



Making Tax Digital

Cash basis: treatment of capital

Draft legislation published on 31 January 2017

1 March 2017

About ICAS

1. The following submission has been prepared by the ICAS Tax Board. The ICAS Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community, which consists of Chartered Accountants and ICAS Tax Professionals working across the UK and beyond, and it does this with the active input and support of over 60 board and committee members.
2. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 21,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members in the many complex issues and decisions involved in tax and financial system design, and to point out operational practicalities.

General comments

4. ICAS welcomes the opportunity to comment on the draft Finance Bill clause, proposed new section 33A ITTOIA 2005 relating to 'Cash basis: treatment of capital', which was published on 31 January 2017.
5. As outlined in our consultation responses, we remain unconvinced that the extension of the cash basis to larger business is appropriate. There are good business reasons for businesses which trade over the VAT threshold to prepare accounts on an accruals basis.
6. The policy objective is to simplify the rules for capital expenditure for unincorporated businesses that use the cash basis. However, given the number of sub-sections in the proposed legislation, and the introduction of new terms, it is far from clear that the result will be simplification.
7. These rules have a number of requirements and do not lend themselves to a simple, taxpayer operated regime. While extensive guidance may assist businesses in making the various distinctions within the rules it remains questionable how this simplifies the requirements.
8. With complex rules, many businesses may be better to take advice from a professional accountant rather than take the risk of making a mistake.

Specific comments - Proposed new s33A ITTOIA 2005

9. Proposed new s33A ITTOIA 2005: we note that for those businesses using the cash basis they will still be required to make capital / revenue distinctions here.
10. Proposed new s33A ITTOIA 2005 (3): we note that there are exclusions for capex in connection with the undertaking of education and training but the reasoning for this is unclear.
11. Proposed new s33A ITTOIA 2005 (6): The new 'depreciating asset' rule involves a considerable degree of subjective judgement. Estimating a 'decline in value by 90% or more' over a 20 year period is problematic. Is the result any clearer than the case law and practice already evolved?
12. Proposed new s33A ITTOIA 2005 (9): New definitions such as that at (9) of "An intangible asset is "non-qualifying" unless, by virtue of having a fixed maximum duration" are not easily accessible. It is far from clear that small business owners, who must be the primary target for the cash basis, will readily comprehend their obligations under such rules.