



Finance Act 2020

2020 CHAPTER 14

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Reliefs for business

31 Intangible fixed assets: pre-FA 2002 assets etc

- (1) Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.
- (2) In section 711 (overview of Part 8) in subsection (8) after paragraph (fa) (but before the “and” at the end of that paragraph) insert—
 - “(fb) Chapter 16A (debts in respect of assets that were pre-FA 2002 assets etc),
 - (fc) Chapter 16B (fungible assets),”.
- (3) In section 845 (transfer between company and related party treated as at market value) in subsection (4) (exceptions)—
 - (a) omit the “and” at the end of paragraph (d), and
 - (b) at the end of paragraph (e) insert “, and
 - (f) sections 900E and 900F (special rules in respect of assets that were pre-FA 2002 assets etc)”.
- (4) In section 849AB (grant of licence or other right treated as at market value) in subsection (6) (exceptions)—
 - (a) omit the “and” at the end of paragraph (a), and
 - (b) at the end of paragraph (b) insert “, and
 - (c) section 900F (special rules in respect of assets that were pre-FA 2002 assets etc)”.
- (5) Omit section 858 (fungible assets) and the italic heading before that section.

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for the Finance Act 2020, Section 31. (See end of Document for details)*

- (6) In section 882 (application of Part 8 to assets created or acquired on or after 1 April 2002) for subsection (1) substitute—
- “(1) The general rule is that this Part applies to an intangible fixed asset of a company (“the company”) only if one or more of the conditions in subsections (1A) to (1D) is met.
- (1A) The condition in this subsection is that the asset is created by the company on or after 1 April 2002.
- (1B) The condition in this subsection is that the asset is acquired by the company during the period beginning with 1 April 2002 and ending with 30 June 2020 and either—
- (a) it is acquired from a person who at the time of the acquisition is not a related party in relation to the company, or
- (b) it is acquired in case A (in subsection (3)), case B (in subsection (4)) or case C (in subsection (5)) from a person who at the time of the acquisition is a related party in relation to the company.
- (1C) The condition in this subsection is that the asset is acquired by the company on or after 1 July 2020.
- (1D) The condition in this subsection is that the asset is held by the company immediately before 1 July 2020 and at that time the company is not within the charge to corporation tax in respect of the asset.
- (1E) But the condition in subsection (1D) is to be treated as not met if—
- (a) at any time during the period beginning with 19 March 2020 and ending with 30 June 2020 the asset is a pre-FA 2002 asset in the hands of any company that is within the charge to corporation tax in respect of the asset, and
- (b) after that time but during that period the asset is not acquired by any other company from a person who at the time of the acquisition is not a related party in relation to that other company.”
- (7) In section 883 (assets treated as created or acquired when expenditure incurred)—
- (a) after subsection (3) insert—
- “(3A) An intangible asset is treated as acquired on or after 1 July 2020 so far as expenditure on its acquisition is incurred on or after that date.
- (3B) An intangible asset is treated as acquired during the period beginning with 1 April 2002 and ending with 30 June 2020 so far as expenditure on its acquisition is incurred during that period.
- (3C) An intangible asset is treated as acquired during the period beginning with 19 March 2020 and ending with 30 June 2020 so far as expenditure on its acquisition is incurred during that period.”,
- (b) in subsection (4)—
- (i) for “whether” substitute “when”, and
- (ii) omit “on or after 1 April 2002”, and
- (c) for subsection (5) substitute—

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- “(5) If by reason of any of subsections (3) to (3C) of this section this Part would apply to an intangible fixed asset of a company to a limited extent only, the asset is to be treated as if it consisted of two separate assets—
- (a) one asset being an asset to which this Part applies, and
 - (b) one asset being an asset to which the alternative enactments apply.”
- (8) Omit section 890 (fungible assets: application of section 858) and the italic heading before that section.
- (9) Omit section 891 (realisation and acquisition of fungible assets).
- (10) In section 892 (certain assets acquired on transfer of business)—
- (a) in the heading at the end insert “ or transfer within a group ”,
 - (b) in subsection (2) omit “and” at the end of paragraph (b),
 - (c) in subsection (2) after paragraph (c) insert “, and
 - (d) section 171 of that Act (transfers within a group)”, and
 - (d) after subsection (4) insert—
- “(5) If the transfer mentioned in subsection (1) occurred before 1 July 2020, this section applies as if paragraph (d) of subsection (2) were omitted.”
- (11) In section 893 (assets whose value derives from pre-2002 assets) in subsection (1)(a) for “on or after 1 April 2002” substitute “ during the period beginning with 1 April 2002 and ending with 30 June 2020 ”.
- (12) In section 895 (assets acquired in connection with disposals of pre-FA 2002 assets) in subsection (1)(b) at the beginning insert “ at any time before 1 July 2020 ”.
- (13) After Chapter 16 insert—

