



Corporation Tax Act 2009

2009 CHAPTER 4

PART 8

INTANGIBLE FIXED ASSETS

CHAPTER 11

TRANSFER OF BUSINESS OR TRADE

Introduction

817 Overview of Chapter

- (1) This Chapter contains provisions—
 - (a) treating some transfers of assets as tax-neutral transfers for the purposes of this Part (see sections 818, 820, 822, 824 and 826), and
 - (b) giving relief in respect of the transfer of assets to a non-UK resident company (see sections 827 to 830).
- (2) Sections 831 to 833 deal with the genuine commercial transaction requirement (which applies in some cases for the treatment mentioned in subsection (1)(a)).
- (3) For the consequences of a transfer being tax-neutral for the purposes of this Part, see section 776.

Tax-neutral transfers

818 Company reconstruction involving transfer of business

- (1) This section applies if—

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- (a) a scheme of reconstruction involves the transfer of the whole or part of the business of one company (“the transferor”) to another company (“the transferee”), and
 - (b) the transferor receives no part of the consideration for the transfer (otherwise than by the transferee taking over the whole or part of the liabilities of the business),
- but see subsections (3) to (5).
- (2) If the transfer includes intangible fixed assets that—
- (a) are chargeable intangible assets in relation to the transferor immediately before the transfer, and
 - (b) are chargeable intangible assets in relation to the transferee immediately after the transfer,
- the transfer of those assets is tax-neutral for the purposes of this Part.
- (3) This section does not apply if the transfer is one to which section 775 (transfers within a group) applies.
- (4) This section does not apply if the transferor or the transferee is—
- (a) a qualifying society within the meaning of section 461A of ICTA (incorporated friendly societies entitled to exemption from tax), or
 - (b) a dual resident investing company within the meaning of ^[F1]section 949 of CTA 2010 (dual resident investing companies)].
- (5) This section applies only if the reconstruction meets the genuine commercial transaction requirement (see section 831).
- (6) In this section “scheme of reconstruction” has the same meaning as it has in section 136 of TCGA.

Textual Amendments

- F1** Words in s. 818(4)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 655](#) (with [Sch. 2](#))

819 European cross-border transfers of business: introduction

- (1) Section 820 applies if—
- (a) condition A or B is met, and
 - (b) each of the companies mentioned in subsection (2)(a) or (3)(a) makes a claim under this section,
- but see section 820(2) and (3).
- (2) Condition A is that—
- (a) ^[F2]a relevant company] resident in one ^[F3]relevant state] transfers the whole or part of the business carried on by it in the United Kingdom to ^[F2]a relevant company] resident in another ^[F3]relevant state], and
 - (b) the transfer is wholly in exchange for securities issued by the transferee to the transferor.
- (3) Condition B is that—

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- (a) [^{F4}a relevant company] transfers part of its business to one or more [^{F5}relevant companies],
 - (b) the transferor is resident in one [^{F3}relevant state],
 - (c) the part of the transferor's business which is transferred is carried on by the transferor in the United Kingdom,
 - (d) at least one transferee is resident in a [^{F3}relevant state] other than that in which the transferor is resident,
 - (e) the transferor continues to carry on a business after the transfer, and
 - (f) the transfer—
 - (i) is made in exchange for the issue of shares in or debentures of each transferee to the persons holding shares in or debentures of the transferor, or
 - (ii) is not so made only because, and only so far as, a transferee is prevented from so issuing such shares or debentures by section 658 of the Companies Act 2006 (c. 46) (general rule against limited company acquiring own shares) or by a corresponding provision of the law of [^{F6}a][^{F3}relevant state] preventing such an issue.
- (4) For the purposes of this Chapter, a company is resident in a [^{F3}relevant state] if—
- (a) it is within a charge to tax under the law of the [^{F7}relevant state] as being resident for that purpose, and
 - (b) it is not regarded, for the purpose of any double taxation relief arrangements to which the [^{F7}relevant state] is a party, as resident in a territory not within a [^{F3}relevant state].
- (5) In this section and section 820—
- (a) “company” means any entity listed as a company in [^{F8}Part A of Annex I] to the Mergers Directive,
 - [^{F9}(ba) “relevant company” means a body incorporated under the law of a relevant state,
 - (bb) “relevant state” means the United Kingdom or a member State,]
 - (c) “securities” includes shares,
 - (d) “transferee” has the same meaning as in subsection (2) or (3), and
 - (e) “the transferor” has the same meaning as in subsection (2) or (3).

