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HMRC internal manual

Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)
([/government/organisations/hm-revenue-customs](#))

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CIRD42065 - Intangible assets: company reorganisations: transfer of non UK trade between EU companies: meaning of terms

Terms used in CTA09/PART8/S819 and S820

If advice is needed on foreign tax regimes, HMRC staff can obtain this from BAI Business International.

‘Company’ means any entity listed as a company in the Annex to the Mergers Directive.

‘EU company’ is one incorporated under the law of a member State.

‘Securities’ includes shares.

‘Residence in an EU state’ means a company must be within the charge to tax under that state’s law because it is resident for the purpose of the charge (not simply because it has a source of income there) and it must not be treated as resident in a non-member state by virtue of a tax treaty.

Commercial purpose test

There is a provision for companies to seek advance clearance that the last condition in [CIRD42060 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird42060\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird42060) (the commercial purpose test) is satisfied. The Anti-Avoidance Group (Intelligence), Clearance and Counteraction Team deals with all clearance applications and the procedure is described in [CIRD42100 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird42100\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird42100).

Where a company submits tax computations on the basis that relief under S819 is available and there is no record of a clearance application, inspectors should send a report and the file to the Anti-Avoidance Group (Intelligence), Clearance and Counteraction Team.

Unlike the equivalent CG tax provision in TCGA92/S140C, there is no requirement that intangible asset taxable credits and deductible debits resulting from the transfer be aggregated before computing the relief available. Instead companies have to claim on an asset-by-asset basis.

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