HM Revenue
& Customs

Corporation tax: restriction of CT relief for business goodwill amortisation

Who is likely to be affected?

Companies who recognise purchased goodwill and customer related intangible assets in their accounts, typically on the acquisition of a business.

General description of the measure

This measure removes corporation tax (CT) relief for companies who write off the cost of purchased goodwill and certain customer related intangible assets. Relief will still be available if the goodwill is sold.

Policy objective

In accounting terms, purchased goodwill is the balancing figure between the purchase price of a business and the net value of the assets acquired. Goodwill can therefore be thought of as representing the value of a business's reputation and customer relationships.

This measure removes the tax relief that is available when structuring a business acquisition as a business and asset purchase so that goodwill can be recognised. This advantage is not generally available to companies who purchase the shares of the target company. The current rules allow corporation tax profits to be reduced following a merger or acquisition of business assets and can distort commercial practices and lead to manipulation and avoidance. Removing the relief brings the UK regime in line with other major economies, reduces distortion and levels the playing field for merger and acquisition transactions.

Background to the measure

This measure was announced at Summer Budget 2015.

Detailed proposal

Operative date

This measure will apply to accounting periods beginning on or after 8 July 2015, but not in respect of acquisitions made before 8th July 2015.

Where there is a disposal, on or after 8 July 2015, of goodwill that is subject to the new rules, any additional relief due in respect of qualifying expenditure will be allowed as a non-trading debit.

Current law

Under Part 8 Corporation Tax Act 2009 (CTA09), CT relief is given to companies for the costs of purchased goodwill and intangible assets that are recognised in the accounts. Relief is normally given on these costs as and when the expenditure is written off in accordance with generally accepted accounting practice. A fixed 4% rate is also available if the company so elects.

The current rules only allow relief to be claimed when a company acquires a business directly rather than acquiring the shares in the target company. Purchased goodwill can only be recognised on a business acquisition but not on an acquisition of shares.

Proposed revisions

Legislation will be introduced in Summer Finance Bill 2015 to amend Part 8 CTA 2009. This will withdraw relief for all goodwill and customer related intangible asset acquisitions.

Part 8 CTA 2009 will be amended to remove relief for debits under Chapter 3 for all purchased goodwill and customer related intangible assets, except in respect of acquisitions made before 8 July 2015 (or acquisitions made afterwards pursuant to an unconditional obligation entered into before then).

Part 8 CTA 2009 will also be amended to treat any debits arising on a realisation of a relevant asset as a non-trading debit. This is to limit how these debits can be relieved. In particular the debit will not be included in the calculation of trading losses. This amendment will apply to all disposals occurring on or after 8 July 2015 of goodwill and customer related intangible assets that are subject to the new rules.

No restriction will be made where a profit (credit) arises on a subsequent realisation.

Summary of impacts

Exchequer impact (£m)	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
	+35	+100	+165	+220	+280	+320
	These figures are set out in Table 2.1 of Summer Budget 2015 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Summer Budget 2015.					
Economic impact	This measure is not expected to have any significant macroeconomic impacts. The costing reflects a behavioural response whereby there will be an increase in tax planning arrangements from some companies.					
Impact on individuals, households and families	No impact on individuals and households. The measure is not expected to impact on family formation, stability or breakdown.					
Equalities impacts	This measure affects companies. There will be no impact on equalities.					
Impact on business including civil	This measure is expected to have negligible impact on large businesses.					

society organisations	There are likely to be negligible one-off and on-going costs for approximately 500 large businesses affected, some of which may need to make computational adjustments to their corporation tax profits. This measure is expected to have no impact on civil society organisations.
Operational impact (£m) (HMRC or other)	The additional costs or savings for HMRC in implementing this change are anticipated to be negligible. Compliance checks will be carried out in the normal way.
Other impacts	<u>Small and micro business assessment</u>: this measure is expected to have a negligible impact on around 25,000 small, medium and micro businesses. There are likely to be negligible one-off and on-going costs for these businesses, as they may need to make computational adjustments to their corporation tax profits. Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be monitored through information collected from tax returns and receipts.

Further advice

If you have any questions about this change, please contact John Williams on 03000 530434 (email: john.r.williams@hmrc.gsi.gov.uk).

1 Intangible fixed assets: goodwill etc

(1) Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.

(2) In section 715 (application of Part 8 to goodwill), in subsection (2), at the end insert "(see, in particular, section 816A (restrictions on goodwill and certain other assets))".

(3) In section 746 ("non-trading credits" and "non-trading debits"), in subsection (2), for paragraph (ba) substitute—

"(ba) section 816A (restrictions on goodwill and certain other assets), and".

