



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 8

#### INTANGIBLE FIXED ASSETS

#### CHAPTER 14

#### MISCELLANEOUS PROVISIONS

*Assets ceasing to be or becoming chargeable intangible assets*

**859 Asset ceasing to be chargeable intangible asset: deemed realisation at market value**

- (1) If an asset ceases to be a chargeable intangible asset in relation to a company in any of the circumstances specified in subsection (2), this Part applies as if—
  - (a) immediately before the asset ceased to be a chargeable intangible asset in relation to the company, the company had realised the asset for its market value at that time, and
  - (b) the company had immediately reacquired it at that value.
- (2) The circumstances are—
  - (a) that the company ceases to be UK resident,
  - (b) in the case of a company that is not UK resident, any circumstances not involving the realisation of the asset by the company, and
  - (c) that the asset begins to be held for the purposes of a mutual trade or business.
- (3) Subsection (1) is subject to section 860.

**860 Asset ceasing to be chargeable intangible asset: postponement of gain**

- (1) This subsection applies if—

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- (a) section 859 applies because a company (“A”) ceases to be UK resident,
  - (b) immediately before A ceases to be UK resident the asset is held by it for the purposes of a trade carried on by it outside the United Kingdom through a permanent establishment,
  - (c) the proceeds of the realisation of the asset that is treated as occurring under section 859 exceed the original cost of the asset recognised for tax purposes,
  - (d) immediately after A ceases to be UK resident it is a 75% subsidiary of another company (“B”) that is UK resident, and
  - (e) A and B so elect by notice given to an officer of Revenue and Customs not later than 2 years after the date on which A ceased to be UK resident.
- (2) If subsection (1) applies, this Part applies as if the proceeds of the realisation of the asset that is treated as occurring under section 859 were reduced to the original cost of the asset recognised for tax purposes.
- (3) For the later treatment of the amount of the reduction under subsection (2), see sections 861 and 862.
- (4) In those sections—
- (a) “the postponed gain” means the amount of that reduction, and
  - (b) references to “A” and “B” must be read in accordance with this section.

#### **861 Treatment of postponed gain on subsequent realisation**

- (1) This section applies if A realises the asset to which section 860 applies before the end of the period of 6 years after the date on which it ceases to be UK resident.
- (2) B must bring into account for tax purposes—
- (a) a credit equal to the postponed gain, or
  - (b) in the case of a part realisation, a credit equal to the appropriate proportion of the postponed gain.
- (3) The appropriate proportion is—

$$\frac{MVB - MVA}{MVB}$$

where—

MVB is the market value of the asset immediately before the part realisation, and

MVA is the market value of the asset immediately after the part realisation.

- (4) Subsection (2) does not apply—
- (a) so far as the postponed gain has already been brought into account on a previous part realisation, or
  - (b) if the postponed gain has already been brought into account under section 862.

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- (5) A credit brought into account by B under this section is treated as a non-trading credit for the purposes of Chapter 6 (how credits and debits are given effect).

## **862 Treatment of postponed gain in other cases**

- (1) This section applies if at any time after A ceases to be UK resident—
- (a) A ceases to be a 75% subsidiary of B on the disposal by B of ordinary shares of A,
  - (b) A ceases to be such a subsidiary otherwise than on such a disposal and later B disposes of such shares, or
  - (c) B ceases to be UK resident.
- (2) B must bring into account for tax purposes a credit equal to the postponed gain.
- (3) Subsection (2) does not apply so far as the postponed gain has already been brought into account under section 861.
- (4) Any credit falling to be brought into account under subsection (2) because B ceases to be UK resident must be brought into account immediately before it does so.
- (5) A credit brought into account by B under this section is treated as a non-trading credit for the purposes of Chapter 6 (how credits and debits are given effect).

## **863 Asset becoming chargeable intangible asset**

- (1) This section applies if an asset becomes a chargeable intangible asset in relation to a company—
- (a) on the company becoming UK resident,
  - (b) in the case of a company that is not UK resident, on the asset beginning to be held for the purposes of a trade carried on by the company in the United Kingdom through a permanent establishment, or
  - (c) on the asset ceasing to be held for the purposes of a mutual trade or business.
- (2) This Part applies as if—
- (a) the company had acquired the asset immediately after it became a chargeable intangible asset in relation to the company, and
  - (b) had done so for its accounting value at that time.

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