“CHAPTER 16A

DEBITS IN RESPECT OF ASSETS THAT WERE PRE-FA 2002 ASSETS ETC

Introduction

900A Introduction

- (1) This Chapter contains special rules affecting the debits to be brought into account by a company for tax purposes in respect of an intangible fixed asset that is a restricted asset.
- (2) Sections 900B to 900D make provision determining when an intangible fixed asset of a company is a restricted asset for the purposes of this Chapter.
- (3) Sections 900E and 900F contain the special rules.
- (4) The following sections contain supplementary provisions—
 - (a) section 900G (meaning of relieving acquisition),

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- (b) section 900H (when two persons are related), and
- (c) section 900I (acquisition of asset in pursuance of an unconditional obligation).

When an intangible fixed asset is a restricted asset

900B When an intangible fixed asset is a restricted asset: the first case

- (1) An intangible fixed asset of a company is a restricted asset if—
 - (a) the company acquired the asset on or after 1 July 2020,
 - (b) the company acquired the asset from a person who at the time of the acquisition was a related party in relation to the company, and
 - (c) the asset is within subsection (2) or (3).
- (2) The asset is within this subsection if—
 - (a) the asset was a pre-FA 2002 asset in the hands of any company on 1 July 2020, and
 - (b) at no time on or after 1 July 2020 has the asset been the subject of a relieving acquisition.
- (3) The asset is within this subsection if—
 - (a) the asset was created before 1 April 2002,
 - (b) immediately before 1 July 2020 the asset was held by a person other than a company, and
 - (c) at no time on or after 1 July 2020 has the asset been the subject of a relieving acquisition.
- (4) But the asset is not within subsection (3) if the person mentioned in that subsection (“the intermediary”) acquired the asset on or after 1 April 2002 from a person (“the third party”) who meets the conditions in subsections (5), (6) and (7).
- (5) The third party meets the condition in this subsection if—
 - (a) the third party is not a company, or
 - (b) the third party is a company in relation to which the intermediary is not a related party at the time of the intermediary's acquisition.
- (6) The third party meets the condition in this subsection if at the time of the intermediary's acquisition the third party is not a related party in relation to a company in relation to which the intermediary is a related party.
- (7) The third party meets the condition in this subsection if at the time of the acquisition of the asset by the company mentioned in subsection (1) the third party is not a related party in relation to that company.

900C When an intangible fixed asset is a restricted asset: the second case

- (1) An intangible fixed asset of a company (“the asset concerned”) is a restricted asset if—
 - (a) the company acquired the asset concerned on or after 1 July 2020,

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- (b) the company acquired the asset concerned from a person who at the time of the acquisition was a related party in relation to the company, and
 - (c) the asset concerned is within subsection (2).
- (2) The asset concerned is within this subsection if—
- (a) the asset concerned was created on or after 1 July 2020,
 - (b) at no time has the asset concerned been the subject of a relieving acquisition,
 - (c) the value of the asset concerned derives in whole or in part from another asset (“the other asset”), and
 - (d) the other asset was a pre-FA 2002 asset or a restricted asset in the hands of any company on the date the asset concerned was created.
- (3) The condition in subsection (2)(d) is to be treated as met if—
- (a) the other asset was held by a person other than a company on the date the asset concerned was created,
 - (b) on the date the asset concerned was created that person was a related party in relation to a company, and
 - (c) the other asset would have been a pre-FA 2002 asset or a restricted asset in the hands of that company on the date the asset concerned was created had that company acquired the other asset from that person immediately before that date.
- (4) For the purposes of this section the cases in which the value of an asset may be derived from any other asset include any case where—
- (a) assets have been merged or divided,
 - (b) assets have changed their nature, or
 - (c) rights or interests in or over assets have been created or extinguished.

