The tax rules for intangible assets

Mala Kapacee reports on the first 2014 meeting of London Tax Club

GETTY

On 4 February 2014, London Tax Club heard Pete Miller, of The Miller Partnership, talk about the corporation tax regime for intangible fixed assets (IFAs).

The current regime, now contained in ss711-906 Corporation Tax Act 2009 (CTA 2009), brought the taxation of IFAs created or acquired on or after 1 April 2002 in line with accounting principles for companies, superseding a variety of previous treatments. In practice, the main advantage is the tax deduction available for the amortisation or impairment of IFAs.

Where a company holds IFAs that pre-date April 2002, assets continue to be taxed under the appropriate old regime (usually, but not always, capital gains). This usually includes goodwill in a business ,which commenced before April 2002, and internally-generated assets continuously developed since 1 April 2002, unless these were acquired by the company from an unconnected party after that date. This is important when incorporating a business, as the goodwill transferred to the company will only be within the new regime if the business was not carried on by a connected party before 1 April 2002.

The regime also provides a deduction for debits in respect of IFAs, such as legal costs of acquiring, disposing of, registering or defending the IFA. Likewise, the regime taxes credits recognised in the accounts. A revaluation to an amount in excess of the original cost is not taxed although the profit on an actual disposal is.

Goodwill is not recognised as intangible property under generally accepted accounting principles (GAAP), although it is treated as an IFA for tax purposes here, and as a result its sale may result in a taxable credit or loss. It should be noted that negative goodwill, which generally arises only on the acquisition of distressed assets (such as the purchase of a trade and assets from a liquidator) is not generally within the IFA regime – this is fortunate, as the corresponding uplift in the accounting value of other assets acquired would not generally be deductible under the relevant head of tax.

As an alternative to following the accounting treatment for amortisation of IFAs, the company can elect to amortise the IFA at 4% per annum. The election is irrevocable and if, after it has been made, the IFA is amortised more quickly than expected or is impaired, no deduction for the further charge in the accounts can be claimed.

Accountants can add value for their clients by analysing IFAs included in what is usually just lumped together into 'goodwill', to see if elements are separable and can be amortised at an accelerated rate compared to the overall goodwill. Examples are customer lists, certain contracts, and staff know-how. Similarly, with pre-April 2002 goodwill, separable elements may be within the scope of the IFA regime, as having been created or acquired since it commenced.

Assets specifically excluded from the new IFA regime include financial assets, rights over tangible assets, oil licences and rights in companies, trusts and partnerships (unless a partnership right is treated as goodwill under GAAP).

For assets acquired together, even if there are separate contracts, the value allocated to each asset for tax purposes is determined by the appropriate tax rules. Usually, this means apportionment of the consideration paid on a just and reasonable basis, as in the rules for capital allowances and capital gains. But the amount brought into account by a purchaser for IFA purposes must follow GAAP. Indeed, s856(3), CTA 2009 states that HMRC must accept any GAAP-compliant value. Conversely, the amounts brought into account on a sale are by apportionment on a just and reasonable basis, even for IFAs. So there can be a mismatch between the amounts brought into account for IFAs by a vendor and a purchaser because the amounts on a sale do not have to follow GAAP.

Mala Kapacee is at Gabelle Tax and is a committee member of the Younger Members' Tax Club

Working the room

Stuart Ashmore reports on Nottingham Tax Club

The Nottingham Younger Members' Tax Club got off to a good start in 2014 with a soft skills session run by Angus Farr from Training Counts on 10 February.

Employers often focus on giving their staff the technical ability to perform their role, but give little consideration to the non-technical skills required. We need a balanced set of skills to succeed, and the aim of this session was to look at strategies that will help professionals develop confidence and achieve objectives at networking events.

Angus started by asking: what is the purpose of networking? This is to win clients, create relationships, build on existing relationships and expand our contacts. He polled attendees to find out what about networking they find difficult, and in which areas they needed advice. These were:

- how to break the ice;
- having the confidence to approach people;
- conversations – what to say;
- leaving a conversation.

Angus offered a structured plan on how to go about networking, to make full use of the event and achieve what you want, whether as participant or organiser. This plan can be split into three parts – before, during and after – all of which are important to achieve your goal.

Beforehand, you need to consider the purpose of the event. Is it targeted? Who is invited? Once you know, it is important to research the participants, what their needs might be and whether you can fulfil them. If you are organising the event, make sure the staff attending are skilled in the areas in which the participants need your services.

There are little things you can do to identify attendees; name badges can be colour-coded to indicate staff, hot targets, cold prospects, competitors' clients etc. This way time can be spent talking to the right people.

During the event, be aware that in a networking environment there are four types of groupings: solo, pairs, trios and four or more, all of which can be open or closed.

To elaborate on pairs: when looking to join a group of two it is important to gauge if the group is open or closed. If the participants are facing each other, it is a closed situation and trying to join this conversation will be difficult and should be avoided. This can change; a closed conversation can become open just by changing the participants' stance. If they are at a slight angle, this is a sign it is open to join.

When joining a conversation, make eye contact with the speaker and wait for an appropriate moment to join in – but remember it is better to be interested than be interesting.

SO WHAT DO YOU SAY?

Start with 'situational' remarks: have you been to an event before? Then 'personal': what do you do? And finally 'business' questions, which can be split into past (how long have you been going?), future (where do you see yourselves in five years' time?) and present (what are your current issues?).

After the event, the most important part of business development is getting together with colleagues straight away. If you don't do this, up to 80% of the value gets lost. Consider: what did we talk about with the attendees? What are we now going to do? Who is going to make contact? Who is going to add attendees to mailing lists? Remember to reflect on what went well, what didn't, and what you would do differently.

Stuart Ashmore is corporate tax manager at News UK and organises Nottingham Tax Club