



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 8

#### INTANGIBLE FIXED ASSETS

#### CHAPTER 11

#### TRANSFER OF BUSINESS OR TRADE

#### *Tax-neutral transfers*

#### **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),
  - (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 <sup>F1</sup>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

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- (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 [<sup>F2</sup>relevant state].
- (4) Condition C is that the merging companies are not all resident in the same [<sup>F3</sup>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 [<sup>F4</sup>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

- F1** 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)
- F2** 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)
- F3** 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)
- F4** 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)

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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](#)