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Corporate Intangibles Research and Development Manual

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CIRD48250 - Intangible assets: avoidance: measures in FA03/S184: position for accounting periods ending at different times

Accounting periods ending before 20 June 2003

Accounting periods ending before 20 June 2003 are not affected by the changes. If the company was eligible for a 4% allowance, then that allowance will not be disturbed by the changes announced on 20 June 2003 for accounting periods in this category.

Accounting periods straddling 20 June 2003

For the purposes of the new tests (only), an accounting period is deemed to end on 19 June 2003, and a new one to commence on 20 June 2003. For the accounting period deemed to end on 19 June 2003, the relevant 4% allowance will be given if due, but, because of the rules in FA02/SCH29/PARA11(2) (now CTA09/S731(2)), the 4% allowance is reduced in the ratio of the length of the accounting period to twelve months.

If, however the transaction was one which would not have fallen foul of the new avoidance or related party tests, and which qualifies for the 4% allowance, the 4% claim will be unaffected by the new measures.

Accounting periods commencing on or after 20 June 2003

In these accounting periods, including ones deemed to start on 20 June 2003 for this purpose - FA03/S184 - it is necessary to examine the asset that is the subject of the 4% claim. If it was acquired from a related party (including a fellow group member) in whose hands it would have been an existing asset, it will not be eligible for 4% claims in these accounting periods. This is the case even if at the time of the acquisition the new rules were not yet in force. Equally, if it was acquired in an avoidance transaction which would have been caught by the 20 June 2003 version of CTA09/S864 (then FA02/SCH29/PARA111) had this then been in force, then it will be necessary to consider which transactions to disregard to deny the 4% claim.

But, note that since the related party test is more direct, it is likely to be the easier of the two tests to use in order to disqualify unmerited 4% claims where both the related party and avoidance tests apply. This is because the avoidance test requires an examination of the various objects of the transaction, and these may not be explicit without further detailed enquiry.

← **Previous page (/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48230)**

→ **Next page (/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48260)**