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Corporate Intangibles Research and Development Manual

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CIRD46040 - Intangible assets: special rules for restricted assets: when an intangible asset is restricted – the first case

CTA09/S900B

The first case

CTA09/S900B determines when an intangible fixed asset is restricted by reference to the first case. Broadly, the first case deals with

transactions that typically involve a transfer of an asset. To be within the first case the following conditions must apply to the acquisition:

- the asset must be acquired on or after 1 July 2020 (CTA09/S900B(1)(a)),
- the asset must be acquired from a person who was a related party to the company at the time of acquisition (CTA09/S900B(1)(b)), and either
- the asset was a pre-FA 2002 asset in the hands of any company on 1 July 2020 and at no time on or after 1 July 2020 has the asset been the subject of a relieving acquisition (CTA09/S900B(2)(a) and (b)), or
- the asset was created before 1 April 2002, and immediately before 1 July 2020 the asset was held by a person other than a company, and at no time has the asset been the subject of a relieving acquisition (CTA09/S900B(3)(a) – (c)). See CIRD46050 for details on the intermediary exemption to this condition.

For the definition of ‘relieving acquisition’ see [CIRD46100 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46100\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46100).

Points to note

The condition in CTA09/S900B(2)(a) is applied to any company not just the vendor. This broad drafting means that this condition can be applied to a series of transactions. See the example below.

Example: a series of acquisitions between related companies

C Ltd acquires an intangible asset from company B Ltd on 1 April 2022. C Ltd and B Ltd were related parties at the time of that acquisition but not within the same group. Company B had previously acquired the intangible asset from A Ltd on 1 September 2020 which was a pre-FA 2002 asset of A Ltd. At the time of that earlier acquisition A Ltd and B Ltd were related parties. A Ltd had held the pre-FA 2002 asset on 1 July 2020 and throughout the period up to 1 September 2020.

The asset is a restricted asset in C Ltd's hands because:

- C Ltd acquired the asset on or after 1 July 2020 (S900B(1)(a))
- C Ltd acquired the asset from a related party, B Ltd (S900B(1)(b))
- The asset was a pre-FA 2002 asset on 1 July 2020 and at no time since then has the asset been the subject of a relieving acquisition (S900B(2)(a) and (b)).

Note that there is no requirement to look at the relationship between A Ltd and C Ltd in this series of transactions, nor is there any requirement to consider the status of the asset when held by B Ltd (unless there was a tax-neutral transfer between B Ltd and C Ltd). The asset held by B Ltd could have been a restricted asset under CTA09/CHAPTER16A, a pre-FA2002 asset or B Ltd may not have been chargeable to corporation tax in respect of the asset.

The tests are applied in relation to the asset's status on 1 July 2020 but at the time when it is subsequently acquired by C Ltd, that is whether the asset was a pre-FA 2002 asset on 1 July 2020 and whether the asset has subsequently been the subject of a relieving acquisition before it was acquired by C Ltd. Since A Ltd and B Ltd were related parties the acquisition of the asset by B Ltd could not have been a relieving acquisition. This test therefore ensures that what was a pre-FA 2002 asset on 1 July 2020 will always be a restricted asset in any sequence of related party acquisitions until a relieving acquisition takes place. As explained in [CIRD46100](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46100) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46100>) a relieving acquisition is an acquisition by a company from an unrelated party.

Examples where the first case cannot apply

In the above example, the first case would not apply if:

- A Ltd and B Ltd had not been related parties. The asset would have been subject to a relieving acquisition when it was acquired by B Ltd on 1 September 2020.
- A Ltd had not been chargeable to corporation tax on 1 July 2020. The asset could not have been a pre-FA 2002 asset in A Ltd's hands (as CTA09/S882(1D) would have applied to it) on 1 July 2020. The condition in CTA09/S900B(2) is therefore not met.

Acquisition from a person other than a company (CTA09/S900B(3))

The conditions in CTA09/S900B(3) are considered instead of CTA09/S900B(2) where the asset was held by a person other than a company immediately before 1 July 2020. See [CIRD46050](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46050) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46050>) for the additional rules where acquisitions are from a person other than a company.

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