



Corporation Tax Act 2009

2009 CHAPTER 4

PART 8

INTANGIBLE FIXED ASSETS

CHAPTER 11

TRANSFER OF BUSINESS OR TRADE

Transfer of assets to non-UK resident company

827 Claims to postpone charge on transfer

- (1) This section applies if—
 - (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—

Status: This is the original version (as it was originally enacted).

- (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 section 807B(6) of ICTA (European cross-border transfers of business: application for section 807C of that Act to apply).
- (8) In sections 828 to 830 “transferor”, “transferee” and “relevant assets” have the same meaning as in this section.

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.
- (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
 - (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.