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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)  
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Published 11 March 2016

Updated: 10 September 2025 - [See all updates](#)

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## CIRD45020 - Intangible assets: related party rules: circumstances where relevant

### Provisions affected

There are seven circumstances where it is important to consider whether the other party to a transaction involving goodwill or intangible assets is a related party of the company in question.

#### 1. Whether an intangible asset comes within CTA09/PART8

For acquisitions before 1 July 2020 the policy behind the scope of the provisions in CTA09/PART8/CHAPTER16 was that assets in existence prior to 1 April 2002 remain outside the rules in Part 8 so long as they remain within the same economic family.

It is therefore extremely important to determine whether the person (a natural person or a legal entity) who subsequently transfers a pre-FA02 asset to a company before 1 July 2020 is a related party of that company. The guidance on this is at [CIRD11500 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11500\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11500) onwards.

## **2. Whether an intangible asset is a restricted asset within CTA09/PART8/CHAPTER16A**

For acquisitions on or after 1 July 2020, FA2019/S31 amended the scope of the commencement provisions in CTA09/PART8/CHAPTER16 to allow pre-FA 2002 assets acquired from a related party to come within the rules in Part 8. However, CTA09/PART8/CHAPTER16A restricts the debits that can be relieved in relation to assets that were pre-FA 2002 assets where these are acquired from a related party.

As for item 1, it is therefore important to determine whether the company's acquisition is from a person (a natural person or a legal entity) who is a related party of that company. The guidance on this is at [CIRD46000 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11500\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11500) onwards.

## **3. Transfer of asset within Part 8 between related parties**

Where a company transfers an asset (which is within Part 8 in its hands) to a related party or acquires such an asset from a related party, Part 8 provides (subject to exceptions) that the

transaction should take place at market value. Market value is adopted not only in applying the rules of Part 8 but for tax purposes generally.

This rule broadly corresponds to the use of market value for transactions between 'connected persons' in the CG code.

The guidance is at [CIRD45030](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45030) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45030>) onwards.

#### **4. No reinvestment relief on part realisation of asset within Part 8 to related party**

Reinvestment relief under Chapter 7 of Part 8 is not available where there is a part realisation of an asset within Part 8 and the counter-party is a related party. This rule, and the thinking behind it, is described in [CIRD20080](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird20080) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird20080>).

#### **5. Delayed payment of royalties to related party**

Where royalties payable to a related party (who is outside Part 8 in respect of the transaction) are not in fact paid until more than 12 months after the period in which they are charged against profits in the accounts, the deductible debit is deferred to the period of payment. See [CIRD12660](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird12660) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird12660>).

#### **6. Incorporation of a business**

Rules introduced in FA15/S26 (CTA09/S849B) and in FA19/S25 (CTA09/S879K) apply where an individual or a firm incorporates their business between 3 December 2014 and 7 July 2015 or, on or after 1 April 2019. These rules restrict when and how relief for goodwill and certain customer

related intangible assets is given. See [CIRD44000](https://www.gov.uk/hmrc-internal-manuals/cird44000) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird44000>) onwards.

## 7. Licence granted by or to a related party

Rules were introduced by FA18/S21 (CTA09/S849AB-AD) to ensure a tax advantage cannot be obtained by related parties who grant a licence other than at market value. These rules apply from 22 November 2017, see the guidance from [CIRD48350](https://www.gov.uk/hmrc-internal-manuals/cird48350) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48350>) onwards.

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