



Corporation Tax Act 2009

2009 CHAPTER 4

PART 8

INTANGIBLE FIXED ASSETS

CHAPTER 10

EXCLUDED ASSETS

Introductory

800 Introduction

- (1) This Chapter provides for the exclusion from this Part of certain assets.
- (2) This Chapter provides for 3 kinds of exclusion—
 - (a) assets within sections 803 to 809 are wholly excluded from this Part,
 - (b) assets within sections 810 to 813 are excluded from this Part except as respects royalties, and
 - (c) assets within section 814 or 815 are excluded from this Part to the extent specified in that section.
- (3) For further rules about the exclusion of assets from this Part, see—
 - (a) Chapter 16 (pre-FA 2002 assets etc), and
 - (b) section 902 (assets held by a life insurance company for the purposes of its life assurance business).

801 Right to dispose of or acquire excluded asset also excluded

So far as an asset of any description is excluded from this Part by this Chapter, an option or other right to acquire or dispose of an asset of that description is similarly excluded.

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802 Effect of partial exclusion

- (1) If because of any of sections 803 to 815 an asset is excluded to the extent that—
 - (a) it represents particular rights,
 - (b) it is an asset of a particular description,
 - (c) it is held for particular purposes, or
 - (d) it represents expenditure of a particular kind,this Part applies as if there were a separate asset representing so much of the asset as is not so excluded.
- (2) The other provisions of the Corporation Tax Acts apply as if there were a separate asset representing so much of the asset as is excluded.
- (3) Any apportionment necessary for the purposes of this section must be made on a just and reasonable basis.

Assets wholly excluded from this Part

803 Non-commercial purposes etc

This Part does not apply to an intangible fixed asset so far as it is held—

- (a) for a purpose that is not a business or other commercial purpose of the company, or
- (b) for the purpose of activities in respect of which the company is not within the charge to corporation tax.

804 Assets for which capital allowances previously made

- (1) This Part does not apply to an intangible asset of a company if conditions A, B and C are met.
- (2) Condition A is that the asset falls to be treated as an intangible asset in accounts of the company.
- (3) Condition B is that in a previous period of account the asset fell to be treated as a tangible asset in accounts of the company.
- (4) Condition C is that an allowance under Part 2 of CAA 2001 (plant and machinery allowances) was made to the company in respect of the asset on the basis that it was a tangible asset.

805 Rights over tangible assets

This Part does not apply to an intangible fixed asset so far as it represents—

- (a) rights enjoyed by virtue of an estate, interest or right in or over land, or
- (b) rights in relation to tangible movable property.

806 Financial assets

- (1) This Part does not apply to financial assets.
- (2) In this Part “financial asset” has the same meaning as it has for accounting purposes.

- (3) “Financial asset” includes—
- (a) loan relationships (see Parts 5 and 6),
 - (b) derivative contracts (see Part 7),
 - (c) contracts or policies of insurance or capital redemption policies, and
 - (d) rights under a collective investment scheme within the meaning of FISMA 2000 (see section 235 of that Act).

807 Rights in companies, trusts etc

- (1) This Part does not apply to an asset so far as it represents—
- (a) shares or other rights in relation to the profits, governance or winding up of a company,
 - (b) rights under a trust, or
 - (c) the interest of a partner in a firm.
- (2) Subsection (1)(b) does not apply to rights that for accounting purposes fall to be treated as representing an interest in trust property that is an intangible fixed asset to which this Part applies.
- (3) Subsection (1)(c) does not apply to an interest that for accounting purposes falls to be treated as representing an interest in partnership property that is an intangible fixed asset to which this Part applies.

808 Assets representing production expenditure on films

- (1) This Part does not apply to an intangible fixed asset held by a film production company so far as it represents production expenditure on a film to which Chapter 2 of Part 15 (taxation of activities of film production company) applies.
- (2) In this section—
- (a) “film” has the same meaning as in Part 15 (see section 1181),
 - (b) “film production company” has the same meaning as in that Part (see section 1182), and
 - (c) “production expenditure” has the same meaning as in that Part (see section 1184(1)).

809 Oil licences

- (1) This Part does not apply to an oil licence or an interest in an oil licence.
- (2) In subsection (1) “oil licence” means a UK oil licence or a foreign oil concession.
- (3) In this section—
- “UK oil licence” means a licence under—
- (a) Part 1 of the Petroleum Act 1998 (c. 17) (“the 1998 Act”), or
 - (b) the Petroleum Production (Northern Ireland) Act 1964 (c. 28 (N.I.)) (“the 1964 Act”),
- authorising the winning of oil, and
- “foreign oil concession” means any right that—
- (a) is a right to search for or win oil that exists in its natural condition in a place to which neither the 1998 Act nor the 1964 Act applies, and