Textual Amendments

- F2** Words in s. 819(2) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(17)(a)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 819(2)-(4) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(17)(b)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 819(3) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(17)(a)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 819(3)(a) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(17)(c)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Word in s. 819(3)(f)(ii) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(17)(d)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 819(4) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **16(17)(e)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in s. 819(5)(a) substituted (1.7.2011) by The Corporation Tax (Implementation of the Mergers Directive) Regulations 2011 (S.I. 2011/1431), regs. 1(2), **4(6)**

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F9 S. 819(5)(ba)(bb) substituted for s. 819(5)(b) (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(17)(f)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

820 Transfer of assets on European cross-border transfer of business

- (1) If the transfer of business includes intangible fixed assets that—
- (a) are chargeable intangible assets in relation to the transferor immediately before the transfer, and
 - (b) are chargeable intangible assets in relation to the transferee immediately after the transfer,
- the transfer of those assets is tax-neutral for the purposes of this Part.
- (2) This section applies only if the transfer of the business or part meets the genuine commercial transaction requirement (see section 831).
- (3) This section does not apply if the transferor is a transparent entity.
- (4) In this section—
- “the transfer of business” means the transfer of business mentioned in section 819(2)(a) or (3)(a), and
- “transparent entity” means a company which is resident in a member State ^{F10}... and does not have an ordinary share capital.
- (5) For the purposes of subsection (4) an entity is resident in a [^{F11}relevant state] if—
- (a) it is within a charge to tax under the law of the [^{F12}relevant state] as being resident for that purpose, and
 - (b) it is not regarded, for the purposes of any double taxation relief arrangements to which the [^{F12}relevant state] is a party, as resident in a territory not within a [^{F11}relevant state].

Textual Amendments

- F10** Words in s. 820(4) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(18)(a)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in s. 820(5) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(18)(b)(i)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in s. 820(5) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(18)(b)(ii)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

821 European cross-border mergers: introduction

- (1) Section 822 applies if the following conditions are met in the case of any merger—
- (a) conditions A, B and C,
 - (b) in the case of a merger within subsection (2)(a), (b) or (c), condition D, and
 - (c) in the case of a merger within subsection (2)(c) or (d), condition E,
- but see section 822(3) to (5)).
- (2) Condition A is that—
- (a) an SE is formed by the merger of two or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of Council Regulation [\(EC\) No. 2157/2001](#) on the Statute for a European company (Societas Europaea),

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- (b) an SCE is formed by the merger of two or more co-operative societies, at least one of which is a society registered under ^[F13]the Co-operative and Community Benefit Societies Act 2014], in accordance with Articles 2(1) and 19 of Council Regulation (EC) No. 1435/2003 on the Statute for a European Co-operative Society (SCE),
 - (c) a merger is effected by the transfer by one or more companies of all their assets and liabilities to a single existing company, or
 - (d) a merger is effected by the transfer by two or more companies of all their assets and liabilities to a single new company (other than an SE or an SCE) in exchange for the issue by the transferee, to each person holding shares in or debentures of a transferor, of shares or debentures.
- (3) Condition B is that each merging company is resident in a ^[F14]relevant state].
- (4) Condition C is that the merging companies are not all resident in the same ^[F15]relevant state].
- (5) Condition D is that—
- (a) the transfer of assets and liabilities to the transferee in the course of the merger is made in exchange for the issue of shares or debentures by the transferee to each person holding shares in or debentures of a transferor, or
 - (b) that transfer of those assets and liabilities is not so made only because, and only so far as, a transferee is prevented from so issuing such shares or debentures by section 658 of the Companies Act 2006 (c. 46) (general rule against limited company acquiring own shares) or by a corresponding provision of the law of ^[F16]a] member State preventing such an issue.
- (6) Condition E is that in the course of the merger each transferor ceases to exist without being in liquidation (within the meaning given by section 247 of the Insolvency Act 1986 (c. 45)).
- (7) For the meaning of expressions used in this section, see section 823.

