

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Intangible fixed assets

Overview

Chapter 13: Transactions between related parties

Section 844: Overview of Chapter

2175. This section gives a “route map” of the Chapter. It is new.

2176. The Chapter sets out the special rules that apply to transactions between persons who are “related parties” within the meaning of the rules in Chapter 12 of this Part.

Section 845: Transfer between company and related party treated as at market value

2177. This section gives the main related party, market value rule. It is based on paragraph 92 of Schedule 29 to FA 2002.

2178. Paragraph 92 of Schedule 29 to FA 2002 also sets out the exceptions to the basic rule. When the intangible fixed assets rules were first introduced there were only two exceptions. But, subsequently, further exceptions were added and the paragraph grew in both length and complexity with little commonality in the substance of the exceptions. It is therefore rewritten in five sections in this Act, the first stating the basic market value rule and the four immediately following stating the exceptions.

Section 846: Transfers not at arm’s length

2179. This section disapplies the market value rule in section 845 when a transfer falls within the provisions mentioned because it is not at arm’s length. It is based on paragraph 92 of Schedule 29 to FA 2002.

Section 847: Transfers involving other taxes

2180. This section partially disapplies the market value rule in section 845 in prescribed circumstances. It is based on paragraph 92 of Schedule 29 to FA 2002.

2181. Where the section has effect, it is only in respect of the party to the transaction that is *not* within the intangible fixed asset rules.

Section 848: Tax-neutral transfers

2182. This section disapplies the market value rule in section 845 when the transfer is “tax-neutral” within the meaning of this Part. It is based on paragraph 92 of Schedule 29 to FA 2002.

Section 849: Transfers involving gifts of business assets

2183. This section disapplies the market value rule in section 845 when the transfer is a gift of a business asset qualifying for relief under the capital gains rules. It is based on paragraph 92 of Schedule 29 to FA 2002.

Section 850: Part realisation involving related party acquisition: exclusion of roll-over relief

2184. This section prohibits roll-over relief under Chapter 7 of this Part if an intangible fixed asset is partly realised and an interest in it is acquired by a related party. It is based on paragraph 93 of Schedule 29 to FA 2002.

Section 851: Delayed payment of royalty by company to related party

2185. This section gives a timing rule for the deduction of a royalty paid to a related party. It is based on paragraph 94 of Schedule 29 to FA 2002.

2186. The effect of *subsection (2)* is to bring approximate symmetry to the timing of the charge on the recipient of the royalty and relief for the payer.