900D When an intangible fixed asset is a restricted asset: the third case

- (1) An intangible fixed asset of a company (“the asset concerned”) is a restricted asset if—
- (a) the company acquired the asset concerned on or after 1 July 2020, and
 - (b) the asset concerned is within subsection (2).
- (2) The asset concerned is within this subsection if—
- (a) the asset concerned was acquired by any company on or after 1 July 2020 directly or indirectly as a consequence of, or otherwise in connection with, the realisation by another person of an asset (“the other asset”),
 - (b) that company and that other person were related parties at the time of the realisation of the other asset,
 - (c) the other asset was a pre-FA 2002 asset or a restricted asset in the hands of any company at any time during the period beginning with 1 July 2020 and ending with the time of the realisation mentioned in paragraph (a),
 - (d) the other asset was not the subject of a relieving acquisition at any time during the period beginning with 1 July 2020 and ending with the time of the realisation mentioned in paragraph (a), and

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- (e) the asset concerned has not been the subject of a relieving acquisition at any time after the realisation mentioned in paragraph (a).
- (3) The condition in subsection (2)(c) is to be treated as met if—
- (a) immediately before 1 July 2020 the other asset was held by a person that was not a company,
 - (b) immediately before 1 July 2020 that person was a related party in relation to a company, and
 - (c) the other asset would have been a pre-FA 2002 asset in the hands of that company on 1 July 2020 had that company acquired the asset from that person immediately before that date.
- (4) For the purposes of subsection (2) it does not matter whether—
- (a) the other asset is the same as the asset concerned,
 - (b) the asset concerned is acquired at the time of the realisation of the other asset, or
 - (c) the asset concerned is acquired by merging assets or otherwise.

The special rules

900E Special rule: section 900B case

- (1) This section applies in respect of a restricted asset of a company if it is a restricted asset by reason of section 900B.
- (2) If the company was the first company to acquire the asset on or after 1 July 2020, the relevant Chapters of this Part have effect as if the company acquired the asset at no cost.
- (3) If the company was not the first company to acquire the asset on or after 1 July 2020, the relevant Chapters of this Part have effect as if the company acquired the asset for the adjusted amount.
- (4) The adjusted amount is—

$$A - B$$

where—

A is the amount of consideration—

- (a) for which the company actually acquired the asset, or
- (b) if different, for which it would (ignoring this section) be treated for the purposes of the Taxes Acts as having acquired the asset, and

B is the market value of the asset on the date it was first acquired by a company on or after 1 July 2020.

- (5) Where B is greater than A the adjusted amount is nil.
- (6) In this section—

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“market value”, in relation to an asset, means the price the asset might reasonably be expected to fetch on a sale in the open market, and

“the relevant Chapters of this Part” means—

- (a) Chapter 3 (debits in respect of intangible fixed assets),
- (b) Chapter 15 (adjustments on change of accounting policy), and
- (c) Chapter 5 (calculation of tax written-down value) in so far as it has effect for the purposes of Chapters 3 and 15.

900F Special rule: section 900C or 900D case

(1) This section applies in respect of a restricted asset of a company if it is a restricted asset by reason of section 900C or 900D.

(2) The relevant Chapters of this Part have effect as if the company acquired the asset for the adjusted amount.

(3) The adjusted amount is calculated as follows—

Step 1 Find the amount—

- (a) for which the company actually acquired the asset, or
- (b) if different, for which it would (ignoring this section) be treated for the purposes of the Taxes Acts as having acquired the asset.

Step 2 Deduct from the amount found at Step 1 such proportion of the notional deduction amount for the relevant other asset or each relevant other asset as is just and reasonable in the circumstances.

(4) Where the deduction at Step 2 results in a negative value the adjusted amount is nil.

(5) In subsection (3)—

“relevant other asset” means an asset by reference to which the conditions in paragraphs (c) and (d) of section 900C(2) or (as the case may be) the conditions in section 900D(2) were met, and

“the notional deduction amount”, in relation to a relevant other asset, means—

- (a) in a case where section 900E(2) would have applied had the company acquired the relevant other asset instead of the restricted asset, an amount equal to the market value of the relevant other asset at the time the restricted asset was acquired, and
- (b) in a case where section 900E(3) would have applied had the company acquired the relevant other asset instead of the restricted asset, an amount equal to the market value of the relevant other asset at the time it was first acquired by a company on or after 1 July 2020, and
- (c) in a case where subsection (2) of this section would have applied had the company acquired the relevant other asset instead of the restricted asset, the amount that would have been deducted at step 2 of subsection (3) of this section if the company had acquired the relevant other asset instead of the restricted asset.

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- (6) In this section “market value” and “the relevant Chapters of this Part” have the same meaning as in section 900E.

Supplementary provisions

900G Meaning of “relieving acquisition”

For the purposes of this Chapter, an asset is the subject of a relieving acquisition if it is acquired by a company from a person who at the time of the acquisition is not a related party in relation to the company.

