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## HMRC internal manual

# Corporate Intangibles Research and Development Manual

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## CIRD11680 - Intangible assets within CTA09/PART8: FA02 rule: when asset treated as created or acquired: exceptions to expenditure incurred rule: goodwill CTA09/PART8/S884

CTA09/S715 (4) was added by FA09/S70 to confirm that, for the purposes of the regime, goodwill is ‘treated as created’ in the course of carrying on the business in question (and not on

the acquisition of a business or the recognition of expenditure on such an acquisition).

The position prior to the FA09 amendments is essentially no different and was confirmed in the case of *Greenbank Holidays Ltd v HMRC Commissioners* [2010] UK FTT 109 (TC) (“Greenbank”) and upheld by the Upper Tribunal in *Greenbank Holidays Ltd v HMRC Commissioners* [2011] UKUT B11 TCC.

To address the practical difficulties of determining when goodwill is treated as created, as described in [CIRD11675 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11675\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11675), S884 provides that goodwill is treated as wholly created before 1 April 2002 if the business to which it relates was carried on by the company in question, or a ‘related party’ ([CIRD45105 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45105\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45105) onwards), at any time prior to that date.

The effect of this provision is that where such a business is sold on or after 1 April 2002 the disposal proceeds of the goodwill will be wholly outside CTA09/PART8 so long as no part of the proceeds represents the additional goodwill of a business acquired on or after that date and falling within CTA09/PART8.

If any of the proceeds do represent additional goodwill that is within CTA09/PART8, then it will remain necessary to apportion the proceeds between the goodwill falling within the CG rules and the goodwill within CTA09/PART8.

### **Business carried on by related party prior to 1 April 2002**

The extension of this rule to the case where a related party carried on the business before 1 April 2002 will be relevant in applying the provision described in CIRD11650. That is because for the purpose of that provision the goodwill cannot be

treated as created on or after 1 April 2002 if the related party carried on the business to which it relates at any time prior to that date.

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