Capital Allowances for Intangible Assets under section 291A of the Taxes Consolidation Act 1997

Part 9/Chapter 2

This document should be read in conjunction with section 291A of the Taxes Consolidation Act 1997

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Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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1. Introduction

This manual outlines capital allowances for expenditure incurred on intangible assets which were introduced in Finance Act 2009 and are provided for in section 291A of the Taxes Consolidation Act 1997 ("TCA 1997").

2. Summary of Scheme

Section 291A TCA 1997 provides for capital allowances against trading income for companies that incur capital expenditure on the provision of intangible assets for the purposes of a trade. The scheme applies to a broad range of intangible assets (e.g. patents, copyright, trademarks, know-how) which are recognised as such under generally accepted accounting practice[1] and which are listed as "specified intangible assets" in section 291A(1). An up-to-date list of specified intangible assets is reproduced at **Appendix 1.**

Specified intangible assets are treated as machinery or plant for the purposes of allowances provided[2] so that the normal rules in regard to wear and tear allowances, balancing allowances and balancing charges for capital expenditure on machinery or plant also apply for capital expenditure on qualifying intangible assets, subject to the specific provisions of section 291A.

Allowances available under section 291A are based on the amount charged to a company's Profit and Loss account or Income Statement for the accounting period in respect of the amortisation, impairment or depreciation of the specified intangible asset. However, companies can opt instead for a fixed write-down period of 15 years at an annual rate of 7% of qualifying expenditure for 14 years and 2% in the final year.

Section 288 TCA 1997 provides that a balancing charge is not made where a specified intangible asset, for which allowances have been provided, is disposed of more than five years after the beginning of the accounting period in which the asset was first provided for the trade. This is subject to the condition that the disposal may not result in a connected company claiming allowances under section 291A in excess of the tax written down value of the asset at the time of transfer (i.e. the amount of allowances in respect of which capital allowances have not been claimed)[3].

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[1]In section 291A generally accepted accounting practice comes within the definition provided in section 4 TCA 1997 and includes accounts prepared in accordance with international accounting standards (IAS) and accounts prepared under Irish GAAP.

[2] i.e. for the purposes of Chapters 2 and 4 of Part 9 TCA 1997

[3] Where a disposal occurs before 23 October 2014, the non-application of a balancing charge is subject to the condition that the event may not result in a connected company claiming allowances under section 291A.

A company must be trading to qualify for capital allowances (although pre-trading expenditure is eligible for allowances) and the specified intangible asset(s) on which capital expenditure is incurred must be used for the purposes of its trading activity. The expenditure must be incurred for bona fide commercial reasons and not as part of any tax avoidance scheme.

Certain restrictions apply to ensure that the provision operates effectively. Activities (referred to in section 291A(5) as “relevant activities”) which are carried on as part of a trade and which -

- consist of managing, developing or exploiting specified intangible assets, for which allowances have been made,
- comprise the sale of goods or services that derive the greater part of their value from such assets, or
- contribute to the value of goods or services by using such assets

are treated as a separate trade (referred to in section 291A(5) as a “relevant trade”). Allowances may only be offset against income from such activities and not against any other profits. Where relevant activities are carried on as part of a wider business, an apportionment of receipts and expenses will be necessary to ensure that the correct amount of income is attributed to the relevant trade. Any excess allowances (and any related interest expense) not deductible in an accounting period may be for carry forward to succeeding accounting periods.

Prior to Finance Act 2014, the aggregate amount of section 291A capital allowances, plus any deductions for interest on borrowings in respect of specified intangible assets, could not exceed 80% of trading income (before deduction of such allowances and interest) of the relevant trade for the accounting period. Finance Act 2014 amended section 291A by removing the 80% cap for accounting periods commencing on or after 1 January 2015.

3. Frequently Asked Questions

3.1 What assets qualify for allowances?

The scheme applies to intangible assets which:

- are recognised as such under generally accepted accounting practice, and
- are listed as “specified intangible assets” in section 291A(1).

