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Corporate Intangibles Research and Development Manual

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CIRD11655 - Intangible assets within CTA09/PART8: FA02 rule: asset acquired on or after 1 July 2020 CTA09/PART8/S882(1C) – (1E)

CTA09/S882(1C) and (1D) are the two significant new rules introduced by FA20/S31. The new rules apply to acquisitions on or after 1 July 2020 (CTA09/S882(1C)) and to determine the status of an intangible asset held by a company immediately before 1 July 2020 (CTA09/S882(1D) – (1E)).

CTA09/S882(1C)

As explained in CIRD11520, CTA09/S882(1C) is a new condition that allows an intangible asset to come within Part 8 even if it is acquired from a related party. It applies for acquisitions on or after 1 July 2020.

This is subject to the exception at CTA09/S892. This exception relates to no gain/no loss transfers within TCGA1992. Further details of this exception can be found at CIRD11660.

CTA09/S882(1D)

CTA09/S882(1D) is a new condition that considers the status of an asset held by a company immediately before 1 July 2020 where the company is not within the charge to corporation tax in respect of the asset at that time. This provision might need to be applied in circumstances such as:

- When assets become chargeable intangible assets under CTA09/S863 on or after 1 July 2020 (see CIRD47020)
- Whether a restriction under Chapter 16A applies when the asset is acquired by a company related to the company that held the asset immediately before 1 July 2020 (see CIRD46000+).

Under the rules that existed before 1 July 2020 an asset would have been a pre-FA 2002 asset on the date it became chargeable under CTA09/S863 if it failed the rule in old CTA09/S882(1). The new rule at CTA09/S882(1D) allows some assets to satisfy the pre-FA 02 rule even though the conditions in CTA09/S882(1A) – (1C) are not met, but only when considering the rule on or after 1 July 2020. This rule is however subject to CTA09/S882(1E) (see below).

CTA09/S882(1E)

Although CTA09/S882(1D) is narrowly drafted to consider the status of the asset immediately before 1 July 2020 for the company in question, the exception in CTA09/S882(1E) is broadly drafted to catch a range of scenarios that may arise from transactions which occur between 19 March 2020 and 30 June 2020. There are two conditions. If both are satisfied CTA09/S882(1E) will apply and the asset cannot come within CTA09/S882(1D):

- A company (any company) must be holding a pre-FA 2002 asset that is within the charge to corporation tax at some point in time between 19 March 2020 and 30 June 2020. Note that more than one company may have held the asset during this period. That condition can therefore be met more than once but it must have been satisfied at least once.
- After that time of the company's holding, but before 1 July 2020, the asset must not have been acquired by any other company from a person who is not related to that other company.

The object of CTA09/S882(1E) is to counter the types of situation where a company already has a pre-FA 2002 asset and it enters into arrangements that move the asset beyond the scope of Part 8 but with the intention that it can then be brought back fully within Part 8 under CTA09/S882(1D).

For example, Company A Ltd is a UK resident company that holds a pre-FA 2002 asset on 19 March 2020. During the period before 1 July 2020 the company transfers the asset to a non-resident company (B Ltd) that is within the same group. At some point on or after 1 July 2020 company B Ltd migrates to the UK and the asset becomes chargeable. On its own, CTA09/S882(1D) would be met and the asset would not be a pre-FA 2002 asset.

CTA09/S882(1E) is the remedy for this and similar arrangements. In this scenario:

- CTA09/S882(1E)(a) is met because the asset was a pre-FA 2002 asset at any time between

19 March 2020 and 30 June 2020, and

- CTA09/S882(1E)(b) is met because B Ltd has not acquired the asset from an unrelated party, and nor has there been any other acquisition by any other company from an unrelated party in the intervening period.

If, in the above example, A Ltd and B Ltd were unrelated, CTA09/S882(1E)(a) is met but CTA09/S882(1E)(b) is not met because B Ltd acquired the asset before 1 July 2020 from an unrelated party.

See [CIRD11670 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11670\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11670) and [CIRD11690 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11690\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11690) for when an asset is regarded as 'acquired' for the purpose of this rule.

See [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 for the meaning of 'related party'.

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