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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

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## CIRD45033 - Intangible assets: related party rules: market value rule: transfers giving rise to a distribution or employment income charge

### CTA09/PART8/S847

Section 847 ensures that where an intangible asset is transferred from a company to a related party at under-value, or to a company from a related party at over-value, the application of the market value rule is modified in a way that does

not prevent a taxable distribution or employment income from arising.

The market value rule is modified where:

- an asset is transferred from the company at less than its market value, or to the company at more than its market value, and
- the related party is not a company, or is a company in relation to which the asset is not a chargeable intangible asset immediately after the transfer to it, or immediately before the transfer from it, and
- the transfer would, if the market value rule were not applied, give rise to an amount to be taken into account in computing any person's income, profits or losses for tax purposes by virtue of Chapter 2 of CTA10/PART23 (except section 1000 (2)) or ITEPA Part 3.

## **Consequences**

Where this exception applies, section 847 (4) provides that the market value rule does not apply for the purposes of the computations in CTA10/PART23 or ITEPA Part 3. However, computations and debits or credits arising under Part 8 are unaffected - for these purposes the market value rule is applied.

## **Effective date**

This exception to the market value rule applies for transfers made on or after 16 March 2005 - CTA09/SCH2/PARA100 (7).

For transfers prior to this date the market value rule will apply for all purposes of the Taxes Acts. This may mean, for example, that a shareholder transferring an intangible asset to a company they control for more than its market value will be regarded as transferring the asset at its market value for the purposes of CTA10/PART23/S1020.

Thus, the company will not have made a distribution within CTA10/PART23.

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