Under generally accepted accounting practice, an intangible asset is defined as an identifiable non-monetary asset without physical substance and may be recognised in a company’s accounts as an intangible asset only if the cost of the asset can be reliably measured and it is probable that future economic benefits attributable to the asset will flow to the enterprise. Certain requirements must be met before internally generated intangible assets may be recognised in the accounts and some internally generated assets, such as brands, publishing titles and goodwill, are not recognised as intangible assets for accounting purposes. The full list of specified intangible assets, which qualify for allowances, is given in **Appendix 1.**

3.2 Are financial assets included?

No. Financial assets are not regarded as intangible assets under generally accepted accounting practice and are therefore not included in the provision.

3.3 How is goodwill treated?

Goodwill is included to the extent that it is recognised as an intangible asset under generally accepted accounting practice and is directly attributable to any of the other specified intangible assets listed in section 291A(1).

Only goodwill which is externally acquired is recognised as an intangible asset under generally accepted accounting practice. Acquired goodwill is the amount by which the cost of an acquired business exceeds the fair value of the identifiable assets less liabilities of the business. Internally generated goodwill is not regarded as an intangible asset and is therefore not included in the provision.

3.4 Will Revenue provide an advance opinion on whether a particular intangible asset is eligible for allowances?

Generally, it should be clear whether a particular intangible asset comes within the provision or not. In situations where there is uncertainty, it is open to a company or its agent to refer the matter to Revenue which, on receipt of all the relevant details, will endeavour to provide an opinion on whether a particular asset qualifies for allowances or not.

It is also open to a company to use the expression of doubt procedure under section 959P TCA 1997 if it has a genuine doubt about any item to be included in its annual corporation tax return. A formal, genuine expression of doubt protects the taxpayer from interest[4] and penalties, should Revenue take a different view of the tax treatment of the transaction at a later date.

3.5 Are allowances available for capital expenditure on internally developed intangible assets as well as intangible assets which are acquired by a company?

To the extent that expenditure on the development of an intangible asset within a company is regarded as capital expenditure for the purposes of the company's trade, such expenditure will qualify for allowances provided that the asset is recognised as an intangible asset under generally accepted accounting practice and is included in the list of specified intangible assets in section 291A. Where expenditure on an internally developed intangible asset is treated as a revenue expense and is incurred

[4] Protection from interest applies as long as any additional tax that may be due on the amendment of an assessment following resolution of the expression of doubt is paid when due.

wholly and exclusively for the purposes of the trade, it is deductible in the accounting period in which the expenditure is incurred.

As already mentioned, there are certain requirements to be met under generally accepted accounting practice for an internally generated intangible asset to be recognised in the accounts. Also, certain internally generated assets - e.g. brands, publishing titles, goodwill - are not recognised as intangible assets for accounting purposes and expenditure on such assets will not qualify for allowances.

3.6 How is the accounts-based allowance computed?

The accounts-based allowance is based on the amount charged to the Profit and Loss Account or Income Statement of the company for the accounting period in respect of the amortisation, impairment or depreciation of the specified intangible asset relative to the actual cost of the asset (or if greater, the value of the asset on which such amortisation, impairment or depreciation charge is computed). The amount charged is to be computed in accordance with generally accepted accounting practice.

Under generally accepted accounting practice, the cost less residual value of intangible assets with finite lives should be amortised over the useful life of the asset. The amortisation method should reflect the pattern of benefits deriving from the asset but if this cannot be reliably determined, a straight-line method should be used. An intangible asset with an indefinite useful life (e.g. a product brand) should *not* be amortised in the accounts. Impairment of an asset is recognised in the accounts when the carrying (i.e. written-down) value of the asset in the Balance Sheet or Statement of Financial Position exceeds its recoverable amount (i.e. the net selling price or value in use whichever is the greater). Amortisation, impairment and depreciation should be reviewed annually.