Textual Amendments

- F13** Words in Act substituted (1.8.2014) by virtue of [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 142](#) (with Sch. 5)
- F14** Words in s. 821(3) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [16\(19\)\(a\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in s. 821(4) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [16\(19\)\(b\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Word in s. 821(5)(b) substituted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [16\(19\)\(c\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

822 Transfer of assets on European cross-border merger

- (1) If this section applies, the transfer of qualifying assets in the course of the merger is tax-neutral for the purposes of this Part.
- (2) For the purposes of this section an asset is a qualifying asset if—
- (a) it is a chargeable intangible asset in relation to the transferor immediately before the transfer, and

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- (b) it is a chargeable intangible asset in relation to the transferee immediately after the transfer.
- (3) This section does not apply if section 818 (company reconstruction involving transfer of business) applies to any qualifying assets transferred in the course of the merger.
- (4) This section does not apply if—
 - (a) one or more of the merging companies is a transparent entity, and
 - (b) the assets and liabilities of a transparent entity are transferred to another company in the course of the merger.
- (5) This section applies only if the merger meets the genuine commercial transaction requirement (see section 831).
- (6) For the meaning of expressions used in this section, see section 823.

823 Interpretation of sections 821 and 822

- (1) This section applies for the interpretation of sections 821 and 822 and this section.

[^{F17}(1A) “Relevant state” means the United Kingdom or a member State.]

- (2) “Transferor” means—
 - (a) in relation to a merger within section 821(2)(a), a company merging to form the SE,
 - (b) in relation to a merger within section 821(2)(b), a co-operative society merging to form the SCE, and
 - (c) in relation to a merger within section 821(2)(c) or (d), each company transferring all its assets and liabilities.
- (3) “Transferee” means—
 - (a) in relation to a merger within section 821(2)(a), the SE,
 - (b) in relation to a merger within section 821(2)(b), the SCE, and
 - (c) in relation to a merger within section 821(2)(c) or (d), the company to which assets and liabilities are transferred.
- (4) “Transparent entity” has the meaning given in section 820(4).
- (5) References to a company are references to any entity listed as a company in [^{F18}Part A of Annex I] to the Mergers Directive.
- (6) In section 821 and this section “co-operative society” means a society registered under [^{F13}the Co-operative and Community Benefit Societies Act 2014] or a similar society governed by the law of a member State ^{F19}....

Textual Amendments

- F13** Words in Act substituted (1.8.2014) by virtue of [Co-operative and Community Benefit Societies Act 2014 \(c. 14\)](#), s. 154, [Sch. 4 para. 142](#) (with Sch. 5)
- F17** [S. 823\(1A\)](#) inserted (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, [16\(20\)\(a\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in s. 823(5) substituted (1.7.2011) by [The Corporation Tax \(Implementation of the Mergers Directive\) Regulations 2011 \(S.I. 2011/1431\)](#), regs. 1(2), [4\(7\)](#)

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F19 Words in s. 823(6) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **16(20)(b)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

824 Transfer of business of building society to company

- (1) This section applies if—
 - (a) there is a transfer of the whole of a building society's business to a company (“the successor company”) in accordance with section 97 and the other applicable provisions of the Building Societies Act 1986 (c. 53),
 - (b) the transfer includes intangible fixed assets,
 - (c) those assets are chargeable intangible assets in relation to the society immediately before the transfer, and
 - (d) those assets are chargeable intangible assets in relation to the successor company immediately after the transfer.
- (2) The transfer of those assets is tax-neutral for the purposes of this Part.
- (3) For the application of sections 780 and 785 in cases where this section applies, see section 825.
- (4) In that section “the successor company” has the same meaning as in this section.

