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Corporate Intangibles Research and Development Manual

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CIRD11520 - Intangible assets within CTA09/PART8: FA02 rule: outline CTA09/PART8/S882

Outline

CTA09/S882 was amended by FA20/S31 with effect from 1 July 2020. The position before and after 1 July 2020 is summarised below.

Periods before 1 July 2020

An asset held by a company satisfies the general conditions of the FA02 rule if any of the following apply:

- it is 'created by the company on or after 1 April 2002' (see [CIRD11600 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11600\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11600))
- it is 'acquired by the company on or after 1 April 2002' from a person who is not at that time a 'related party' (see [CIRD11610 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11610\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11610))
- it is acquired by the company on or after 1 April 2002 from a related party in defined circumstances (see [CIRD11625 \(https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11625\)](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11625))

Periods from 1 July 2020

From 1 July 2020 the FA02 rule in CTA09/S882 is amended by FA20/S31. CTA09/S882(1) now provides that CTA09/PART8 will apply if one or more of the four conditions in CTA09(1A) – (1D) is met. The four conditions are:

- The asset is created by the company on or after 1 April 2002. Note that CTA09/S882(1A) is the same rule as old CTA09/S882(1)(a) that applied before 1 July 2020 (the first bullet point above).
- The asset is acquired by the company between 1 April 2002 and 30 June 2020 if certain conditions are met. CTA09/S882(1B)(a) and (b) are similar to the rules that existed before 1 July 2020 and broadly replicates old CTA09/S882(1)(b) and (c) - the second and third bullet points above. Note that this condition has no application to acquisitions made on or after 1 July 2020.
- The asset is acquired by the company on or after 1 July 2020. CTA09/S882(1C) is a new condition that allows assets to come within Part 8 even if acquired from a related party, subject

to the exceptions for no gain/no loss transfers set out below. Related party acquisitions may however be subject to the restrictions in Chapter 16A, see CIRD46000+.

- The asset is held by the company immediately before 1 July 2020 and at that time the company is not within the charge to corporation tax in respect of the asset. CTA09/S882(1D) is another new condition which means that from 1 July 2020 an asset that was outside the charge to corporation tax immediately before 1 July 2020 will not be a pre-FA 2002 asset even if it existed before 1 April 2002. This rule is however, subject to the exception in CTA09/S882(1E). More details of this rule and the exception can be found in CIRD11655.

CTA09/PART8/S882(6)

Exceptions

CTA09/S882 is subject to the following specific rules mentioned in CTA09/S882(6):

- Fungible assets (see CIRD11760)
- Certain assets acquired on a transfer of business (see below)
- Assets whose value is derived from a pre-FA 2002 asset (see CIRD48280)
- Assets acquired in connection with the disposals of pre-FA 2002 assets (see CIRD48280)
- Application to royalties (see CIRD11705)
- Telecommunication rights (see CIRD11740)
- Application of roll-over relief in relation to some pre-FA 2002 assets (see CIRD20480)
- Pre-FA 2002 assets: Lloyd's syndicate capacity (see CIRD11750)

Exceptions for no gain/no loss transfers in TCGA1992

Where the company acquired the asset (rather than created the asset itself), and the asset was a pre-FA 2002 asset in the hands of the transferor, the asset must not have been transferred to the company in circumstances where the transferor is treated as disposing of the asset for CG purposes on no gain/no loss terms under TCGA92/S139, TCGA92/S140A, TCGA1992/S140E or TCGA1992/S171 (see CG52800 onwards and CG45706 onwards). See [CIRD11660](https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11660) (<https://www.gov.uk/hmrc-internal-manuals/corporate-intangibles-research-and-development-manual/cird11660>).

The TCGA1992/S171 exception only applies for transfers on or after 1 July 2020 because related party transfers before that date will have been excluded from Part 8 by the old pre-FA02 rule (i.e. the rule as it stood prior to 1 July 2020).

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