The accounts based allowance is determined in accordance with the formula:

$$\frac{A}{B} \times 100\% \text{ of actual cost}$$

Where:

A is the amount charged to the profit and loss account of the company for the accounting period in respect of the amortisation, impairment or depreciation of the specified intangible asset in accordance with generally accepted accounting practice.

[Note: An accounting period for corporation tax purposes may not exceed 12 months, so if, for example, a company's accounts are for a 15 month period, an apportionment of $^{12}/_{15ths}$ of the amortisation/impairment/depreciation charge in the accounts will be required in computing an allowance for expenditure on an intangible asset which is in use for the entire period.]

B is the actual cost of the asset or, if greater, the value of the asset by reference to which the amortisation, impairment or depreciation charge, in the accounts have been computed.

Note**:** Actual cost is defined by reference to paragraph (ad) of section 284(2) TCA 1997 and is the amount of capital expenditure incurred on the provision of the asset including any capital expenditure in respect of renewal, improvement or reinstatement of the asset.

Example

Smart Ltd. incurs capital expenditure of €1m on the acquisition of a product design for the purposes of its trade. For accounting purposes the asset is amortised over 10 years on a straight-line basis.

The company will be eligible for a writing-down allowance in accordance with the accounts-based depreciation of the asset using the formula referred to above viz.

$$\frac{A}{B} \times 100\% \text{ of actual cost}$$

$$\frac{€100K}{€1M} \times 100 = 10\%$$

The allowance is 10% of €1M = €100K

Accordingly, in the accounting period in which the intangible asset was first acquired an allowance of 10% of the cost of the asset is available. A similar allowance will be available in Year 2 and subsequent years if there is no change to the amortisation charge in the audited accounts in those years. Generally accepted accounting practice allows for a change in the amortisation period following an annual review so, where the amortisation amount is revised in these circumstances, there will be a corresponding adjustment to the writing-down allowance available.

3.7 Can a company opt for a fixed-rate allowance?

Yes, as an alternative to using accounts-based depreciation, companies can opt for a fixed write-down period of 15 years, with capital allowances provided at 7% per annum of the actual cost of the asset for 14 years and 2% in the final year. Companies opting for a fixed-rate allowance are required to make an election to this effect in the corporation tax return for the accounting period in which the expenditure on the provision of the specified intangible asset was first incurred. An election for a fixed write-down period is irrevocable and applies to all capital expenditure incurred on the asset. It is not possible for a company claiming an accounts-based allowance in respect of an asset to switch to a fixed-rate allowance for that asset.

3.8 Are companies required to provide Revenue with the basis by which accounting depreciation and allowances are computed?

Companies are required to indicate the amount of capital allowances claimed in respect of specified intangible assets in their corporation tax return. However, an explanation of the method by which intangible assets are depreciated for accounting purposes need not be included in the return. Normally the basis on which assets are depreciated in a company's accounts will be set out in the notes to the company's accounts and, where necessary, Revenue may seek further information on the computation of allowances claimed.

3.9 If a company incurs additional capital expenditure subsequent to acquiring an intangible asset, can this be taken into account?

Yes. Allowances are available for additional capital expenditure incurred by a company on the provision of a specified intangible asset subsequent to its acquisition, e.g. enhancement expenditure. Where an accounts-based allowance is claimed, such additional expenditure will be written off at a rate and over a period of time in accordance with the accounting depreciation for the expenditure. Where a company opts for a fixed-rate allowance, the expenditure will be written off over a 15 year period commencing in the accounting period in which the additional expenditure was incurred.

3.10 Where the acquisition cost of an intangible asset includes annual royalty payments (e.g. based on sales) in addition to an upfront payment on acquisition, can an allowance be claimed under section 291A on the capitalised value of such payments as shown on the balance sheet?

Royalty payments are *current* or *revenue* expenditure for tax purposes and, notwithstanding their treatment for accounting purposes, such payments would accordingly not qualify for allowances under section 291A, which are made by reference to capital expenditure.

