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Corporate Intangibles Research and Development Manual

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CIRD43050 - Intangible assets: disincorporation relief: post-FA 2002 goodwill: introduction

FA13/S58

Overview

Disincorporation relief is a form of roll-over or deferral relief. It allows a company to transfer qualifying assets to shareholders who will continue the business in an unincorporated form, without the company incurring a corporation tax charge on the realisation of those assets.

The tax charge that would normally arise to the company on realisation of a qualifying asset is effectively deferred by allowing the asset to be transferred below market value to the shareholder(s). The shareholder(s) then accept this lower base cost for all future computations.

Qualifying assets are interests in land (unless held as trading stock) and goodwill. Goodwill includes pre-FA 2002 goodwill dealt with under the capital gains rules and post-FA 2002 goodwill.

The guidance in this manual refers to disincorporation relief for goodwill that is within CTA09/Part 8, referred to as "post-FA 2002 goodwill". Further guidance for pre-FA 2002 goodwill and land is available in the Capital Gains Manual at CG65800+

Disincorporation relief is available for transactions where the business transfer date falls in the 5-year period 1 April 2013 to 31 March 2018.

Background

Most transfers between connected persons CG14580+ and related parties CIRD45105 (https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45105) are on a market value basis - see CG14530 and CIRD45030 (https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45030). A realisation based on the market value of the land and goodwill, including post-FA 2002 goodwill, could result in the company having to pay a corporation tax charge on any taxable credits or gains, potentially reducing the cash-flow of the business.

A claim to disincorporation relief allows the qualifying assets to be transferred below market value so that no corporation tax charge arises to the company. The shareholder(s) accept the reduced transfer value for all future capital gains computations. The detailed rules for determining the transfer value in relation to post-FA 2002 goodwill are contained in CIRD43150 (https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird43150) - CIRD43350.

Points to note

Shareholders may still be liable to income tax or capital gains tax on the transfer of assets to them by the company, where for example the asset is distributed or transferred below market value.

Disincorporation relief relieves only company gains on qualifying assets. It does not relieve any gains arising in the company on the transfer of assets which are not qualifying assets.

Although the business of a company must be transferred to shareholders for a valid claim to be made, a claim for disincorporation relief does not require that the company be struck off/dissolved.

→ **Next page (/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird43100)**