
CORPORATE INTANGIBLE FIXED ASSET REGIME

Who is likely to be affected?

1. Companies applying the corporate intangible regime (“the regime”) to goodwill, or to other internally generated assets, such as assets representing non-qualifying expenditure.

General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to confirm that for the purposes of the regime, goodwill includes internally-generated goodwill. It also confirms that all goodwill is created in the course of carrying on the business in question and is subject to rules determining whether goodwill is treated as created before or after 1 April 2002. Some amendments will also be made to the definition of intangible asset and to rules determining whether assets representing non-qualifying expenditure are treated as being created before or after 1 April 2002.

Operative date

3. The legislation will have effect on or after 22 April 2009 and shall be treated as always having had effect. For example, the legislation prevents future debits in respect of goodwill where a business, which commenced before 1 April 2002, has been acquired from a related party before 22 April 2009.

Current law and proposed revisions

4. The corporate intangibles regime (Part 8 of the Corporation Tax Act 2009 (CTA)) applies, generally, to companies’ intangible fixed assets and goodwill created on or after 1 April 2002, or acquired from an unrelated party on or after that date. However, goodwill is specifically excluded from the regime if a business commenced before 1 April 2002, unless or until that business is acquired by an unrelated party. The legislation confirms this treatment.
5. The legislation confirms that for the purposes of the regime, intangible assets (such as goodwill) include internally-generated assets (such as internally-generated goodwill).

6. The legislation confirms that for the purposes of the regime, all goodwill is treated as created in the course of carrying on the business in question. It is confirmed that goodwill is treated as created before 1 April 2002 where the business was carried on at any time before 1 April 2002 by the company or a related party (and that otherwise goodwill is treated as created on or after 1 April 2002).
7. The legislation also confirms that all assets representing non-qualifying expenditure are subject to the provisions in section 885 of CTA, and that these assets are treated as created before 1 April 2002 where the asset was held by the company (or a related party) at any time before 1 April 2002.

Further advice

8. If you have any questions about this change, please contact Kerry Pope on 020 7147 2617 (email: kerry.pope@hmrc.gsi.gov.uk) or John Williams on 020 7147 3117 (email: john.williams@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk