HM Revenue
& Customs

Corporation tax: restricting relief for internally-generated goodwill transfers between related parties on incorporation

Who is likely to be affected?

Companies who acquire internally-generated goodwill and customer related intangible assets from a related party on the incorporation of the business.

General description of the measure

The measure will restrict corporation tax (CT) relief where a company acquires internally-generated goodwill and customer related intangible assets from related individuals on the incorporation of a business.

Policy objective

This measure makes the tax system fairer by removing unfair tax advantages on incorporation, where there is continuing economic ownership. CT relief will be restricted on the acquisition of the reputation and customer relationships associated with a business (the 'goodwill') when these intangible assets are acquired by a company that is related to the individuals that carried on the business prior to the transfer (incorporation). It removes an unintended tax benefit where, on incorporation, the individual sole trader or partnership business is transferred to a related company.

Background to the measure

This measure was announced at Autumn Statement 2014.

Detailed proposal

Operative date

This measure will be introduced in Finance Bill 2015 and have effect from 3 December 2014, subject to Royal Assent. It will apply to all transfers on or after 3 December 2014 unless made pursuant to an unconditional obligation entered into before that date.

Where an accounting period commences before 3 December 2014, the accounting period is split so that this measure only applies to debits arising from the notional accounting period commencing on 3 December 2014.

Current law

Under Part 8 Corporation Tax Act 2009 (CTA), CT relief is given to companies when goodwill and intangible assets are recognised in the accounts. Relief is normally given on the cost of the asset as the expenditure is written off in accordance with Generally Accepted Accounting Practice or at a fixed 4 per cent rate, following an election.

The current rules allow relief to be claimed even when there is continuing economic ownership. For example, on incorporation of a sole trader or partnership business where the individual(s) transfers the business to a company that is a related party. The current rules require that the market value of the asset is recognised by the related party when the asset is transferred.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend Part 8 CTA 2009 to restrict the relief available in respect of internally-generated goodwill and customer related intangible assets, where the relevant asset is acquired by a company from related party individuals.

These amendments will make it fairer to businesses who do not undertake these types of arrangements. In particular:

- small businesses who, for genuine commercial reasons do not incorporate their business, will not be at a disadvantage compared to those who do;
- start-up businesses that have always been operated within a company, and who cannot access the relief for internally-generated goodwill, will not be at a disadvantage when compared to those that incorporate their business.

Part 8 CTA 2009 will be amended to remove relief for debits under Chapter 3 for all relevant transfers.

Part 8 CTA 2009 will also be amended to treat any debits arising on a subsequent realisation of a relevant transfer as a non-trading debit. This is to limit how a debit arising on a subsequent realisation of a relevant transfer can be relieved. In particular the debit will not be included in the calculation of trading losses. No restriction will be made where a profit (credit) arises on a subsequent realisation.

Companies already receiving relief for goodwill recognised on incorporation will not be affected.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	+5	+ 30	+ 80	+ 110	+ 135	+ 155
	These figures are set out in Table 2.1 of Autumn Statement 2014, as part of *Self-incorporation: intangible assets,* and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Autumn Statement 2014.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals, households and families	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 society organisations	There should be no impact on large business as those businesses will have already incorporated, where appropriate to do so. Companies that acquire goodwill and customer related intangible assets from third parties will not be affected. This measure will not have an impact on civil society organisations.					
Operational impact (£m) (HMRC or other)	The additional costs / savings for HM Revenue & Customs in implementing this change are anticipated to be negligible.					

Other impacts	Small and micro business assessment: Unincorporated businesses choosing to incorporate will not be able to claim amortisation or fixed rate CT relief on the value of internally-generated goodwill and customer related intangible assets transferred to the company on incorporation. As well as becoming familiar with the new legislation, companies will therefore be required to add back the commercial amortisation appearing in the profit and loss account when calculating CT profits. The number of companies affected is difficult to estimate and will depend on the number of companies choosing to incorporate. 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).

Declaration

David Gauke MP, Financial Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.