

Technical factsheet: latest guidance on intangible fixed assets regime

Prior to the introduction of the intangible fixed assets regime on 1 April 2002, companies were not entitled to relief for amortisation or impairment of intangible fixed assets (IFAs). Also, relief was generally recognised for tax purposes under the capital gains regime when the asset was sold.

Since its introduction, the IFA regime has governed the taxation of IFAs, including goodwill. However, for periods before 1 July 2020, this applies only where the asset was created or acquired from an unrelated party on or after 1 April 2002. The IFA regime broadly aligns the tax treatment of assets within the scope of the regime with their accounting treatment. A fixed-rate deduction of 4% can also be claimed via a non-revocable election if made within two years of the end of the accounting period in which the asset was acquired.

The regime has had several significant legislative changes over recent years, as detailed below. These changes, along with the complexity of the rules, have resulted in HMRC finding an increase in the incorrect application of the rules.

KEY DATES

1 April 2002

The regime was introduced in Finance Act 2002 and has since been rewritten into Part 8 of Corporation Tax Act (CTA) 2009. The rules provided tax relief to companies in the form of relievable debits and apply to IFAs created, or acquired from an unrelated party, on or after 1 April 2002 (subject to specific exclusions).

3 December 2014

Finance Act 2015 introduced restrictions in relation to 'relevant assets' when acquired from a related individual or from a firm in which a member of that firm was related to the company. Broadly, this restriction deals with related-party incorporations and does not apply when the ['third-party acquisition'](#) condition is met.

The Finance Act 2015 rules apply to acquisitions of relevant assets between 3 December 2014 and 7 July 2015. Relief is restricted by preventing annual debit relief under Part 8 for relevant assets acquired during that period. Relief is instead given when the asset is realised, although credits are still chargeable.

For the purposes of the intangibles regime, the term [relevant assets](#) relates to goodwill and other types of IFAs commonly associated with goodwill including those typically subsumed within goodwill under old UK GAAP (FRS10). Relevant assets include:

- goodwill
- customer information
- customer relationships (contractual and non-contractual)
- unregistered trademarks or signs used in the business
- licences in respect of the above

8 July 2015

The Finance Act 2015 rules were superseded by Finance (No 2) Act 2015, which effectively extended the 3 December 2014 restrictions to goodwill and relevant assets acquired from any party on or after 8 July 2015.

1 April 2019

For acquisitions from 1 April 2019, Finance Act 2019 introduces new rules for relevant assets, including goodwill. These assets attract tax relief, with the rules being written into Chapter 15A CTA 2009.

The conditions for relief are stricter than those that existed before 3 December 2014. Broadly, to qualify for a fixed-rate deduction of 6.5%, relevant assets must have been acquired on or after 1 April 2019 as part of the acquisition of a business, alongside qualifying intellectual property ([QIP](#)).

QIP is narrowly defined and does not include, for example, registered or unregistered trademarks. This means that not all business acquisitions will qualify for relief under Chapter 15A.

Relief is capped at six times the cost of any QIP acquired and is given at a fixed rate of 6.5% per annum. If the cost of QIP is greater than six times the cost of the relevant asset, a partial restriction applies. Details on how to calculate the relievable debit in these circumstances are found at [CIRD44093](#).

Acquisitions from related parties can be further restricted. In particular, no amortisation relief is due where the relevant assets are [pre-Finance Act 2019](#), or where they are acquired from a related individual or firm (except insofar as the '[third-party acquisition](#)' condition is met).

1 July 2020

Further changes were introduced to the regime by Finance Act 2020, broadly relating to the 2002 rules and allowing more assets to be brought within Part 8. For further guidance on these changes, see [CIRD46010](#) onwards, accessed via GOV.UK.

COMMON ERRORS

HMRC's purpose is to collect the right amount of tax at the right time, and knows that the vast majority of customers want to pay the right tax. HMRC wants to help customers get things right, but will also take remedial action where it observes mistakes including any

boundary pushing and avoidance. It will litigate cases if necessary where the rules are not applied correctly.

HMRC wants to make you aware of some of the most common mistakes to help your clients to get things right.

Valuation

HMRC has observed cases with inflated values given to intangible assets acquired from related parties or apportioned to intangible assets and goodwill where there has been a business acquisition.

HMRC has its own qualified valuation specialists to check valuations on asset acquisitions, and recommends that companies obtain at least one professional independent valuation of all assets, ensuring that the correct assets are valued on the correct basis, particularly if the acquisition is from a related party.

Date of acquisition

It is important to clearly and correctly identify the date that the assets were acquired by the business, especially when that date falls around one of the legislative changes detailed above. Companies should also retain supporting evidence and contemporaneous documents to support the date of legal assignment.

Asset identification

With varying definitions and exceptions along with the broad scope of legal and intellectual property rights, it's important to undertake a detailed analysis to support asset identification.

This could include:

- obtaining legal advice to properly identify legal and intellectual property rights, which will help to ensure the rules are applied appropriately to each of the identifiable assets
- consulting statute and HMRC guidance to determine whether, or to what extent, each asset qualifies for relief.

No business acquisition

A fundamental principal of Part 8 CTA 2009 is that purchased goodwill can only be recognised in accordance with accounting principles, ie where a business has been acquired. Goodwill should not be recognised for Part 8 purposes if the company has not acquired a business.

Documentary evidence

Compliance checks are made longer and more difficult where there is a lack of documentary evidence relating to asset or business transfers, especially if it's between related parties.

HMRC expects related parties to follow the arm's length principle and to document transactions and agreements as if they were undertaking those transaction with an unrelated third party.

HMRC must make evidence-based decisions. Failure to follow this principle could have an impact on whether and when the legal assignment took place. It could also affect the value of the transaction.

Records should be kept for six years from the end of the financial year they relate to. If they are not, you can be fined up to £3,000.

Resources

For more information on any of this, or if you need any help, follow the links to the detailed guidance in this factsheet.

April 2022

This factsheet is from HMRC.

ACCA LEGAL NOTICE

This technical factsheet is for guidance purposes only. It is not a substitute for obtaining specific legal advice. While every care has been taken with the preparation of the technical factsheet, neither ACCA nor its employees accept any responsibility for any loss occasioned by reliance on the contents.