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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD25060 - Intangible assets excluded from CTA09/PART8: assets outside FRS102 s18: rights in companies, trusts and partnerships

CTA09/PART8/S807

This section excludes:

- shares or other rights in the profits or in the winding up of a company (or in its governance),
- rights under a trust,

- the interest of a partner in a partnership.

Underlying assets of trust or partnership intangible assets

Rights under a trust or an interest in a partnership are outside this exception to the extent that:

- the assets of the trust or partnership consist of intangible fixed assets, and
- those assets are for accounting purposes treated as assets held directly by the company holding the rights or the interest.

In other words, the exclusion does not apply to the extent that the accounting treatment is to look through the trust or partnership to the underlying intangible asset.

Position of corporate partner

The provisions in CTA09/1259 ensure that a company partner recognises directly its share of partnership profits (see CTM36500 onwards). Where the assets of the partnership consist of intangible fixed assets the exclusion of partnership interests in S807 will not prevent the partnership from computing its profits in accordance with the rules in CTA09/PART8. These will then be attributed to the member company in accordance with its interest in the partnership.

No double counting

It is not considered that the exception from the exclusion for a company's rights under a trust, described above, could in practice lead to double counting of the same sums, i.e. to income tax in the hands of the trustees as well as under CTA09/PART8. Any case where double counting seems to arise should be referred to BAI Business Tax.

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