825 Application of sections 780 and 785 where transfer within section 824 occurs

- (1) This section deals with the application of—
 - (a) section 780 (deemed realisation and reacquisition at market value), and
 - (b) section 785 (principal company becoming member of another group),where there is a transfer within section 824.
- (2) If, because of the transfer, a company ceases to be a member of the same group as the building society, that event does not cause section 780 or 785 to apply as respects any asset acquired by the company from the building society or any other member of the same group.
- (3) If the building society and the successor company are members of the same group at the time of the transfer but later cease to be, that later event does not cause section 780 or 785 to apply to any asset to which this subsection applies.
- (4) Subsection (3) applies to—
 - (a) any asset acquired by the successor company on or before the transfer from the building society or any other member of that same group, or
 - (b) any asset acquired from the building society or any other member of that group by a company other than the successor company that is a member of that group at the time of the transfer.
- (5) Subsection (6) applies if a company which is a member of the same group as the building society at the time of the transfer—
 - (a) ceases to be a member of that group and becomes a member of the same group as the successor company, and
 - (b) later ceases to be a member of that group.
- (6) Section 780 applies on that later event as if any asset to which this subsection applies that has not been acquired from the successor company had been so acquired.

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- (7) Subsection (6) applies to—
- (a) any asset acquired by the company from the building society when the company and the building society were members of the same group, or
 - (b) any asset acquired by the company from another company which is a member of the same group at the time of the transfer, when the company, the building society and the other company, were members of the same group.
- (8) Subsection (6) does not apply if—
- (a) the company which acquired the asset is a 75% subsidiary of the company from which it was acquired, or vice versa,
 - (b) those companies cease simultaneously to be members of the same group as the successor company, and
 - (c) those companies continue to be members of the same group as one another.

826 Amalgamation of, or transfer of engagements by, certain societies

- (1) This section applies if—
- (a) two or more societies to which this section applies amalgamate or there is a transfer of engagements from one such society to another,
 - (b) in the course of the amalgamation or transfer of engagements or as part of it intangible fixed assets are transferred from one society (“the transferor”) to another (“the transferee”),
 - (c) those assets are chargeable intangible assets in relation to the transferor immediately before the transfer, and
 - (d) those assets are chargeable intangible assets in relation to the transferee immediately after the transfer.
- (2) The transfer of those assets is tax-neutral for the purposes of this Part.
- (3) This section applies to—
- (a) a building society,
 - (b) a ^{F20}registered society], and
 - (c) a co-operative association in relation to which ^{F21}section 1057 of CTA 2010 (UK agricultural or fishing co-operatives) applies.]

Textual Amendments

F20 Words in Act substituted (1.8.2014) by *Co-operative and Community Benefit Societies Act 2014* (c. 14), s. 154, **Sch. 4 para. 141** (with Sch. 5)

F21 Words in s. 826(3)(c) substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010* (c. 4), s. 1184(1), **Sch. 1 para. 656** (with Sch. 2)

