change the firm's structure or to obtain a capital contribution. It is only where there is a significant additional factor relevant to the recruitment of a partner, such as those outlined above, where consideration may need to be given as to whether the expenditure is capital and therefore not allowable as a revenue deduction.

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8. Have any costs incurred on training for the proprietor or a partner in the business been treated correctly?

Risk

In some circumstances where costs are incurred on training and development for a proprietor or partner acquiring new skills etc, these may be regarded as capital expenditure for tax purposes and therefore not allowable as a revenue deduction.

Mitigation

Establish whether training and development undertaken by business proprietors or partners is to update expertise which they already possess, or to give them new expertise, knowledge or skills. In the latter case, if the training brings into existence an advantage of sufficiently enduring benefit the expenditure incurred may be capital for tax purposes and if so not allowable as a revenue deduction.

Explanation

In addition to the Capital v Revenue expenditure test, to be allowable the costs of training and development for the proprietors or partners must also be incurred wholly and exclusively for the purpose of the trade or profession at the time the training is undertaken. For example, where a completely new specialisation or qualification is acquired as a result of the expenditure, it is possible that the expenditure will not be wholly and exclusively for the purposes of the existing trade. Consideration should therefore be given to the allowability of the expenditure on the basis of the 'wholly and exclusively' test as well as Capital v Revenue grounds.

For further guidance see [BIM42526](#) and [BIM35660](#).

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Finance costs

9. Where any financial payment includes a capital element has it been treated correctly?

Risk

Payments made in respect of finance costs, for example a mortgage, hire purchase (HP) agreement or leasing of assets used in the business may include both capital and revenue elements. Following the appropriate accounting treatment for any particular financial obligation will normally ensure that only the revenue element is allowed for tax purposes.

Mitigation

Review any expenditure charged to the profit and loss account in respect of finance payments, such as for mortgage, HP or leasing costs. Identify the exact nature of any such finance payments, and the accepted accounting treatment that is appropriate in respect of each of them. Following the appropriate accounting treatment will normally produce the correct allocation of expenditure to capital or revenue for tax purposes.

If any interest has been capitalised as part of the initial asset costs, relief may be available for tax purposes by means of an adjustment in the tax computation.

For further guidance see [BIM45665+](#) and [BIM45351](#), and for companies [Corporate Finance Manual \(CFM\) CFM30170](#).

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10. Have all payments made by a proprietor or partnership to acquire a franchise been treated correctly?

Risk

An initial payment made by a sole trader or partnership for the acquisition of a franchise is usually capital expenditure, as are any related legal fees. This is the case whether the payment is made in one sum or in instalments over a period of years.

Deductions should not be made on the basis that elements of the initial payment relate to allowable revenue expenditure for specific services, unless they are clearly supported by both the franchise agreement and the facts (see [explanation](#)).

Mitigation

Ensure that all payments relating to an initial fee are treated as capital expenditure, and that any deductions made in the accounts for amortisation are added back. Review legal and professional fees and disallow any costs associated with the acquisition of the franchise.

Consider the franchise agreement and the facts before seeking any alternative deduction on the basis that an element of the initial payment is deductible in respect of actual services provided.

Explanation

Generally the annual fees payable in respect of a franchise agreement will be an allowable revenue expense. The initial payment however, together with any related legal fees, is usually capital expenditure for tax purposes and not allowable as a revenue deduction. An initial fee for the acquisition of a franchise will still be capital expenditure even if it is paid by instalments over a number of years.

In some cases a deduction may be possible for an element of the initial payment on the basis that it relates to the provision of services by the franchisor, but only if both of the following conditions are met:

- specific services are actually provided by the franchisor in accordance with the franchise agreement
- the agreement stipulates that these services are paid for by reference to the initial payment and not the annual fees

and then only to the extent that the amount allocated to revenue expenditure is commensurate with the services provided.

For companies, initial payments for franchises may be covered by the corporate intangible assets regime, and accordingly their amortisation over the lifetime of the franchise agreement is normally allowable.

For further guidance see **BIM57600+**.

For further guidance on the corporate intangible assets regime see **BIM35501** and **CIRD10000**.

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11. Are the arrangement fees for any long term security correctly spread over the lifetime of the security?

Risk

In accordance with generally accepted accounting practice, fees paid for the arrangement of long term loans or securities which represent a significant additional cost of finance when compared to the interest payable are allocated to periods over the term of the instrument.

