1 Intangible fixed assets: goodwill etc acquired from a related party

(1) Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.

(2) In section 746 ("non-trading credits" and "non-trading debits"), in subsection (2), omit the "and" at the end of paragraph (b) and after that paragraph insert—

"(ba) sections 849C(3)(b) and 849D(3) (certain debits relating to goodwill etc acquired from a related individual or firm), and".

(3) In section 844 (overview of Chapter 13), after subsection (2) insert—

"(2A) Sections 849B to 849D contain restrictions relating to debits in respect of goodwill and certain other assets acquired by a company from—

(a) an individual who is a related party in relation to the company, or

(b) a firm with a member who is an individual and a related party in relation to the company."

(4) After section 849A insert—

"Transfers of goodwill etc to company by related individual or firm

849B Circumstances in which restrictions on debits in respect of goodwill etc apply

(1) This section applies if—

(a) a company ("C") acquires a relevant asset from an individual or a firm ("the transferor"), and

(b) at the time of the acquisition—

(i) if the transferor is an individual, the transferor is a related party in relation to C, or

(ii) if the transferor is a firm, any individual who is a member of the transferor is a related party in relation to C.

(2) "Relevant asset" means—

(a) goodwill in a business, or part of a business, carried on by the transferor,

(b) an intangible fixed asset that consists of information which relates to customers or potential customers of a business, or part of a business, carried on by the transferor,

(c) an intangible fixed asset that consists of a relationship (whether contractual or not) that the transferor has with one or more customers of a business, or part of a business, carried on by the transferor,

(d) an unregistered trade mark or other sign used in the course of a business, or part of a business, carried on by the transferor, or

(e) a licence or other right in respect of an asset ("the licensed asset") within any of paragraphs (a) to (d).

(3) "The relevant business or part", in relation to a relevant asset, means—

(a) in the case of a relevant asset within subsection (2)(e), the business, or part of a business, mentioned in the paragraph of subsection (2) within which the licensed asset falls, and

(b) in any other case, the business, or part of a business, mentioned in the paragraph of that subsection within which the relevant asset falls.

(4) In a case in which the relevant asset is goodwill, section 849C applies if—

(a) the transferor acquired all or part of the relevant business or part in one or more third party acquisitions as part of which the transferor acquired goodwill, and

(b) the relevant asset is acquired by C as part of an acquisition of all of the relevant business or part.

(5) In a case in which the relevant asset is not goodwill, section 849C applies if—

(a) the transferor acquired the relevant asset in a third party acquisition, and

(b) the relevant asset is acquired by C as part of an acquisition of all of the relevant business or part.

(6) In a case not within subsection (4) or (5), section 849D applies.

(7) The transferor acquires something in a "third party acquisition" if—

(a) the transferor acquires it from a company and, at the time of that acquisition—

(i) if the transferor is an individual, the transferor is not a related party in relation to the company, or

(ii) if the transferor is a firm, no individual who is a member of the transferor is a related party in relation to the company, or

(b) the transferor acquires it from a person ("P") who is not a company, and at the time of that acquisition—

(i) if the transferor is an individual, P is not connected with the transferor, or

(ii) if the transferor is a firm, no individual who is a member of the transferor is connected with P.

This is subject to subsection (9).

(8) In subsection (7)(b) "connected" has the same meaning as in Chapter 12 (see section 842).

(9) An acquisition is not a "third party acquisition" if its main purpose, or one of its main purposes, is for any person to obtain a tax advantage (within the meaning of section 1139 of CTA 2010).

849C Restrictions in a case within section 849B(4) or (5)

(1) This section contains restrictions relating to certain debits in respect of a relevant asset in a case within section 849B(4) or (5) (and see section 849B for the meaning of certain terms used in this section).

(2) If a debit is to be brought into account by C for tax purposes, in respect of the relevant asset, under a provision of Chapter 3 (debits in respect of intangible fixed assets), the amount of that debit is—

$$D \times AM$$

where—

D is the amount of the debit that would, but for this section, be brought into account, and

AM is the appropriate multiplier (see subsection (6)).

(3) If, but for this section, a debit would be brought into account by C for tax purposes, in respect of the relevant asset, under a provision of Chapter 4 (realisation of intangible fixed assets), two debits are to be brought into account under that provision instead—

(a) a debit determined in accordance with subsection (4), and

(b) a debit determined in accordance with subsection (5), which is to be treated for the purposes of Chapter 6 as a non-trading debit ("the non-trading debit").

(4) The amount of the debit determined in accordance with this subsection is—

$$D \times AM$$

where—

D is the amount of the debit that would, but for this section, be brought into account under Chapter 4, and

AM is the appropriate multiplier (see subsection (6)).

(5) The amount of the non-trading debit is—

$$D - TD$$

where—

D is the amount of the debit that would, but for this section, be brought into account under Chapter 4, and

TD is the amount of the debit determined in accordance with subsection (4).

(6) The appropriate multiplier is the lesser of 1 and—

$$\frac{RAVTPA}{CEA}$$

where—

RAVTPA is the relevant accounting value of third party acquisitions (see subsections (7) to (9)), and

CEA is the expenditure incurred by C for, or in connection with, the acquisition of the relevant asset that is—

(a) capitalised by C for accounting purposes, or

(b) recognised in determining C's profit or loss without being capitalised for accounting purposes,

subject to any adjustments under this Part or Part 4 of TIOPA 2010.

(7) In a case in which this section applies by virtue of subsection (4) of section 849B, the relevant accounting value of third party acquisitions is the notional accounting value of the goodwill mentioned in paragraph (a) of that subsection.

(8) In a case in which this section applies by virtue of subsection (5) of section 849B, the relevant accounting value of third party acquisitions is the notional accounting value of the relevant asset.

(9) The "notional accounting value" of goodwill or a relevant asset is what the accounting value of the goodwill, or the relevant asset, would have

been, immediately before the relevant asset was acquired by C, in GAAP-compliant accounts drawn up by the transferor on the basis that the relevant business or part was a going concern.

849D Restrictions in a case within section 849B(6)

(1) This section contains restrictions relating to certain debits in respect of a relevant asset in a case within section 849B(6) (and see section 849B for the meaning of certain terms used in this section).

(2) No debits are to be brought into account by C for tax purposes, in respect of the relevant asset, under Chapter 3 (debits in respect of intangible fixed assets).

(3) Any debit brought into account by C for tax purposes, in respect of the relevant asset, under Chapter 4 (realisation of intangible fixed assets) is treated for the purposes of Chapter 6 as a non-trading debit."

(5) The amendments made by this section—

(a) have effect in relation to accounting periods beginning on or after 3 December 2014, and

(b) apply in relation to a relevant asset acquired by C on or after that date, unless C acquires the asset in pursuance of an obligation, under a contract, that was unconditional before that date.

(6) An obligation is "unconditional" if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

(7) For the purposes of subsection (5)(a), an accounting period beginning before, and ending on or after, 3 December 2014 is to be treated as if so much of the period as falls before that date, and so much of the period as falls on or after that date, were separate accounting periods.