HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD49030 - Intangible assets: just and reasonable apportionment: examples

Example 1

Facts: Business – Retail product business production/sale:

1999 - Commenced with 2 product lines developed pre-production with related registered trade marks and other intangible assets.

2004 – Product 1 recreated via new trade mark/logo, recipe and package design. Linked advertising campaigns and R&D investment.

2009 – Product 2 recreated via new trade mark/logo with linked advertising campaigns.

2016 – Business sold and £20M allocated to trade marks and £5m to registered designs and other intangible assets

In this scenario the evidence points to a very substantial part of the overall value attributed to intangible assets falling to CTA09/PART8 via a just and reasonable apportionment.

Example 2

Facts: Business – Retail product business production/sale:

1919 – Commenced with original product developed pre-production with linked trade mark and related other intangible assets.

1990 – Launched first product sub-line following market research and linked R&D aimed at different customer groups, new trade mark and linked advertising campaigns. Original product still sold and well recognised in the UK– advertising constant.

2005 – 3 further product sub-lines launched following market research and R&D aimed at different customer groups, new trade marks and linked advertising campaigns. Original and earlier product sub-lines still sold and advertised and were well recognised in the UK.

2016 Business sold. £100M allocated to trade marks and £5m to registered designs and other intangible assets. At that time the lead selling products were post-FA02 although the original product still had a following and a share of what was essentially a different customer base.

In this scenario the evidence points to both the longevity of the original trade mark and associated intangible assets potentially having some heritage value plus there is further innovation both pre and post-FA02. An analysis of what was really generating value at 2016 determined that there was likely to be an element of heritage value in the minds of some of the current customer population but that the greater portion of what was creating value in 2016 came from post-FA02 innovation and investment. Therefore, a higher portion of the amounts allocated to the intangible assets was apportioned to the post-FA02 intangible assets.

Example 3

Facts: Business – Business to Business service provider:

1980 – Commenced offering services built on proprietor’s previous experience in the sector. A trade mark was registered. Limited B2B advertising but mostly traded on reputation of proprietor.

2000 – New generation take over the business. Limited B2B advertising continues and they seek to build on existing reputation. No new trade mark registrations.

2004 - New trade mark was registered with a different font but no other differences. Limited B2B advertising continues at pre-existing levels but feature new trade mark.

2014 – Business sold and £50,000 allocated to trade marks.

In this scenario the post-FA02 innovation and investment in the trade marks and associated intangible assets was limited and so the majority of the value would be allocated to the pre-FA02 intangible assets.

← **Previous page (/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird49020)**