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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD48020 - Intangible assets: avoidance: structural defences and their limitations

Accountancy foundation and exclusion of existing assets

Two important structural elements of the rules in CTA09/PART8, which inhibit attempts to exploit the legislation, are discussed below.

Accountancy foundation

Although there are a number of points of divergence between the legislation and the treatment in companies' commercial accounts, the accounting figures nevertheless form the basis for the tax result. This limits (although it does not counter altogether) the ability of companies to engineer tax deductions for losses without substantial commercial foundation. Companies will generally be unable to depress their taxable profits without similarly depressing the commercial results they show in their published accounts - to investors, creditors and the capital markets more generally.

The position is buttressed by the provisions in CTA09/PART8, which:

- require the accounting figures adopted for tax to be those which conform with GAAP ([CIRD30020 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird30020\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird30020)),
- enable regard to be had to consolidated group accounts where there is a divergence between the treatment of intangible assets in a company's own accounts and in the accounts of a group of which it is a member (see [CIRD30080 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird30080\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird30080)),

On the other hand sometimes circumstances will arise where a company:

- is relatively unconcerned about the effect on other users of its accounts of, say, the very rapid write-off of acquired intangibles, and
- can justify that treatment as a matter of GAAP (in its own accounts and in any consolidated group accounts which reflect its results).

Exclusion of existing assets

As described in [CIRD11500 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11500\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11500)

[intangibles-research-and-development-manual/cird11500](#)), prior to 1 July 2020 the policy was to exclude from Part 8 goodwill and other intangible assets in existence prior to 1 April 2002 ('pre-FA 2002 assets') which generally were kept outside the rules in CTA09/PART8 while they remained within the same economic family.

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