



Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 8

AVOIDANCE: MISCELLANEOUS

Film partnerships

75 Interest relief: film partnership

F1

Textual Amendments

F1 S. 75 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, Sch. 1 para. 615, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

Financial instruments

76 Avoidance involving financial arrangements

Schedule 6 (which makes provision in relation to tax avoidance involving financial arrangements) has effect.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2006, Chapter 8. (See end of Document for details)

Intangible fixed assets

F277 Treating assets as “existing assets” etc

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Textual Amendments

F2 S. 77 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

International matters

78 Controlled foreign companies and treaty non-resident companies

(1) Section 90 of FA 2002 (controlled foreign companies and treaty non-resident companies) is amended as follows.

(2) In subsection (2) (application of subsection (1), which inserted section 747(1B) of ICTA (disregard of section 249 of FA 1994 for most purposes of Chapter 4 of Part 17 of ICTA (controlled foreign companies))), for paragraph (b) (exclusion for companies which were non-resident immediately before 1st April 2002) substitute—

“(b) does not apply to a company (“the non-resident company”) that—

- (i) by virtue of section 249 of the Finance Act 1994 was treated as resident outside the United Kingdom, and not resident in the United Kingdom, immediately before that date, and
- (ii) has not subsequently ceased to be so treated,

unless condition A or B is met in relation to the non-resident company at any time on or after 22nd March 2006.”.

(3) After that subsection insert—

“(3) Condition A is met in relation to the non-resident company at any time on or after 22nd March 2006 if—

- (a) immediately before 22nd March 2006 the non-resident company does not own directly or indirectly any company as a subsidiary company, and
- (b) at any time on or after that date the non-resident company becomes the direct or indirect owner of a UK resident company as a subsidiary company.

(4) Condition B is met in relation to the non-resident company at any time on or after 22nd March 2006 if—

- (a) immediately before 22nd March 2006 the non-resident company owns directly or indirectly any company as a subsidiary company (which may be a UK resident company),
- (b) at any time (“the relevant time”) on or after that date the non-resident company becomes the direct or indirect owner of any UK resident company as a subsidiary company (or, as the case may be, another UK resident company), and

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- (c) directly or indirectly in consequence of, or otherwise in connection with, the ownership mentioned in paragraph (b) there is a qualifying change in activities.
- (5) There is a qualifying change in activities if, at the relevant time or any subsequent time,—
 - (a) there is a major change in the nature, conduct or scale of the non-resident company's activities, or
 - (b) there is a major change in the nature, conduct or scale of the activities of the group of companies of which the non-resident company is a member.
- (6) In this section references to directly or indirectly owning a company are references to owning it—
 - (a) directly or through another company or companies, or
 - (b) partly directly and partly through another company or companies.
- (7) In this section references to ownership are to be read as references to beneficial ownership.
- (8) In this section “UK resident company”, in relation to any time, means any company which is resident in the United Kingdom at that time.”.

79 Transfer of assets abroad

Schedule 7 (which makes amendments of, or relating to, Chapter 3 of Part 17 of ICTA (transfer of assets abroad)) has effect.

Pre-owned assets

80 Restriction of exemption from charge to income tax

- (1) Schedule 15 to FA 2004 (charge to income tax on benefits received by former owner of property) is amended as follows.
- (2) In paragraph 11 (exemptions from charge)—
 - (a) in sub-paragraph (9) (meaning of “the relevant property”) for “sub-paragraphs (1) to (8)” substitute “this paragraph”, and
 - (b) at the end insert—
 - “(11) Sub-paragraph (12) applies where at any time—
 - (a) the relevant property has ceased to be comprised in a person's estate for the purposes of IHTA 1984, or
 - (b) he has directly or indirectly provided any consideration for the acquisition of the relevant property,
 and at any subsequent time the relevant property or any derived property is comprised in his estate for the purposes of IHTA 1984 as a result of section 49(1) of that Act (treatment of interests in possession).
- (12) Where this sub-paragraph applies, the relevant property and any derived property—

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- (a) are not to be treated for the purposes of sub-paragraphs (1) and (2) as comprised in his estate at that subsequent time, and
 - (b) are not to be treated as falling within sub-paragraph (5) in relation to him at that subsequent time.
- (13) For the purposes of sub-paragraphs (11) and (12) references, in relation to the relevant property, to any derived property are to other property—
- (a) which derives its value from the relevant property, and
 - (b) whose value, so far as attributable to the relevant property, is not substantially less than the value of the relevant property.”.
- (3) In paragraph 21 (election for application of inheritance tax provisions where paragraph 3 (land) or 6 (chattels) would otherwise apply)—
- (a) in sub-paragraph (2)(b) (application of the gifts with reservation rules), in sub-paragraph (i) at the end insert “ , but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property ”,
 - (b) in sub-paragraph (2)(b) for sub-paragraph (ii) and the “and” before it substitute—
 - “(ii) section 102(3) and (4) of that Act shall apply, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property, and
 - (iii) if the chargeable person is beneficially entitled to an interest in possession in the property, sections 53(3) and (4) and 54 of IHTA 1984 (which deal with cases of property reverting to the settlor etc) shall not apply in relation to the chargeable proportion of the property.”, and
 - (c) in sub-paragraph (3) (meaning of “the chargeable proportion”), after paragraph (a)(ii) insert—
 - “(iii) in the case of property in which the chargeable person is beneficially entitled to an interest in possession, to the date of his death or (if his interest comes to an end on an earlier date) that earlier date, and”.
- (4) In paragraph 22 (election for application of inheritance tax provisions where paragraph 8 (intangible property) would otherwise apply), in sub-paragraph (2)(b) (application of the gifts with reservation rules)—
- (a) in sub-paragraph (i) at the end insert “ , but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property concerned ”, and
 - (b) for sub-paragraph (ii) and the “and” before it substitute—
 - “(ii) section 102(3) and (4) of that Act shall apply, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property concerned, and
 - (iii) if the chargeable person is beneficially entitled to an interest in possession in the property concerned, sections 53(3) and (4) and 54 of IHTA 1984 (which

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deal with cases of property reverting to the settlor etc) shall not apply in relation to that property.”.

- (5) The amendments made by this section have effect—
- (a) for the part of the year 2005-06 beginning with 5th December 2005, and
 - (b) for the year 2006-07 and subsequent years of assessment.
- (6) If—
- (a) paragraph 11 of Schedule 15 to FA 2004 ceases, in consequence of the amendments made by this section, to apply to a person in relation to any property, and
 - (b) that person dies before the day on which this Act is passed without making an election under paragraph 21 or 22 of that Schedule in relation to that property,
- his personal representatives (within the meaning of IHTA 1984) may make any election under paragraph 21 or 22 of that Schedule that he might have made.
- (7) If—
- (a) in consequence of the amendments made by this section a person makes an election under paragraph 21 or 22 of Schedule 15 to FA 2004,
 - (b) that person dies before the day on which this Act is passed, and
 - (c) an amount of inheritance tax would (but for this subsection) fall due before that day,
- that amount is to be treated instead as falling due at the end of the period of 14 days beginning with that day.
- (8) This section is deemed to have come into force on 5th December 2005.

Changes to legislation:

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