For example, a company which pays an upfront fee of €15M together with an annual royalty of 5% of sales for the acquisition of a licence to sell a patented drug with an expected life of 10 years will be entitled to claim an accounts-based allowance under section 291A of €1.5M where the expenditure is written off over 10 years in the accounts, while the annual royalty payments will be allowable as charges on income for the accounting periods in which the payments are made in accordance with sections 243, 243A and 243B TCA 1997.

3.11 Will a balancing charge or balancing allowance apply on the disposal of an intangible asset?

Subject to the provision outlined below, balancing allowances/charges apply where a specified intangible asset is disposed of or ceases to be used for the purposes of the trade. A balancing charge applies where the net proceeds or consideration received from the disposal of the intangible asset exceeds the amount of expenditure unallowed.

A balancing charge is not made where an intangible asset is disposed of, or ceases to be used in the trade, more than 5 years after the beginning of the accounting period in which the asset was first provided for the trade**.** This is subject to the condition that the disposal may not result in a connected company claiming allowances under section 291A in excess of the amount of the eligible capital expenditure on the acquisition of the asset by the transferor company which is un-allowed at the time of transfer.

3.12 Are allowances available for capital expenditure on the acquisition of intangible assets from a connected person?

Allowances are available for capital expenditure on the acquisition of specified intangible assets from a connected person subject to the provisions of section 291A, including in particular:

- Allowances are based on the amount of capital expenditure incurred on the acquisition of the assets.

- An *arm's length rule* applies so that qualifying expenditure may not exceed the amount which would have been paid or payable for the asset between independent parties acting at arm's length.

- In the case of transfers of intangible assets from one group company to another, allowances are not available to the acquiring company where the transfer is subject to capital gains tax group relief under section 617 TCA 1997 (i.e. where there is a deferral of capital gains tax on the transfer of the asset and the acquiring company is treated as having acquired the asset for a consideration of such an amount that neither a gain nor a loss accrues to the transferring company on the transfer of the asset). However, the companies involved may jointly elect not to avail of group relief under section 617, in which case the acquiring company may be entitled to claim an allowance under section 291A while the transferring company will be chargeable to capital gains tax on the transfer.

Allowances claimed are to be included in the company's corporation tax return for the relevant accounting period. Where claims are being verified by Revenue, a company may be required to provide supporting information/documentation in relation to expenditure incurred on the provision of intangible assets. It will be up to the company claiming allowances to demonstrate, where requested by Revenue, that the value attributed to a particular asset acquired is the appropriate arm's length value. In addition, Revenue may engage the services of an expert, where necessary, to provide advice to it in determining or validating the amount of allowable expenditure on the basis of arm's length values.

3.13 Does a company have to be carrying on a trade to qualify?

Yes, a company must be carrying on a trade to qualify for allowances and the specified intangible assets for which capital allowances are claimed must be used in the course of the trade. Companies must be engaged in the active management, development and exploitation of intangible assets in a trade, as distinct from passive holding of such assets. The mere holding of an intangible asset by a company from which licence fee or royalty income is received would not be regarded as a trading activity and capital expenditure incurred by the company on an asset for such purpose would not qualify for allowances as the asset is not used in a trade.

3.14 Will Revenue give an advance opinion on whether activities involving intangible assets qualify as trading?

Yes. In accordance with established practice, Revenue is prepared to give an advance opinion on whether activities involving the management and exploitation of intangible assets would constitute trading for the purposes of the 12½% corporation tax rate. It should be borne in mind, however, that the position in relation to any proposed activity on which an advance opinion is sought can only be known with certainty after the events have taken place and the facts are established.

3.15 If expenditure on intangible assets is incurred prior to the commencement of a trade, will that expenditure qualify for relief?

Yes. Where a company incurs expenditure prior to the commencement of a trade on specified intangible assets for use in a trade which it intends to carry on, allowances may be claimed once the trade is commenced and the asset is brought into use in the trade. The company can start claiming such allowances from the accounting period in which the asset was first brought into use. Any claims must be notified to Revenue within 12 months from the end of end of the accounting period in which the capital expenditure giving rise to the claim is incurred.

