



Chargeable gains roll-over relief: reinvestment in intangible fixed asset

Who is likely to be affected?

Companies making a disposal of tangible assets and using the proceeds to acquire intangible fixed assets.

General description of the measure

This measure prevents companies claiming chargeable gains roll-over relief on the disposal of tangible assets where the proceeds are reinvested in an intangible fixed asset.

This measure also adjusts the tax cost of the replacement intangible fixed asset for claims made on or after 1 April 2009 and before 19 March 2014, preventing double tax relief being given on any roll-over relief claims already made.

Policy objective

This measure corrects an error in the rewriting of legislation in relation to capital gain roll-over relief where the proceeds on the disposal of a tangible asset are reinvested in an intangible fixed asset. This measure amends the re-written legislation in line with that previously enacted and in line with policy intentions.

This measure makes the tax system fairer and simpler by clarifying the current legislation.

Background to the measure

This measure was announced in Budget 2014. There has been no previous consultation on the change.

Detailed proposal

Operative date

This measure will have effect on and after 19 March 2014 for corporation tax purposes in respect of claims to capital gain roll-over relief where the proceeds are reinvested in an intangible fixed asset.

Current law

Schedule 29 to the Finance Act 2002 (gains and losses of a company from intangible fixed assets) withdrew capital gains roll-over relief on disposals of tangible assets where the proceeds were reinvested in replacement intangible fixed assets acquired on or after 1 April 2002. The current legislation, rewritten as part of the Tax Law Rewrite project, is now contained with section 156ZB of the Taxation of Chargeable Gains Act 1992 (TCGA 1992).

Subsection (3) of section 156ZB of TCGA 1992 replicates the source legislation at paragraph 132(5) of Schedule 29 Finance Act 2002 but the opening words of subsection (1) "This section applies if..." might be regarded as limiting when the provision can apply and inadvertently allowing a gain in respect of a tangible asset, e.g. on the disposal of property, to be rolled-over under the capital gains rules on the acquisition of an intangible fixed asset.

If that interpretation is correct, the current rules in Part 8 of the Corporation Tax Act 2009 (CTA 2009) do not provide for an adjustment to the cost of the replacement asset. The overall tax effect would be to allow relief to be given twice: once when capital gains roll-over relief is claimed under the capital gains regime and again when the expenditure on the replacement asset is relieved under Part 8 CTA 2009.

The rewrite of the legislation was not intended to change the rules. Although HMRC are confident that the courts would recognise the change as an obvious drafting error a legislative change will put the matter beyond doubt.

Proposed revisions

Legislation will be introduced in Finance Bill 2014 to amend section 156ZB TCGA 1992 to bring the corporation tax treatment of companies seeking to claim capital gains roll-over relief into line with the rules enacted in Finance Act 2002.

Section 156ZB TCGA 1992 will be amended to make it clear that roll-over relief under the chargeable gains rules is not available where the proceeds are reinvested in an intangible fixed asset, effective from 19 March 2014.

Legislation will also be introduced in Finance Bill 2014 to enable the tax cost of any intangible fixed asset to be adjusted where roll-over relief has been claimed in respect of a reinvestment in intangible fixed assets before Budget 2014 (19 March 2014). The tax cost will be adjusted when calculating any debits and credits within Part 8 CTA 2009 arising for any accounting periods beginning on or after 19 March 2014. Any companies affected by this change will be required to compute debits and credits separately for the periods before and on or after 19 March 2014.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	nil	nil	nil	nil	nil
	This measure is not expected to have an Exchequer impact.				
	This measure supports the Exchequer in its commitment to protect revenue.				
Economic impact	The measure is not expected to have any economic impacts.				
Impact on individuals and households	This measure is expected to have no impact on individuals or households. This measure will only affect companies.				
Equalities impacts	The measure is not expected to have an impact on any protected equality group as it will only affect companies.				
Impact on business including civil society organisations	This measure is expected to have no impact on businesses or civil society organisations. This measure clarifies existing legislation but does not change the burden.				
Operational impact (£m) (HMRC or other)	This measure is expected to have negligible operational impacts.				
Other impacts	Other impacts have been considered and none have been identified.				

Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

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).