

CORPORATION TAX ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8: Intangible fixed assets

Overview

Chapter 8: Groups of companies: introduction

Section 764: Meaning of “company”, “group” and “subsidiary”

2059. This section gives rules of interpretation. It is based on paragraph 46 of Schedule 29 to FA 2002.

Section 765: General rule: a company and its 75% subsidiaries form a group

2060. This section gives the basic group membership rule for the purposes of the intangible fixed assets regime. It is based on paragraph 47 of Schedule 29 to FA 2002.

Section 766: Only effective 51% subsidiaries of principal company to be members of group

2061. This section imposes an additional group requirement for the purposes of the intangible fixed asset rules. It is based on paragraph 48 of Schedule 29 to FA 2002.

2062. *Subsection (2)* is new and gives a signpost to the definition of “effective 51% subsidiary”.

Section 767: Principal company cannot be 75% subsidiary of another company

2063. This section gives a general rule that prevents a 75% subsidiary company from being the principal company of a group. It is based on paragraph 49 of Schedule 29 to FA 2002.

2064. *Subsection (3)* defines the only exception to the general rule.

Section 768: Company cannot be member of more than one group

2065. This section gives a general rule that prevents a company from belonging to more than one group for the purposes of the reinvestment relief rules. It is based on paragraph 50 of Schedule 29 to FA 2002.

2066. If a company *is* a member of more than one group, this section sets out tests that are applied sequentially to determine to which group that company belongs for the purposes of the reinvestment relief rules.

Section 769: Continuity of identity of group

2067. This section gives a general rule that preserves the identity of a group as long as the same company remains the principal company of the group. It is based on paragraph 51 of Schedule 29 to FA 2002.

Section 770: Continuity where group includes an SE

2068. This section preserves group identity in certain cases involving the formation of an SE. It is based on paragraph 51A of Schedule 29 to FA 2002.

2069. This provision and the other rules specifically concerning SEs remove any uncertainty about their tax position. The section preserves continuity of group identity in the circumstances set out in *subsection (1)*.

Section 771: Meaning of “effective 51% subsidiary”

2070. This section defines a key term. It is based on paragraph 52 of Schedule 29 to FA 2002.

Section 772: Equity holders and profits or assets available for distribution

2071. This section imports definitions, adapted as necessary, from ICTA. It is based on paragraph 53 of Schedule 29 to FA 2002.

Section 773: Supplementary provisions

2072. This section gives minor supplementary “group” rules. It is based on paragraph 54 of Schedule 29 to FA 2002.

2073. *Subsection (2)* applies certain provisions of TCGA. Those TCGA provisions cover certain statutory bodies created to run an industry (or part of an industry) under public ownership. They include, in particular, those set up under the Transport Acts of 1962 and 1968. The effect of subsection (2) is that they can be treated as companies for the purposes of testing whether their subsidiaries form a group with them.