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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD44076 - Intangible assets: Restrictions for goodwill and relevant assets: Pre-FA 2019 relevant assets – the second case

The second case – CTA09/S879E

The second case ensures that any pre-FA 2019 assets held by another company which are subsequently acquired by a related company (“C”) continue to be restricted in the hands of the acquiring company. CTA09/S879E achieves this

by applying similar conditions to the first case as described in CIRD44075 to determine whether the asset was a pre-FA2019 in that other company's hands.

For example, a relevant asset held by company X which was acquired between 8 July 2015 and 31 March 2019 and which was a chargeable intangible asset in X's hands at any time between 29 October 2018 and 31 March 2019 would meet the first case and would be a pre-FA2019 asset of X. It would also meet the two similar conditions of CTA09/S879E(1) (subsections (a) and (b)). If that asset was then acquired by a related party company ("C") on or after 1 April 2019 it would continue to be treated as a pre-FA 2019 asset in C's hands (CTA09/S879E(1)(c)) as the third condition is also satisfied.

This third condition is however subject to two important exceptions:

- Case A is where the company "C" acquired the asset from another company within the charge to CT at the time of the acquisition and the asset was not a pre-FA 2019 asset in that other company's hands immediately before the acquisition. This deals with the situation where debits in relation to the asset were not restricted immediately before the acquisition so there is no restriction to preserve.
- Case B is intended to cover situations where there is a third party acquisition via a related intermediary. It is modelled on the intermediary rule in CTA09/S882(4). For further guidance on this rule see CIRD11640.

It is important to note the broad scope of the first two conditions in CTA09/S879E(1) and the limited scope of the exceptions provided by Case A and Case B in the third condition. This is demonstrated using the examples in CIRD44077.

Related party definitions

CTA09/S879E(4) – (7) replicate the related party definitions that are applied in the general rule at CTA09/882 (see subsections (5A) – (5D)) and the market value rule at CTA09/S845 (see subsections (4A) – (4F)). This ensures that the same related party rules in respect of partnerships are included at CTA09/S879E. These related party rules apply also to the third and fourth cases described in CIRD44078.

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