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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD48120 - Intangible assets: avoidance: tax-driven transactions: relationship of anti-avoidance rule with other provisions

Relationship with exclusion of assets held for uncommercial purposes

CTA09/S803 provides that the provisions of PART8 do not apply to an intangible asset to the extent that it is held for a purpose that is not a business or other commercial purpose of the company (see [CIRD25030](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and->

[development-manual/cird25030](#))). In the avoidance field this rule is likely to be of application only in unusual circumstances. It is certainly possible to envisage circumstances where arrangements having as a main object the reduction of profits in the way described in [CIRD48110](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48110>) involve an asset held for commercial purposes.

Relationship with requirement that accounting treatment must correspond with GAAP

It is important to distinguish cases where ordinary commercial transactions and arrangements may have been accounted for in a way that reduces taxable profits, from those where the transactions and arrangements are themselves responsible for the reduction in profits.

The issue in the first type of case is whether the accounting treatment adopted is consistent with GAAP (see [CIRD30000](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird30000>) onwards). In the second type of case the accounting treatment of the transactions in question (in accordance with GAAP) may well do nothing to address the perceived avoidance, and the issue will be solely whether the anti-avoidance rule is in point.

Relationship with arm's length and market value rules

The anti-avoidance rule is aimed at circumstances that are rather more elaborate than the simple purchase of an intangible asset at an inflated price (so increasing the deductions for sums written off the asset) or its sale at a depressed one. The arm's length and market value rules should deal adequately with these situations. It is not credible that, in a stand-alone transaction with an independent party a company would sell an asset

at undervalue or buy one at overvalue simply to reduce its tax bill.

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