Transfer of assets to non-UK resident company

827 Claims to postpone charge on transfer

- (1) This section applies if—

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- (a) a UK resident company carrying on a trade outside the United Kingdom through a permanent establishment (“the transferor”) transfers that trade or part of it to a non-UK resident company (“the transferee”),
 - (b) the transfer meets conditions A, B and C,
 - (c) the transfer includes intangible fixed assets that are chargeable intangible assets in relation to the transferor immediately before the transfer (“relevant assets”), and
 - (d) the transferor makes a claim under this section.
- (2) If this section applies, this Part applies in accordance with sections 828 to 830.
- (3) Condition A is that the transfer includes—
- (a) the whole assets of the transferor used for the purposes of the trade or part, or
 - (b) the whole of those assets other than cash.
- (4) Condition B is that the transfer is wholly or partly in exchange for securities consisting of—
- (a) shares within subsection (5) that are issued by the transferee to the transferor, or
 - (b) shares within paragraph (a) and loan stock that is so issued.
- (5) Shares are within this subsection if they—
- (a) amount in all to at least one quarter of the ordinary share capital of the transferee, or
 - (b) do so if taken together with any other shares in the transferee already held by the transferor.
- (6) Condition C is that the transfer meets the genuine commercial transaction requirement (see section 831).
- (7) No claim may be made under this section if a claim is made in relation to the transfer under [^{F22}section 116(6) of TIOPA 2010] (European cross-border transfers of business: application for [^{F23}section 117] of that Act to apply).
- (8) In sections 828 to 830 “transferor”, “transferee” and “relevant assets” have the same meaning as in this section.

Textual Amendments

- F22** Words in s. 827(7) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 96\(a\)](#) (with Sch. 9 paras. 1-9, 22)
- F23** Words in s. 827(7) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 96\(b\)](#) (with Sch. 9 paras. 1-9, 22)

828 Relief on transfer

- (1) If the proceeds of realisation of a relevant asset exceed the cost of the asset recognised for tax purposes, the proceeds are treated as reduced.
- (2) If the securities are the whole consideration for the transfer, the reduction is by the amount of the excess.

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- (3) If the securities are not the whole of that consideration, the reduction is by the appropriate proportion of the excess.
- (4) In subsection (3) “the appropriate proportion” means the proportion that the market value of the securities at the time of the transfer bears to the market value of the whole of the consideration at that time.

829 Charge on subsequent realisations

- (1) If at any time after the transfer the transferor realises the whole or part of the securities held by it immediately before that time, the transferor must bring into account for tax purposes a credit equal to the whole or the appropriate proportion of the total deferred gain.
- (2) In subsection (1)—
 - “the total deferred gain” means the sum of the amounts by which the proceeds of realisation of relevant assets were reduced under section 828(2) or (3), so far as not already taken into account under subsection (1) or (3) of this section, and
 - “the appropriate proportion” means the proportion that the market value of the part of the securities realised bears to the market value of the securities held immediately before the realisation.
- (3) If at any time within 6 years after the transfer the transferee realises all or some of the relevant assets held by it immediately before that time, the transferor must bring into account for tax purposes a credit equal to the whole or the appropriate proportion of the total deferred gain.
- (4) In subsection (3)—
 - “the total deferred gain” has the meaning given in subsection (2), and
 - “the appropriate proportion” means the proportion that the deferred gain attributable to the relevant assets realised bears to the deferred gain attributable to the relevant assets held immediately before the realisation.
- (5) For the purposes of subsection (4) the deferred gain attributable to relevant assets means the sum of the amounts by which the proceeds of realisation of those assets were reduced under section 828(2) or (3).
- (6) For cases where transfers are ignored for the purposes of subsection (1) or (3), see section 830.

830 Exclusion from section 829 of group transfers

- (1) For the purposes of section 829(1), any disposal within section 171 of TCGA 1992 (transfers within a group) is ignored.
- (2) For the purposes of section 829(3), any transfer by one member of a group to another is ignored.
- (3) This subsection applies if—
 - (a) a person (“A”) acquires securities on a transfer that is ignored under subsection (1), and

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- (b) any previous transfer that has occurred was ignored under subsection (1) or (2).
- (4) If subsection (3) applies, a subsequent realisation of the securities by A is treated as a realisation by the transferor.
- (5) This subsection applies if—
 - (a) a person (“B”) acquires an asset on a transfer that is ignored under subsection (2), and
 - (b) no previous transfer has occurred that was not ignored under subsection (1) or (2).
- (6) If subsection (5) applies, a subsequent realisation of the asset by B is treated as a realisation by the transferee.