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- (b) is conferred or exercisable (whether or not under a licence) in relation to a particular area.
- (4) In subsection (1) “interest in an oil licence” includes any entitlement under an agreement to, or to a share of, oil or the proceeds of its sale if the agreement—
 - (a) relates to oil from the whole or a part of the licensed area, and
 - (b) was made before the extraction of the oil to which it relates.
- (5) In subsection (4)(a) “licensed area” means—
 - (a) in relation to a UK oil licence, the area to which the licence applies, and
 - (b) in relation to a foreign oil concession, the area in relation to which the right to search for or win oil is conferred or exercisable under the concession.
- (6) In this section “oil”—
 - (a) in relation to a UK oil licence, means any substance won or capable of being won under the authority of a licence granted under Part 1 of the 1998 Act or the 1964 Act, other than methane gas won in the course of making and keeping mines safe, and
 - (b) in relation to a foreign oil concession, means any petroleum (as defined in section 1 of the 1998 Act).

Assets excluded from this Part except as respects royalties

810 Mutual trade or business

- (1) Except as respects royalties, this Part does not apply to an intangible fixed asset so far as it is held for the purposes of any mutual trade or business.
- (2) But see section 902(1) and (2) (which disapplies subsection (1) in relation to assets held for the purposes of life assurance business).

811 Sound recordings

- (1) Except as respects royalties, this Part does not apply to an intangible fixed asset held by a company so far as it represents expenditure by the company on the production or acquisition of the master version of a sound recording.
- (2) For this purpose—
 - (a) “sound recording” does not include a film soundtrack,
 - (b) “master version” means master tape or master audio disc of the recording, and
 - (c) references to the master version include any rights in the master version that are held or acquired with it.

812 Master versions of films

- (1) Except as respects royalties, this Part does not apply to an intangible fixed asset held by a company so far as it represents expenditure by the company—
 - (a) on the production of the original master version of a film that began principal photography before 1 January 2007, or
 - (b) on the acquisition before 1 October 2007 of such an original master version.
- (2) In this section—

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- (a) “film” has the same meaning as in Part 15 (see section 1181),
- (b) “original master version” means the original negative, tape or disc, and
- (c) references to the original master version of a film include—
 - (i) the original master version of the film soundtrack, if any, and
 - (ii) any rights in the original master version that are held or acquired with it.

813 Computer software treated as part of cost of related hardware

Except as respects royalties, this Part does not apply to an intangible fixed asset held by a company so far as it represents expenditure by the company on computer software that falls to be treated for accounting purposes as part of the costs of the related hardware.

Assets excluded from this Part to the extent specified

814 Research and development

- (1) This section applies to an intangible fixed asset held by a company so far as it represents expenditure by the company on research and development.
- (2) Chapter 2 (credits in respect of intangible fixed assets) does not apply to the asset, except for—
 - (a) section 721 (receipts recognised as they accrue), and
 - (b) section 722 (receipts in respect of royalties so far as not dealt with under section 721).
- (3) Chapter 3 (debits in respect of intangible fixed assets) does not apply to the asset, except for section 732 (debit on reversal of previous accounting gain) so far as that section relates to credits previously brought into account under section 721 or 722.
- (4) Chapter 4 (realisation of intangible fixed assets) applies to the asset as if its cost did not include any expenditure on research and development.
- (5) In this section “research and development” has the meaning given by section 837A of ICTA and includes oil and gas exploration and appraisal.

815 Election to exclude capital expenditure on software

- (1) If a company so elects in respect of capital expenditure by the company on computer software, this section applies to an intangible fixed asset held by the company so far as it represents the expenditure.
- (2) Chapter 2 (credits in respect of intangible fixed assets) does not apply to the asset, except for—
 - (a) section 721 (receipts recognised as they accrue), and
 - (b) section 722 (receipts in respect of royalties so far as not dealt with under section 721).
- (3) Chapter 3 (debits in respect of intangible fixed assets) does not apply to the asset, except for section 732 (debit on reversal of previous accounting gain) so far as that section relates to credits previously brought into account under section 721 or 722.

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- (4) Chapter 4 (realisation of intangible fixed assets) applies as if the cost of the asset did not include any expenditure in respect of which an election under this section has been made.
- (5) A credit is required to be brought into account under this Part in respect of the asset only so far as the receipts to which the credit relates are not taken into account in calculating disposal values under section 72 of CAA 2001.
- (6) The references in this section and section 816—
 - (a) to capital expenditure, and
 - (b) to the time when such expenditure is incurred,have the same meaning as if this section were in CAA 2001.
- (7) Section 816 makes further provision about elections under this section.
- (8) See also section 903(1) (which extends elections under this section to capital expenditure on some computer software by insurance companies).

816 Further provision about elections under section 815

- (1) An election under section 815 must specify the expenditure to which it relates.
- (2) The election must be made not more than 2 years after the end of the accounting period in which the expenditure was incurred.
- (3) The election must be made in writing to an officer of Revenue and Customs.
- (4) The election is irrevocable.