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Corporate Intangibles Research and Development Manual

From: [HM Revenue & Customs](#)
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CIRD45105 - Intangible assets: related party rules: statutory definition: outline

CTA09/PART8 CHAPTER 12

Section 835 sets out four cases in which a person (a natural person or a legal entity) “A” is a related party of a company “B”:

- S835 (2): where A is a company and either A or B ‘controls’, or has a ‘major interest’ in, the other.

- S835 (3): where A is a company and both companies are under the 'control' of the same person (subject to the exceptions in s835 (4)).
- S835 (5): where B is a 'close company' and A is, or is an 'associate' of, a 'participator' in B or a participator in a company that has 'control' of, or holds a 'major interest' in B. These rules were changed for transfers of assets made on or after 16 March 2005, see [CIRD45250](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45250) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45250>).
- S835 (6): where A and B are companies within the same group. This only applies to accounting periods commencing on or after 20 June 2003, but for those accounting periods it is deemed to have always been in force. An accounting period can be deemed to have commenced on 20 June 2003. See [CIRD48230](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48230) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird48230>) for an explanation of how this works.

Note that S835 (5) is the only case that needs to be considered where A is not a company, although it can still apply where A is a company.

Also note that a person can be related under more than one case. For example, a parent company with a 100% interest in a 'close company' could be related under S835 (2), (5) and (6) (depending on the facts).

Defined terms

The terms in quotes above are defined as follows:

- control - see [CIRD45150](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45150) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45150>)
- major interest - see [CIRD45160](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45160) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45160>)

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- close company - see [CIRD45250](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45250>)
- participator in close company - [CIRD45250](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45250>)
- associate of a participator in a close company - [CIRD45250](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45250>)
- group - see [CIRD40030](#) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird40030>)

Exception

Section 835 (4) prevents s835 (3) from regarding companies under control of the same person as related parties if that person is a public body, namely any of the following:

- the Crown
- a Minister of the Crown or a government department (and Northern Ireland equivalents)
- the Ministers of the Scottish Parliament
- the National Assembly of Wales
- a foreign sovereign power
- an ‘international organisation’

An international organisation is one of which two or more sovereign powers, or the governments of two or more sovereign powers, are members (see FA92/S103).

Comparison with definition of a ‘connected person’

See [CIRD45120 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45120\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird45120).

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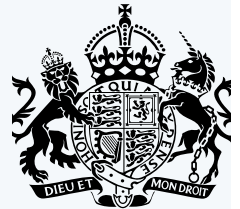
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