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Business Tax

THE SUPER-DEDUCTION AND COMPUTER SOFTWARE



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The Finance Bill 2021 introduced a new super-deduction (130%) first year allowance for corporation tax on most new plant and machinery. This relief can apply equally to computer software as to physical assets, provided the software is recognised as a capital rather than a revenue cost.

CAPITAL OR REVENUE?

Software is likely to be treated as revenue where there are regular payments (akin to a rental). The position is less clear where a lump sum is paid for a licence, but, as a rule of thumb, HMRC confirm that this would likely qualify as a capital asset where it has a sufficiently enduring nature (applied by reference to the function of the licensed software in the context of the licensee's trade).

Where software is expected to have a useful economic life of less than two years it is likely that HMRC will treat this expenditure as revenue.

Where computer hardware and the licence to use software are purchased as a package for a single payment the expenditure between hardware and software should be apportioned. Capital allowances under the ordinary plant and machinery rules will be due on the expenditure attributable to the hardware. The treatment of the balance of the expenditure, attributable to the software licence, will depend on the considerations described above. HMRC have

confirmed, however, that where both the hardware and software are acquired on capital account and the expenditure all goes into the general machinery and plant 'pool', apportionment will not in practice be necessary.

The treatment of expenditure on software acquired outright follows the same principles as those governing the treatment of licensed software. In particular, where the expenditure concerned (including salaries of in-house computer professionals) is capital or revenue again depends on the economic function of the software in the trade in question as it does for licences acquired for lump sums.

ACCOUNTING & TAX TREATMENT

Provided the software is capital there are two possible ways this may be accounted for:

- a tangible asset on which capital allowances will be available (including the super-deduction)
- an intangible asset - the intangible assets regime may apply.

Licences and rights over software, website development costs and domain names will often be accounted for as intangible assets, and will therefore fall within the intangible assets regime provided they are created or acquired from an unrelated party on or after 1 April 2002. Where this is the case, the tax relief will follow the accounting treatment with amortisation or impairment of the asset usually deductible for tax purposes as and when recognised in the accounts.

However, if intangible assets were:

- created or acquired before 1 April 2002, or
- acquired from a connected party (or parties) who created / acquired them before 1 April 2002 then the intangible assets regime will not apply.

Software can also be excluded from the intangible assets regime if:

- it is treated for accounting purposes as part of the related hardware; or
- the company makes an election under s815 CTA 2009 to exclude it from the regime.
- An asset will also be completely excluded from the intangible asset regime if it is treated as an intangible asset in the company's accounts but in a previous accounting period was treated as a tangible asset on which capital allowances were claimed (for example on a change of accounting standards).

- Where any of the above applies to exclude an asset from the intangible assets regime, it may qualify for capital allowances instead.
- It may therefore be beneficial to make an election under s815 CTA 2009 if claiming capital allowances would give relief faster than deducting the amortisation or impairment costs recognised in the accounts (for example, because the Super-Deduction/Annual Investment Allowance would provide a higher/accelerated relief whereas the intangible asset will be amortised over a long period).

For further advice on the super-deduction or capital allowances, please contact your local Moore adviser.



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