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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

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[Back to contents](#) > [CIRD10000](#) > [CIRD11500](#)

# CIRD11685 - Intangible assets within CTA09/PART8: FA02 rule: when asset treated as created or acquired: exceptions to expenditure incurred rule: assets other than goodwill not qualifying for capital allowances

## CTA09/PART8/S885

Background

Like the rule for goodwill in [CIRD11680](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11680) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11680>), this section addresses the difficulty in identifying expenditure (usually of a revenue nature) on the creation of certain intangible assets. CTA09/S885 addresses the case of intangible fixed assets, other than goodwill or representing production expenditure on films, seen as being held by a company, but where any expenditure on the creation or acquisition of the asset does not qualify for capital allowances under the law as it was before 1 April 2002. Registered trade marks and design rights are examples of such intangible assets.

## Rule

Such an asset is treated as wholly created before 1 April 2002 if the asset was held by the company, or a 'related party' ([CIRD45105](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45105) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45105>) onwards), prior to that date.

The extension of this rule to the case where a related party held the asset before 1 April 2002 will be relevant in applying the provision described in [CIRD11650](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11650) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11650>). That is because for the purpose of that provision the asset cannot be treated as created on or after 1 April 2002 if that asset was held by the related party at any time prior to that date.

## Apportionment

Where expenditure on the creation of an intangible fixed asset falls partly within CTA09/S885 and partly outside, two separate assets are deemed to have been created. Any apportionment of the expenditure between the two assets is to be made on a just and reasonable basis.

## Apportionment example

The apportionment rule may be in point if part of the expenditure on a software development project (leading to the creation of an intangible fixed asset) would be revenue for tax purposes under the relevant case-law (see BIM35800 onwards) and part would qualify for capital allowances. In these circumstances the expenditure would be regarded as giving rise to two separate assets. For the purpose of applying the FA02 rule:

- the time when the deemed asset representing the revenue expenditure is treated as created would be determined under CTA09/S885 (see above)
- the time when the deemed asset representing the expenditure qualifying for capital allowances is treated as created would be determined under CTA09/S889 (see [CIRD11690](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11690) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11690>))

This apportionment of expenditure to separate assets is also to be adopted in applying any other corporation tax provisions, in addition to CTA09/PART8, which may be in point.

Where valuation of intangible assets is an issue see [CIRD10240](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird10240) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird10240>).

← **Previous page**  
(/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11680)

---

→ **Next page**  
(/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11688)



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