For companies, the accepted accounting treatment of spreading the arrangement fees over the lifetime of the loan should be followed for tax purposes. For sole traders or partnerships relief may be claimed for incidental costs of loan finance under **S58** and **S59 Income Tax Trading and Other Income Act 2005**.

Mitigation

Review long term loans or securities to identify any arrangement or rearrangement fees. Where any such fees are incurred by a company ensure that the accepted accounting treatment of spreading these over the lifetime of the loan or security is followed for tax purposes. For sole traders or partnerships ensure that, if appropriate, relief is claimed for such fees as incidental costs of loan finance.

Explanation

For companies, long term securities and expenses incurred in respect of them (such as bank arrangement fees) are governed by specific rules on the taxation of loan relationships. These rules specify that the accepted accounting treatment of spreading the arrangement fees over the lifetime of the loan should be followed for tax purposes.

For further guidance see **CFM30170** and **CFM33060**, and for special rules relating to loan relationships between connected parties **CFM35000+**.

Proprietors and partnerships (except partnerships including companies) are not covered by these loan relationship rules. **S58** and **S59 Income Tax Trading and Other Income Act 2005**

however gives relief for certain incidental costs of obtaining loan finance where these would otherwise be disallowed as incidental costs of the capital transaction of obtaining finance.

For further guidance see [BIM46430](#) and [BIM45800+](#).

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IT costs

12. Has the cost of any computer software acquired been treated correctly?

Risk

Where a lump sum payment is made for the acquisition of a software licence, it will be accepted for tax purposes that the expenditure is revenue where the useful economic life of the software is expected to be less than two years. Where the expected useful economic life of the software is longer the correct tax treatment will depend on the circumstances, as set out in the [explanation](#).

Mitigation

Identify all payments for the acquisition of new software licences, and distinguish between regular periodical payments and lump sum payments. For any lump sum payments establish what the useful economic life of the software is expected to be for the business. For proprietors and partnerships where the expenditure is capitalised and the expected useful life is more than two years, any amortisation is not allowable as a revenue deduction, and a claim should be made for capital allowances. For companies the appropriate tax treatment will depend on the exact nature of the software involved.

Explanation

Most off-the-shelf computer software is now acquired under licence. If the licence is paid for by regular periodical payments then these should be treated as revenue expenditure and normally spread over the useful life of the software.

If a lump sum payment is made for the software licence, and it is evident that the useful economic life of the software is greater than two years, consideration should be given to treating the payment as capital expenditure.

For proprietors and partnerships any amortisation of capital expenditure in these circumstances should be disallowed, and a claim should be made for capital allowances. The same treatment will apply to companies if the software acquired is in the nature of an operating system, or similar system designed to bring a computer system into its intended use within the business, which will generally be regarded as a tangible asset.

For further guidance see [BIM35801+](#) and for further guidance on capital allowances see [CA11110+](#) and [CA23081](#).

However if the expenditure relates to application software then it may be regarded as an intangible asset and for companies such expenditure may fall within the corporate intangible assets regime. In these circumstances any amortisation of the capitalised expenditure may be allowed for tax purposes, or alternatively the company may elect to exclude the expenditure from the intangible assets regime and claim capital allowances instead.

For further guidance see [CIRD25140+](#) and [CIRD30510](#), and in relation to capital allowances elections see [CIRD25180-25190](#).

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13. Has any expenditure incurred on website development been allocated correctly?

Risk

The treatment of expenditure on developing a website is dependent on the function it performs for the business. If the website is capable of directly generating income so that it will become an enduring asset, consideration should be given to treating the expenditure as capital.

Mitigation

Review all payments relating to the business website(s), bearing in mind that these may be posted to marketing or advertising rather than IT costs. Where this includes any expenditure on website development consider whether it is capital expenditure.

Explanation

Even though expenditure on website development may be shown in the accounts as advertising or marketing costs, this does not necessarily mean that it is allowable as revenue expenditure. In order to identify the correct tax treatment the exact nature of the website costs should be examined.

