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HMRC internal manual

Corporate Intangibles Research and Development Manual

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CIRD46070 - Intangible assets: special rules for restricted assets: when an intangible asset is restricted – the third case

CTA09/S900D

The third case

CTA09/S900D determines when an intangible fixed asset is restricted by reference to the third case. The third case is concerned with an

acquisition that is connected to the disposal of a pre-FA 2002 asset or a restricted asset. It is modelled on the rule in CTA09/S895.

As with the second case described at [CIRD46060](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46060) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46060>), you will need to consider:

- the asset that has been acquired by the company - this is 'the asset concerned', and
- the asset disposed of by the related party, 'the other asset'.

The third case conditions

As for the first and second cases, all conditions must be met before you can treat the asset as a restricted asset:

- the asset concerned must be acquired by the company on or after 1 July 2020 (CTA09/S900D(1)(a)),
- the asset concerned must have been acquired by the company or any other company, on or after 1 July 2020, directly or indirectly as a consequence, or otherwise in connection with, the realisation by another person of an asset ('the other asset') (CTA09/S900D(2)(a)),
- the company and that other person are related at the time of the realisation of the other asset (CTA09/S900D(2)(b)),
- the other asset was a pre-FA 2002 asset or a restricted asset in the hands of any company at any time between 1 July 2020 and the time of its realisation (that is the realisation relevant to the second bullet point above) (CTA09/S900D(2)(c)),
- the other asset must not have been subject to a relieving acquisition at any time between 1 July 2020 and that realisation (CTA09/S900D(2)(d)), and
- the asset concerned has not been the subject of a relieving acquisition at any time after that

realisation of the other asset (CTA09/S900D(2)(e)).

When applying these rules, it does not matter how the asset concerned was acquired, whether it was acquired before or after the realisation of the other asset, or whether it is the same or similar to that other asset (CTA09/S900D(4)).

CTA09/S900D(3) – acquisition from a person other than a company

Like the first and second cases, the conditions are adapted where the related party is not a company. CTA09/S900D(3) treats CTA09/S900D(2)(c) as met where:

- immediately before 1 July 2020 the other asset is held by a person other than a company (CTA09/S900D(3)(a)),
- immediately before 1 July 2020 that person was a related party in relation to a company (CTA09/S900D(3)(c)), and
- the other asset would have been a pre-FA 2002 asset or a restricted asset in the hands of that company on 1 July 2020 had that company acquired the asset from that person immediately before that date (CTA09/ 900D(3)(c)).

As with the second case, where the other asset is held by a person who is not a company, the effect of CTA09/S900D(3)(c) considers what the position would have been if the other asset had been acquired directly by the company in order to determine the status of the other asset in the related person's hands.

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