The genuine commercial transaction requirement and clearance

831 The genuine commercial transaction requirement and clearance

- (1) For the purposes of this Chapter, a reconstruction, transfer or merger meets the genuine commercial transaction requirement if it—
 - (a) is effected for genuine commercial reasons, and
 - (b) does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to corporation tax, capital gains tax or income tax.
- (2) The conditions in subsection (1) are treated as met if before the reconstruction, transfer or merger—
 - (a) the appropriate applicant has applied to the Commissioners for Her Majesty's Revenue and Customs, and
 - (b) the Commissioners have notified the appropriate applicant that they are satisfied that the requirements of subsection (1) will be met.
- (3) In subsection (2) “the appropriate applicant” means—
 - (a) in the case of an application about a reconstruction within section 818(1)(a), the transferee (within the meaning of that section),
 - (b) in the case of an application about a transfer falling within section 820 because condition A in section 819(2) is met, the transferor and the transferee (within the meaning of section 819(2)),
 - (c) in the case of an application about a transfer falling within section 820 because condition B in section 819(3) is met, the transferor and the transferee (within the meaning of section 819(3)),
 - (d) in the case of an application about a merger falling within section 821(2), the transferor (as defined in section 823(2)), and
 - (e) in the case of an application about a transfer falling within section 827(1)(a), the transferor (within the meaning of that section).
- (4) For the procedure on such an application, see section 832.

832 Procedure on application for clearance

- (1) This section applies in relation to an application under section 831(2).

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- (2) The application must be in writing and must contain particulars of the operations that are to be effected.
- (3) The Commissioners for Her Majesty's Revenue and Customs may by notice require the applicant to provide further particulars for the purpose of enabling them to make their decision.
- (4) Such a notice may only be given within 30 days of the receipt of the application or of any further particulars previously required under subsection (3).
- (5) If such a notice is not complied with within 30 days or such longer period as the Commissioners for Her Majesty's Revenue and Customs may allow, they need not proceed further on the application.

833 Decision on application for clearance

- (1) The Commissioners for Her Majesty's Revenue and Customs must notify their decision on an application under section 831(2) to the applicant—
 - (a) within 30 days of receiving the application, or
 - (b) if they give a notice under section 832(3), within 30 days of the notice being complied with.
- (2) If the Commissioners for Her Majesty's Revenue and Customs—
 - (a) notify the applicant that they are not satisfied that the conditions in section 831(1) will be met, or
 - (b) do not notify their decision to the applicant within the time required by subsection (1),
 the applicant may within 30 days of the notification or of that time require them to transmit the application to the tribunal, together with any notice given and further particulars provided under section 832(3).
- (3) In that case any notification by the tribunal has effect for the purposes of section 831(2)
 - (b) as if it were a notification by the Commissioners for Her Majesty's Revenue and Customs.
- (4) If any particulars provided under section 832 do not fully and accurately disclose all facts and considerations material for the decision—
 - (a) of the Commissioners for Her Majesty's Revenue and Customs, or
 - (b) of the tribunal,
 any resulting notification by the Commissioners for Her Majesty's Revenue and Customs or the tribunal is void.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 322(2A)(zb) inserted by [2016 c. 24 s. 73\(5\)](#)
- s. 934(1A)(1B) inserted by [2023 c. 30 Sch. 2 para. 12\(2\)](#)
- s. 962(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(5\)\(b\)](#)
- s. 962A(3A) inserted by [2023 c. 30 Sch. 2 para. 12\(6\)\(b\)](#)
- s. 963(1A) inserted by [2023 c. 30 Sch. 2 para. 12\(7\)\(a\)](#)
- s. 1058B(5)(ea) inserted by [2023 c. 20 Sch. para. 57](#)
- s. 1094(2A)-(2C) inserted by [2012 c. 14 Sch. 3 para. 13\(3\)](#)
- s. 1106(4A)-(4C) inserted by [2012 c. 14 Sch. 3 para. 14\(3\)](#)
- s. 1138A applied by [S.I. 2024/348 reg. 3](#)