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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

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# CIRD46060 - Intangible assets: special rules for restricted assets: when an intangible asset is restricted – the second case

## CTA09/S900C

### The second case

CTA09/S900C determines when an intangible fixed asset is restricted by reference to the second case. The grant of a licence by a related party is a

common example of where the second case will apply. It is modelled on the rules in CTA09/S893 and S894.

You will need to consider:

- the asset that has been acquired. This is ‘the asset concerned’, and
- ‘the other asset’.

For example, where ‘the asset concerned’ is a trade mark licence, ‘the other asset’ would be the trade mark rights held by the licensor.

## **The second case conditions**

As for the first case, all conditions must be met. The first two conditions are similar to those for the first case which is described in [CIRD46040](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46040) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird46040>):

- the asset concerned must be acquired on or after 1 July 2020 (CTA09/S900C(1)(a)), and
- the asset must be acquired from a person who was a related party to the company at the time of acquisition (CTA09/S900C(1)(b)).

The first case conditions are then adapted to deal with licensing type arrangements. That is where a new asset is created from an existing asset. The following additional conditions must then also be met:

- the asset concerned (e.g. the licence) must have been created on or after 1 July 2020 (CTA09/S900C(2)(a)),
- that asset concerned must not have been subject to a relieving acquisition (that is an acquisition from an unrelated party) (CTA09/S900C(2)(b)),
- the asset concerned must derive its value, in whole or in part, from another asset (‘the other

asset’) (CTA09/S900C(2)(c)), and

- the other asset was either a pre-FA 2002 asset, or a restricted asset, in the hands of any company on the date the asset concerned was created (CTA09/S900C(2)(d)).

### **CTA09/S900C(3) – acquisition from a person other than a company**

Like the first case, the conditions are adapted where the related party is not a company. CTA09/S900C(3) treats CTA09/S900C(2)(d)) as met where:

- the other asset is held by a person other than a company (CTA09/S900C(3)(a)),
- on the date the asset concerned was created that person was a related party in relation to the company (CTA09/S900C(3)(b)), and
- the other asset would have been a pre-FA 2002 asset or a restricted asset in the hands of that company on the date the asset concerned was created had the company acquired that asset directly from the person holding it immediately before that date (CTA09/ 900C(3)(c)).

Effectively the test at CTA09/S900C(3)(c)) considers what the position would have been if outright ownership of ‘the other asset’ had been transferred, rather than something less than this such as licensed access or the grant of an option to buy. This determines the status of the other asset in the related person’s hands.

### **Related party licence example**

X Ltd grants a new trade mark licence to Y Ltd on 1 August 2020. The licence grants permission to use X Ltd’s trade mark, which is a pre-FA 2002 asset. At the time the licence was granted X Ltd and Y Ltd are related parties. The trade mark licence is a restricted asset because:

- the licence ('the asset concerned') was created on or after 1 July 2020 (CTA09/S900C(2)(a)),
- it has not been the subject of a relieving acquisition (CTA09/S900C(2)(b)),
- the value of the licence derives its value, in whole or in part, from the trade mark ('the other asset') (CTA09/S900C(2)(c)), and
- the trade mark was a pre-FA 2002 asset held by X Ltd on the date the licence was created.

### **Licence granted by a related person other than a company**

If the licensor in the above example was not a company, CTA09/S900C(2)(d) would still be regarded as being met as the conditions in CTA09/S900C(3) are met. The trade mark would have been a restricted asset in the hands of Y Ltd had Y Ltd acquired the trade mark from the related person immediately before 1 August 2020 rather than being granted a licence on that date (CTA09/S900C(3)(c)).

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