If the function of the website is solely to advertise or promote the business then the development costs represent revenue expenditure. But if the website includes the ability to carry out electronic transactions that will directly generate sales or other income, consideration should be given to treating the costs of developing, designing and publishing the website as capital expenditure. Whilst a revenue deduction would not therefore be allowable, this capital expenditure will generally qualify as expenditure on plant and machinery for capital allowances purposes. Expenditure on initial research and planning, prior to deciding to proceed with development, is normally allowable as revenue expenditure.

The cost of maintaining or updating a website (in relation to price changes, for example) should be classed as revenue expenditure.

For further guidance see [BIM35870](#) and [BIM35505](#) and [CIRD25145](#).

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Corporate intangible assets

14. Has the correct tax treatment been followed for any amortisation of goodwill acquired by a company?

Risk

The goodwill of a business carried on by a company or a related party at any time before 1 April 2002 does not qualify for inclusion within the corporate intangible assets regime. Relief is therefore not available for amortisation of goodwill acquired before that date.

Mitigation

Where a company's accounts and tax computations include any deductions in respect of goodwill, consider the history of the goodwill and its acquisition by the company. If the goodwill was that of a business carried on by any party before 1 April 2002 then it does not fall within the corporate intangible assets regime until it has been acquired by an unrelated party, and until that time any amortisation of it should be disallowed in computing taxable profits.

Explanation

The corporate intangible assets regime affects assets created or acquired from an unrelated party on or after 1 April 2002. UK accounting standards require that where goodwill and intangible assets are regarded as having a limited economic life they should be amortised on a

systematic basis over those lives, and for assets falling within the corporate intangible assets regime the tax treatment will follow that accounting treatment and allow tax relief for the amortisation.

Alternatively a company may elect for deductions at a fixed rate of 4 per cent per year of the tax cost of a particular intangible asset, regardless of its accounting treatment.

For further guidance see [CIRD11505+](#), [CIRD11625+](#) and [CIRD48290](#), and for guidance on the fixed rate of deductions [CIRD12905+](#).

For further guidance on the definition of 'related party' see [CIRD45105](#).

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15. Has the correct tax treatment been followed for the transfer of an asset within the corporate intangible assets regime either to or from a related party?

Risk

Where there is a transfer of an asset between related parties, and the asset is a chargeable intangible asset in the hands of at least one of those parties, the transfer is generally deemed to have taken place at market value for both parties. If the existence of a related party transaction of this kind is not identified then the wrong amount may be taken into account for tax purposes.

Mitigation

Establish whether any disposals or acquisitions by the company to or from a related party during the accounting period were of assets within the corporate intangible assets regime. For any such transaction, ensure that the amount brought into account for tax purposes reflects the market value of the asset at the date of the transfer.

Explanation

The corporate intangible assets regime affects assets created or acquired on or after 1 April 2002. In general, the tax rules relating to such assets follow the accounting treatment, and if expenditure on qualifying assets is written off the deduction for tax purposes follows the same approach. Similarly, the taxation of disposals of qualifying intangible assets will follow the accepted accounting treatment.

However when a company transfers an asset within the regime to a related party, or acquires such an asset from a related party, the transaction is deemed to have taken place at market value in most cases. Consequently, for tax purposes, for an acquisition any amortisation charged should therefore reflect the market value of the asset rather than any other valuation. Similarly for a disposal the market value, rather than any other value, should be treated as the disposal proceeds for tax purposes.

The notion of a 'related party' is similar to that of a 'connected person' used in other areas of specific tax legislation, but is modified in a number of respects to reflect the particular requirements of the corporate intangible assets regime. For further guidance on the definition of 'related party' see [CIRD45105](#).

For other relevant guidance see [CIRD45010+](#).

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General

16. Has depreciation been added back to the accounts profit in the tax computation?

Risk

Depreciation of capital items is generally not an allowable expense for tax purposes, except where the asset is within the corporate intangible assets regime.

There is a risk that the depreciation may not be added back to profit in the tax computation where appropriate. Depreciation of capital items should be added back in the computation even where capital allowances have not been claimed.

Mitigation

Ensure that depreciation of capital items is added back to the profit in the tax computation where appropriate.

Explanation

For companies the amortisation of goodwill and other fixed intangible assets is allowable in certain circumstances. Further information concerning risks associated with corporate intangible assets can be found at [Q14](#) and [Q15](#).

For further guidance see [BIM42055](#) and [BIM35501](#).

In addition, any profit or loss on disposal should be deducted or added back in the computation as appropriate.

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