

1 Cash basis: treatment of capital

- (1) For section 33A of ITTOIA 2005 (cash basis: capital expenditure) substitute –

“33A Cash basis: capital expenditure

- (1) This section applies in relation to the calculation of the profits of a trade on the cash basis.
- (2) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the acquisition or disposal of a business or part of a business.
- (3) No deduction is allowed for an item of a capital nature incurred on, or in connection with, education or training.
- (4) No deduction is allowed for an item of a capital nature incurred on, or in connection with, the provision, alteration or disposal of –
 - (a) any asset that is not a depreciating asset (see subsections (6) and (7)),
 - (b) any asset not acquired or created for use on a continuing basis in the trade,
 - (c) a car (see subsection (14)),
 - (d) land,
 - (e) a non-qualifying intangible asset (see subsections (8) to (11)), or
 - (f) a financial asset (see subsection (12)).
- (5) But subsection (4)(d) does not prevent a deduction being made for expenditure that –
 - (a) is incurred on the provision of a depreciating asset which, in being provided, is installed or otherwise fixed to land so as to become, in law, part of the land, but
 - (b) is not incurred on, or in connection with, the provision of –
 - (i) a building,
 - (ii) a wall, floor, ceiling, door, gate, shutter or window or stairs,
 - (iii) a waste disposal system,
 - (iv) a sewerage or drainage system, or
 - (v) a shaft or other structure in which a lift, hoist, escalator or moving walkway may be installed.
- (6) An asset is a “depreciating” asset if, on the date the item of a capital nature is incurred, it is reasonable to expect that before the end of 20 years beginning with that date –
 - (a) the useful life of the asset will end, or
 - (b) the asset will decline in value by 90% or more.
- (7) The useful life of an asset ends when it could no longer be of use to any person for any purpose as an asset of a business.
- (8) “Intangible asset” means anything that is capable of being an intangible asset within the meaning of FRS 105 and, in particular, includes –
 - (a) an internally-generated intangible asset, and
 - (b) intellectual property.

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- (9) An intangible asset is “non-qualifying” unless, by virtue of having a fixed maximum duration, it must cease to exist before the end of 20 years beginning with the date on which the item of a capital nature is incurred.
- (10) An intangible asset is “non-qualifying” if it consists of a right, whether conditional or not, to obtain an intangible asset without a fixed maximum duration by virtue of which that asset must, assuming the right is exercised at the last possible time, cease to exist before the end of 20 years beginning with the date on which the item of a capital nature is incurred.
- (11) Where –
- (a) the trader has an intangible asset, and
 - (b) the trader grants a licence or any other right in respect of that asset to another person,
- any intangible asset that consists of a licence or other right granted to the trader in respect of the intangible asset mentioned in paragraph (a) is “non-qualifying”.
- (12) A “financial asset” means any right under or in connection with –
- (a) a financial instrument, or
 - (b) an arrangement that is capable of producing a return that is economically equivalent to a return produced under any financial instrument.
- (13) A reference to acquisition, provision, alteration or disposal includes potential acquisition, provision, alteration or (as the case may be) disposal.
- (14) In this section –
- “arrangement” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
 - “car” has the same meaning as in Part 2 of CAA 2001 (see section 268A of that Act);
 - “building” includes any fixed structure;
 - “financial instrument” has the same meaning as in FRS 105;
 - “FRS 105” means Financial Reporting Standard 105 (the Financial Reporting Standard applicable to the Micro-entities Regime), issued by the Financial Reporting Council in July 2015;
 - “intellectual property” means –
 - (a) any patent, trade mark, registered design, copyright or design right, plant breeders’ rights or rights under section 7 of the Plant Varieties Act 1997,
 - (b) any right under the law of a country or territory outside the United Kingdom corresponding or similar to a right within paragraph (a),
 - (c) any information or technique not protected by a right within paragraph (a) or (b) but having industrial, commercial or other economic value, or
 - (d) any licence or other right in respect of anything within paragraph (a), (b) or (c);
 - “provision” includes creation, construction or acquisition;

“the trader” means the person carrying on the trade.”

- (2) The amendment made by subsection (1) has effect for the tax year 2017-18 and subsequent tax years.
- (3) If—
 - (a) disregarding this subsection, under section 33A of ITTOIA 2005 (as inserted by subsection (1)), a deduction would not be allowed in calculating the profits of a trade, profession or vocation on the cash basis for the tax year 2017-18, but
 - (b) if the amendment made by subsection (1) were not to have effect for that tax year, that deduction would be allowed in calculating the profits of that trade, profession or vocation on that basis for that tax year,that deduction is to be allowed in calculating the profits of that trade, profession or vocation on that basis for that tax year.