900H Supplementary provision about when two persons are related

- (1) References in this Chapter to one person being a related party in relation to another person are to be read as including references to the participation condition being met as between those persons.
- (2) References in subsection (1) to a person include a firm in a case where, for section 1259 purposes, references in this Chapter to a company are read as references to the firm.
- (3) In subsection (2) “section 1259 purposes” means the purposes of determining under section 1259 the amount of profits or losses to be allocated to a partner in a firm.
- (4) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (1) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.

900I Acquisition of asset in pursuance of an unconditional obligation

- (1) A company that acquires an intangible fixed asset in pursuance of an unconditional obligation under a contract is to be treated for the purposes of this Chapter as having acquired the asset on the date on which the company became subject to that obligation or (if later) the date on which that obligation became unconditional.
- (2) An obligation is unconditional if it may not be varied or extinguished by the exercise of a right (whether under contract or otherwise).

CHAPTER 16B

FUNGIBLE ASSETS

900J Fungible assets: general

- (1) For the purposes of this Part—
 - (a) fungible assets of the same kind that are held by the same person in the same capacity are treated as indistinguishable parts of a single asset,
 - (b) that asset is treated as growing as additional assets of the same kind are created or acquired, and

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(c) that asset is treated as diminishing as some of the assets are realised.

(2) In this Part “fungible assets” means assets of a nature to be dealt in without identifying the particular assets involved.

900K Fungible assets: pre-FA 2002 assets and restricted assets

(1) For the purposes of section 900J—

- (a) pre-FA 2002 assets,
- (b) restricted assets, and
- (c) standard intangible fixed assets,

are to be regarded as assets of different kinds.

(2) If section 900J applies (whether or not it is a case where subsection (1) of this section has effect)—

- (a) a single asset comprising pre-FA 2002 assets is treated as itself being a pre-FA 2002 asset,
- (b) a single asset comprising restricted assets is treated as itself being a restricted asset, and
- (c) a single asset comprising standard intangible fixed assets is treated as itself being a standard intangible fixed asset.

900L Realisation of fungible assets: pre-FA 2002 assets and restricted assets

(1) This section applies if—

- (a) a company realises a fungible asset, and
- (b) apart from subsection (1) of section 900K, the asset would be treated as part of a single asset comprising more than one of the kinds of asset referred to in that subsection.

(2) The realisation is treated—

- (a) as diminishing a single asset of the company comprising pre-FA 2002 assets in priority to diminishing a single asset of the company comprising restricted assets or a single asset of the company comprising standard intangible fixed assets, and
- (b) as diminishing a single asset of the company comprising restricted assets in priority to diminishing a single asset of the company comprising standard intangible fixed assets.

900M Acquisition of fungible assets: pre-FA 2002 assets and restricted assets

(1) Fungible assets acquired by a company that would not otherwise be treated as pre-FA 2002 assets are so treated so far as they are identified, in accordance with the following rules, with pre-FA 2002 assets realised by the company.

(2) Fungible assets acquired by a company that would not otherwise be treated as pre-FA 2002 assets or restricted assets are to be treated as restricted assets so far as they are identified, in accordance with the following rules, with restricted assets realised by the company.

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- (3) Rule 1 is that assets acquired are identified with pre-FA 2002 assets or restricted assets of the same kind realised by the company within the period beginning 30 days before and ending 30 days after the date of the acquisition.
- (4) The reference in subsection (3) to assets “of the same kind” is to assets that are, or but for section 900K(1) would be, treated as part of a single asset because of section 900J.
- (5) Rule 2 is that assets realised earlier are identified before assets realised later.
- (6) Rule 3 is that assets acquired earlier are identified before assets acquired later.

900N Debits in respect of a single asset comprising restricted assets

- (1) This section applies in respect of a single asset of a company that comprises restricted assets (and is itself treated as a restricted asset by reason of section 900K(2)(b)).
- (2) The relevant Chapters of this Part have effect as if the company acquired the single asset for the sum of the amounts for which the company would have been treated for the purposes of those Chapters as having acquired each of the restricted assets that comprises the single asset.
- (3) In this section “the relevant Chapter of this Part” has the meaning given by section 900E(6).

900O Interpretation

In this Chapter—

“restricted asset” has the same meaning as in Chapter 16A, and
“standard intangible fixed asset” means an intangible fixed asset that is neither a pre-FA 2002 asset nor a restricted asset.”

- (14) The amendments made by this section have effect in relation to accounting periods beginning on or after 1 July 2020.
- (15) For the purposes of subsection (14), an accounting period beginning before, and ending on or after, 1 July 2020 is to be treated as if so much of the accounting period as falls before that date, and so much of the accounting period as falls on or after that date, were separate accounting periods.

Changes to legislation:

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