3.16 Does a company have to incur capital expenditure to qualify for allowances under the scheme? Will an acquisition of specified intangible assets involving the issue of shares by the acquiring company qualify for allowances?

The availability of capital allowances in respect of plant or machinery is subject to capital expenditure being incurred by the person claiming the allowances. The same principle applies in relation to a company claiming capital allowances on the provision of a specified intangible asset for the purposes of a trade. Capital expenditure on the acquisition of such an asset is the amount due and payable by the company for the asset acquired and expenditure is incurred once the acquiring company becomes liable to pay this amount.

While such liability to pay may be discharged in cash or otherwise, an acquisition of intangible assets involving the acquiring company issuing shares will only qualify for allowances where the company incurs capital expenditure in the course of that acquisition.

3.17 Are there restrictions on the offset of capital allowances against trading profits?

Allowances for specified intangible assets may only be offset against income from trading activities in which the assets are used and not against any other income. Such activities (referred to as "relevant activities") are deemed to form a separate trade under section 291A(5) (referred to as a "relevant trade"). "Relevant activities" are activities which

- consist of managing, developing or exploiting specified intangible assets for which allowances have been made,
- comprise the sale of goods or services that derive the greater part of their value from such assets, or
- contribute to the value of goods or services by using such assets.

Where relevant activities are the only trade carried on by a company there should be no difficulty in ascertaining the profits from such activities. However, where relevant activities are carried on as part of a wider business, an apportionment of receipts and expenses will be necessary to ensure that the correct amount of income is attributed to the relevant trade. The company should make the apportionment on a just and reasonable basis and the amount of income attributed to the relevant trade should be in accordance with what would be earned from the relevant activities if they were conducted by a separate, independent company dealing with the company on an arm's length basis. While this provision will operate on a self-assessment basis, companies should be in a position to demonstrate, if required by Revenue, that the apportionment made fairly and accurately reflects the income earned from the relevant activities. In examining instances of the practical application of this provision, Revenue will seek to ensure that the provision is operating as intended.

Prior to Finance Act 2014, the aggregate amount of capital allowances for specified intangible assets, plus any deductions for related interest (i.e. interest on borrowings in respect of expenditure incurred on such assets), for an accounting period was restricted to a limit of 80% of trading income (before deduction of such allowances and interest) of the relevant trade for that period. In applying this provision, capital allowances for expenditure on the provision of specified intangible assets are restricted before interest on related borrowings is restricted.

Finance Act 2014 amended section 291A by removing the 80% cap on the aggregate amount of capital allowances and any related interest expense, which may be offset in any accounting period, that can be claimed against trading income of the relevant trade in which the intangible assets are used. This has effect for accounting periods commencing on or after 1 January 2015.

Where it is not possible to utilise all the capital allowances available for an accounting period, the excess allowances will be carried forward and added to any allowances which are available for offset against trading income of the relevant trade for the next accounting period and so on for each succeeding accounting period. Similarly, any excess interest expense arising in an accounting period will be carried forward and added to any interest deductible against trading income of the trade for the next accounting period and so on for each succeeding accounting period.

3.18 Is there a restriction on the deduction of interest on borrowings in respect of expenditure on the provision of specified intangible assets?

Prior to Finance Act 2014, where a company claiming allowances on capital expenditure incurred on the provision of a specified intangible asset also incurred an interest expense on borrowings to fund such expenditure, the amount of such interest was included in the 80% limit on the aggregate amount of such allowances and deductions for interest which may be set against trading income of the relevant trade for the accounting period.

The 80% restriction also applied to interest deductible by an investing company under section 247 TCA 1997 where that company provided funds it borrowed to a company engaged in the relevant trade, either by way of subscription for share capital or a loan, and the latter company used the funds to provide, for use in the trade, specified intangible assets for which an allowance is to be made under section 291A. The restriction was applied to the interest paid by the investing company on the borrowed funds - less any chargeable distributions (i.e. not franked investment income) or interest received from the other company in respect of the money advanced. The restriction ensured that such interest cannot exceed the amount of interest that would have been deductible in the hands of the company engaged in the relevant trade had that latter company incurred the interest expense. Any amount of interest that was so restricted may be carried forward to be treated as interest paid in the next accounting period of the company and so on for each succeeding period.