(4) In section 800 (introduction to Chapter 10: excluded assets), in subsection (2)(c)—

(a) for "section 814 or 815" substitute "any of sections 814 to 816A", and

(b) for "that section" substitute "the section concerned".

(5) After section 816 insert—

"816A Restrictions on goodwill and certain other assets

(1) This section applies if a company acquires or creates a relevant asset.

(2) "Relevant asset" means—

(a) goodwill,

(b) an intangible fixed asset that consists of information which relates to customers or potential customers of a business,

(c) an intangible fixed asset that consists of a relationship (whether contractual or not) between a person carrying on a business and one or more customers of that business,

(d) an unregistered trade mark or other sign used in the course of a business, or

(e) a licence or other right in respect of an asset within any of paragraphs (a) to (d).

(3) No debits are to be brought into account by the company for tax purposes, in respect of the relevant asset, under Chapter 3 (debits in respect of intangible fixed assets).

(4) Any debit brought into account by the company for tax purposes, in respect of the relevant asset, under Chapter 4 (realisation of intangible fixed assets) is treated for the purposes of Chapter 6 as a non-trading debit."

(6) In section 844 (overview of Chapter 13: transactions between related parties), omit subsection (2A).

(7) Omit sections 849B to 849D (restrictions relating to goodwill etc acquired from a related individual or firm) and the italic heading immediately before those sections.

(8) In consequence of the amendments made by this section, in FA 2015, omit section 26.

(9) The amendments made by this section have effect in relation to accounting periods beginning on or after 8 July 2015.

(10) But the amendments made by this section do not apply in a case in which a company acquires a relevant asset if the company does so—

(a) before 8 July 2015, or

(b) in pursuance of an obligation, under a contract, that was unconditional before that date.

(11) For the purposes of subsection (9), an accounting period beginning before, and ending on or after, 8 July 2015 is to be treated as if so much of the accounting period as falls before that date, and so much of the accounting period as falls on or after that date, were separate accounting periods.

(12) An apportionment for the purposes of subsection (11) must be made in accordance with section 1172 of CTA 2010 (time basis) or, if that method produces a result that is unjust or unreasonable, on a just and reasonable basis.

(13) For the purposes of subsection (10)(b), an obligation is "unconditional" if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

Explanatory Note

Clause: Intangible fixed assets: goodwill etc

Summary

1. This clause acts to disallow corporation tax deductions, such as amortisation and impairment debits, in respect of goodwill and certain other intangible assets linked to customers and customer relationships. It also amends the treatment of any loss arising on the disposal of these assets so that it is deemed to be a non-trading debit. The measure has effect from 8 July 2015.

Details of the clause

2. Subsections (1) to (3) introduce the amendment to Part 8 of the Corporation Tax Act (CTA) 2009 and refer sections 715 and 746 to the excluded assets in the new section 816A.
3. Subsection (4) amends the introduction to Chapter 10 of Part 8 which deals with assets excluded from Part 8 and contains the new section 816A.

The new section 816A

4. Subsection (5) inserts new section 816A into Chapter 10. This section:
    - Defines "relevant assets" for the purposes of the section;
    - Excludes debits in relation to those assets from being a tax deduction under Chapter 3; and
    - Makes any debit arising from the realisation of those assets a non-trading debit.
5. Subsections (6) to (8) make consequential amendments to Part 8 and Finance Act 2015 to withdraw the amendments introduced in that Act that have been superseded by this clause.
6. Subsection (9) contains the commencement provisions. The changes apply from 8 July 2015.
7. Subsection (10) disapplies the changes made by this measure to assets treated as acquired before commencement. This ensures that the rules relating to those assets at the time of acquisition continue to apply after commencement. Assets acquired between 3 December 2014 and 8 July 2015 where s849B applies will therefore continue to be treated as if the provisions of s849 C and s849D had not been withdrawn.
8. Subsections (11) and (12) provide for the apportionment of debits where the accounting period straddles the commencement date.

9. Subsection (13) makes further provision for determining when an asset is treated as acquired for the purposes of subsection (10).

Background note

10. This measure supports the government's objective to have a fair tax system for all.

11. Under Part 8 CTA 2009 companies obtain corporation tax relief when expenditure on goodwill and intangible assets is recognised in the accounts. This relief is therefore available to companies who acquire a business directly by purchasing its trade and assets. It is not available to companies who acquire shares in the vendor company.

12. This clause removes this relief with regard to the purchase of goodwill and other intangible assets closely related to goodwill. It will restrict the ability of companies to reduce their corporation tax profits following a merger or acquisition and removes this artificial incentive to buy assets rather than shares.

13. The measure does not impose any restriction in respect of intangible assets apart from goodwill and the other specified "relevant assets". Investment expenditure on intellectual property and other intangible assets will continue to get relief under Part 8.