



Finance Act 1994

1994 CHAPTER 9

PART VIII

MISCELLANEOUS AND GENERAL

Companies treated as non-resident

249 Certain companies treated as non-resident

- (1) A company which—
- (a) would (apart from this section) be regarded as resident in the United Kingdom for the purposes of the Taxes Acts, and
 - (b) is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom and not resident in the United Kingdom,
- shall be treated for the purposes of the Taxes Acts as resident outside the United Kingdom and not resident in the United Kingdom.
- (2) For the purpose of deciding whether the company is regarded as mentioned in subsection (1)(b) above it shall be assumed that—
- (a) the company has made a claim for relief under the arrangements, and
 - (b) in consequence of the claim it falls to be decided whether the company is to be regarded as mentioned in subsection (1)(b) above.
- (3) This section shall apply whether the company would otherwise be regarded as resident in the United Kingdom for the purposes of the Taxes Acts by virtue of section 66(1) of the Finance Act 1988 (company incorporated in UK to be regarded as resident there) or by virtue of some other rule of law.
- (4) In this section—
- (a) “double taxation relief arrangements” means arrangements having effect by virtue of section 788 of the Taxes Act 1988;
 - (b) “the Taxes Acts” has the same meaning as in the Taxes Management Act 1970.

- (5) This section shall be deemed to have come into force on 30th November 1993.

250 Companies treated as non-resident: supplementary

- (1) Sections 130(1) to (6) and 131(1) to (5) of the Finance Act 1988 (securing payment of outstanding tax) shall not apply where the company concerned ceases to be resident in the United Kingdom on 30th November 1993 solely by virtue of the coming into force of section 249 above.
- (2) References in section 179 of the Taxation of Chargeable Gains Act 1992 to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group by virtue of that company, or another company, ceasing to be resident in the United Kingdom on 30th November 1993 solely by virtue of the coming into force of section 249 above.
- (3) Subsection (4) below applies where—
 - (a) a company ceases to be resident in the United Kingdom on 30th November 1993 solely by virtue of the coming into force of section 249 above, and
 - (b) by virtue of section 185(2) of the Taxation of Chargeable Gains Act 1992 it is deemed to have disposed of assets immediately before the time it so ceases.
- (4) In such a case—
 - (a) if the company makes an actual disposal of the assets on or before the day when (apart from this subsection) corporation tax is due and payable in respect of the deemed disposal, the tax shall be due and payable on that day;
 - (b) in any other case the tax shall be due and payable on the day the company makes an actual disposal of the assets or on 30th November 1999 (whichever falls first).
- (5) Where subsection (4) above applies, for the purposes of section 87A of the Taxes Management Act 1970 (interest on overdue corporation tax) the tax shall be treated as becoming due and payable on the relevant day in accordance with section 10 of the Taxes Act 1988; and the relevant day is the day on which the tax is due and payable by virtue of subsection (4) above.
- (6) If the company makes an actual disposal of part of the assets subsections (4) and (5) above shall be applied separately as regards the different parts and the tax shall be apportioned (and carry interest) accordingly.

251 Companies treated as non-resident: repeals

- (1) For the purposes of this section—
 - (a) the relevant date is 30th November 1993;
 - (b) the 1992 Act is the Taxation of Chargeable Gains Act 1992.
- (2) In section 468F of the Taxes Act 1988 the following shall be omitted—
 - (a) in subsection (1)(c) the words “and not a dual resident”;
 - (b) in subsection (8) the definition of “dual resident”;and this subsection shall have effect where the date of payment is the relevant date or later.

- (3) In sections 742(8) and 745(4) of the Taxes Act 1988 the words “, or regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 as resident in a territory outside the United Kingdom,” shall be omitted; and—
- (a) subject to paragraph (b) below, the omissions shall apply in relation to transfers of assets and associated operations on or after the relevant date;
 - (b) in so far as the omission in subsection (4) of section 745 relates to subsections (3)(b) and (5) of that section, it shall be deemed to have come into force on the relevant date.
- (4) Sections 749(4A) and 751(2)(bb) of the Taxes Act 1988 shall be omitted; and this subsection shall be deemed to have come into force on the relevant date.
- (5) Section 139(3) of the 1992 Act shall be omitted; and this subsection shall have effect in relation to acquisitions on or after the relevant date.
- (6) Section 160 of the 1992 Act shall be omitted; and this subsection shall have effect where the disposal of the old assets (or of the interest in them) is made on or after the relevant date or the acquisition of the new assets is made (or the acquisition of the interest in them is made or the unconditional contract for their acquisition is entered into) on or after the relevant date.
- (7) The following provisions shall be omitted—
- (a) in section 166(2) of the 1992 Act the words “or a company” and the words “or company”;
 - (b) in section 171(2) of that Act, paragraph (e) and the word “or” immediately preceding it;
 - (c) section 172(3)(a) of that Act;
- and this subsection shall have effect in relation to disposals on or after the relevant date.
- (8) In section 175(2) of the 1992 Act the words from “or a company which” to the end of paragraph (b) shall be omitted; and this subsection shall have effect where the disposal of the old assets (or of the interest in them) or the acquisition of the new assets (or of the interest in them) is made on or after the relevant date.
- (9) Section 186 of the 1992 Act shall be omitted together with the following in section 187—
- (a) in subsection (1)(a) the words “or 186”;
 - (b) in subsection (6) the words “or, as the case may be, section 186(2),” and the words “or, as the case may be, section 186(1)”;
- and this subsection shall have effect where the company concerned becomes on or after the relevant date a company which falls to be regarded as mentioned in section 186(1) .
- (10) Section 188 of the 1992 Act shall be omitted; and this subsection shall be deemed to have come into force on the relevant date.
- (11) In section 211(3) of the 1992 Act the words “(and would not be a gain on which, under any double taxation relief arrangements, it would not be liable to tax)” shall be omitted; and this subsection shall have effect where the transfer is made on or after the relevant date.
- (12) Section 61(3) of the Finance Act 1993 shall be omitted; and this subsection shall be deemed to have come into force on the relevant date.