As indicated above, Finance Act 2014 amended section 291A by removing the 80% cap on aggregate allowances and any related interest expense for accounting periods commencing on or after 1 January 2015.

3.19 Are allowances available where intangible assets are acquired as part of the acquisition of a trade or business?

Yes. Allowances are available, subject to the provisions of section 291A, for specified intangible assets acquired as part of a trade or business acquisition, including any goodwill of the trade or business to the extent that such goodwill can be directly attributed to other specified intangible assets listed in section 291A(1).

Restrictions apply where a business containing specified intangible assets transfers from one company to another as part of a company reconstruction and where the transfer is subject to capital gains tax relief under section 615 TCA 1997. No capital allowance will be available for specified intangible assets acquired where capital gains tax relief is claimed on the transfer under section 615. However, the two companies can elect not to avail of capital gains tax relief under section 615 in order to obtain capital allowances under section 291A instead. In this situation the acquiring company will be entitled to claim an allowance for specified intangible assets acquired while the transferring company will be subject to capital gains tax on the transfer of those assets at market value.

Finance Act 2014 added “customer lists” to the list of intangible assets that will qualify for capital allowances under section 291A. The amendment is contained in section 291A(1)(g) and specifically excludes cases where “such asset is provided directly or indirectly in connection with the transfer of a business as a going concern”. Where a business is transferred as a “going concern”, the assets transferred are used by the purchaser for the purpose of carrying on substantially the same trade as the seller. Where the assets of a business are transferred to a company for the purpose of carrying on a trade which is not substantially the same trade as that carried on by the seller, the transfer will not be considered a transfer of a business as a “going concern” for the purposes of applying the provision in relation to customer lists. In those circumstances, the company may claim allowances under section 291A for customer lists, provided that they are used for the purposes of carrying on a relevant trade within the meaning of section 291A(5).

Examples of the operation of this provision are set out as follows:

Scenario 1: direct transfer of a business as a going concern

Company B acquires a trade from Company A comprising all of the trade assets (including customer lists) and liabilities of Company A. Company B carries on the trade formerly carried on by Company A. In this scenario, Company B is not entitled to claim an allowance for customers lists under section 291A because they are provided directly in connection with the transfer of a business as a "going concern".

Scenario 2: business transfer/reorganisation with a substantial change in the business

Company B acquires a business from a third party, Company A, comprising all of the trade assets (including customer lists) and liabilities of Company A. Subsequent to the acquisition, the trading activities previously carried on by Company A are integrated with the trading activities of Company B, while the intangible assets of the business (including customer lists), along with related business functions are transferred to newly incorporated Company C. Company C carries on a "relevant trade" (within the meaning of section 291A) of managing developing and exploiting intangible assets. As a result of this reorganisation, there is a substantial change in the business that was originally carried on by Company A and transferred to Company B. In this scenario, Company C may claim for relief on the provision of customer lists under section 291A.

3.20 How does expenditure qualifying for allowances under section 291A interact with the provisions of Section 766 of the TCA 1997?

Under section 291A(7)(a) capital expenditure on the provision of a specified intangible asset for the purposes of the trade will not qualify for an allowance where relief is provided for the same expenditure under any other provision of the TCA 1997. This means that a company claiming an R&D tax credit under section 766 TCA 1997 for expenditure on research and development will not also be able to claim an allowance under section 291A for such expenditure. Expenditure incurred on a specified intangible asset within the meaning of section 291A would not be regarded as expenditure on plant and machinery for the purposes of qualifying for relief as research and development expenditure under section 766, since intangible assets are treated as machinery or plant for the purposes of Chapters 2 and 4 of Part 9 of the TCA only.

