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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD45130 - Intangible assets: related party rules: statutory definition: persons treated as related parties: insolvency arrangements

CTA09/PART8/S835 (7) - (9)

CTA09/PART8/S835 (7)-(9) modifies the definition of “related party” with effect from 12 March 2008. The purpose of this paragraph is to ensure that the identification of “related parties” is unaffected by situations where any person (other than an

individual) is the subject of “insolvency arrangements”, or equivalent arrangements.

For example, company A Ltd is controlled by Mr X. A Ltd is subject to “insolvency arrangements” and a Liquidator is appointed who has “control” of the company’s affairs (a question of fact). Meanwhile, Mr X incorporates a new company, B Ltd, controlled by Mr X. B Ltd makes a bid for the trade and assets of A Ltd. The Liquidator (acting on behalf of the creditors) agrees to the sale and the Liquidator winds the company up.

If A Ltd had transferred the trade to B Ltd without being the subject of “insolvency arrangements” the transaction would have been a “related party” transaction under s835 (3). Section 835 (7) ensures that the transfer of an intangible asset between A Ltd and B Ltd remains a related party transaction despite the appointment of a Liquidator at the time of the transfer.

“Insolvency arrangements”

The term “insolvency arrangements” is not defined in Part 8 but section 835 (8) provides a non-exhaustive list of examples of “insolvency arrangements”. If you have any doubts whether a particular “insolvency arrangement” should be included, please consult insolvency specialists or submit your file to BAI.

Defined terms

The terms “administrative receiver”, “administrator” and “receiver” are defined in s835 (9).

Effective date - transfer of an asset

Subsections (7)-(9) are effective for any transfer of an asset made on or after 12 March 2008. It does not have effect for the purposes of determining whether a person was a related party to a company at any time before 12 March 2008.

Effective date - debits and credits

In respect of debits and credits to be brought into account under Part 8 you apply the section 835 (7)-(9) rules in respect of any debits or credits where the accounting period ends on or after 12 March 2008. Where an accounting period straddles 12 March 2008 the accounting period is split into two separate accounting periods for the purpose of these subsections only, with the earlier period ending on 11 March 2008 and the later period beginning on 12 March 2008.

For example royalty payments are paid monthly during the accounting period 1 January 2008 to 31 December 2008. The accounting period is split into two periods, 1 January 2008 to 11 March 2008 and 12 March 2008 to 31 December 2008. You apply the new definition of “related party” (as amended by section 835 (7)) to the accounting period 12 March 2008 to 31 December 2008 to determine whether the royalty payments are made to a “related party” for the purpose of CTA09/PART8/S851 “delayed payment of royalty by company to a related party” (see [CIRD12660](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird12660) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird12660>)).

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