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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

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## CIRD48360 - Intangible assets: avoidance: related party licence examples

This guidance cannot cover every commercial scenario involving different types of licensing arrangements. The following examples show the circumstances when an adjustment arises under CTA09/S849AB in relation to licence arrangements between related parties.

Note that for the purpose of illustrating the new rule at CTA09/S849AB we will assume that no TIOPA10/PART4 adjustment is required for the first two examples. The third and fourth examples

considers the interaction of TIOPA10/PART4 and CTA09/S849AB.

### **Example 1**

Company A grants a licence to a related party in return for a lump sum payment of £1m. HMRC's valuers establish the market value of the licence was £5m.

An adjustment of £4m is required to the consideration recognised by Company A by virtue of CTA09/S849AB(2) because the licence was granted for a sum lower than what the licence might reasonably be expected to fetch on a sale in the open market.

### **Example 2**

Company B is granted a licence from a related party to use IP in their product in return for a lump sum payment of £5m and a 5% royalty of all product sales.

HMRC's valuers agree with the royalty rate but consider the £5m lump sum payment is more than the licence would reasonably be expected to fetch on the open market. On the basis the market would only expect to pay £0.5m as an upfront payment in respect of a 5% royalty licence an adjustment of £4.5m is required to the cost recognised by Company B under CTA09/S849AB(3).

### **Example 3**

Company C grants a licence to a related party for a 2% royalty and a lump sum payment of £1m. Following a Transfer Pricing enquiry, the royalty rate is increased to the agreed arms-length price of 5%. An adjustment is also required to the arms-length price of the consideration of £1m, increasing this figure to £10m. Both adjustments are made under TIOPA10/PART4.

### **Example 4**

If in example 3 above the market value of the arms-length adjusted royalty licence was £12m, or no TIOPA10/PART 4 adjustment was made to the lump sum, the consideration would be adjusted to

£12m under CTA09/S849AB(2). This because; the licence was granted for consideration in an amount lower than what might reasonably be expected to fetch on a sale in the open market, and the adjustment under CTA09/S849AB is higher than the TIOPA10/PART4 amount (CTA09/S849AC(2)).

### Notes

Example 3 is an example of a grant not at arm-length to which the exception at new CTA09/S849AC applies. No further adjustment would be required by virtue of CTA09/S849AC(3) if the price the licence might reasonably be expected to fetch on a sale in the open market is less than or equal to the TIOPA10/PART4 amount.

Example 4 shows what happens when the market value adjustment is higher than the TIOPA10/PART4 amount. The adjustment to the lump sum would be made under new CTA09/S849AB rather than under TIOPA10/PART4 as CTA09/S849AC(2) applies.

In each example above, there is no direct effect on the other party to the transaction. S849AB applies only to the company granting a licence at undervalue, or to the company granted a licence at overvalue (see [CIRD48350](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48350) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48350>)).

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