3.21 How will section 291A interact with the 3-year tax relief for new start-up companies? Will a new start-up company be able to claim allowances for intangible assets?

Section 486C TCA 1997 provides for relief from corporation tax in the first three years of trading by new companies commencing a new trade in the period 2009 to 31 December 2018 where the corporation tax payable by the company for an accounting period does not exceed €40,000. Marginal relief is available for companies with corporation tax payable between €40,000 and €60,000.

Arising from Finance Act 2011 changes, the relief is linked to the value of Employers' PRSI contributions for accounting periods commencing on or after 1 January 2011. Finance Act 2013 provided for an enhancement of the relief by allowing any unused relief arising in the first three years of trading, due to losses or insufficient profits, to be carried forward for use in subsequent years. See Tax and Duty Manual 15.03.03 for further details.

Trading income of the trade for which relief is claimed under section 486C, and for the purposes of the €40,000 limit, is computed after taking account of any allowances due under section 291A in respect of capital expenditure on the provision of specified intangible assets.

4. Appendix 1: List of Specified Intangible Assets Included in Scheme

(a) any patent, registered design, design right or invention,

(b) any trade mark, trade name, trade dress, brand, brand name, domain name, service mark or publishing title,

(c) any copyright or related right within the meaning of the Copyright and Related Rights Act 2000,

(ca) computer software or a right to use or otherwise deal with computer software other than such software or such right construed in accordance with *section 291(3)*,[5]

(d) any supplementary protection certificate provided for under Council Regulation (EEC) No. 1768/92 of 18 June 1992 (OJ No. L182, 2.7.1992, p.1),

(e) any supplementary protection certificate provided for under Regulation (EC) No. 1610/96 of the European Parliament and of the Council of 23 July 1996 (OJ No. L198, 8.8.1996, p. 30),

(f) any plant breeders' rights within the meaning of section 4 of the Plant Varieties (Proprietary Rights) Act 1980, as amended by the Plant Varieties (Proprietary Rights) (Amendment) Act 1998,

(fa) any application for the grant or registration of anything within *paragraphs (a)* to *(f)*,[6]

(g) secret processes or formulae or other secret information concerning industrial, commercial or scientific experience, whether protected or not by patent, copyright or a related right, including know-how within the meaning of [*section 768*[7] and, except where such asset is provided directly or indirectly in connection with the transfer of a business as a going concern, customer lists][8],

(h) any authorisation without which it would not be permissible for a medicine or a product of any design, formula, process or invention to be sold for any purpose for which it was intended [, but this paragraph does not relate to a licence within the meaning of section 2 of the Intoxicating Liquor Act, 2008][9],

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[5] Inserted by FA 2010 as respects expenditure incurred after 4 February 2010. FA 2010 added expenditure on computer software which is commercially exploited to the list of specified intangible assets. Expenditure on computer software which is used within a business continues to qualify for allowances under section 291.

[6] Inserted by FA 2010 as respects expenditure incurred after 4 February 2010

[7] Substituted by FA 2010 as respects expenditure incurred after 4 February 2010

[8] Words "and, except where such asset is provided directly or indirectly in connection with the transfer of a business as a going concern, customer lists" inserted by FA 2014 as respects accounting periods commencing on or after 1 January 2015

[9] Words "but this paragraph does not relate to a licence within the meaning of section 2 of the Intoxicating Liquor Act, 2008" inserted by FA 2010 as respects any allowance to be made for an accounting period commencing on or after 1 January 2010

(i) any rights derived from research, undertaken prior to any authorisation referred to in *paragraph (h)*, into the effects of a medicine or a product of any design, formula, process or invention,

(j) any licence in respect of an intangible asset referred to in any of *paragraphs (a)* to *(i)*,

(k) any rights granted under the law of any country, territory, state or area, other than the State, or under any international treaty, convention or agreement to which the State is a party, that correspond to or are similar to those within any of *paragraphs (a)* to *(j)*, or

(l) goodwill to the extent that it is directly attributable to anything within any of *paragraphs (a)* to *(k).*