



# Finance Act 1998

## 1998 CHAPTER 36

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### INCOME TAX AND CORPORATION TAX

##### *Construction industry workers*

#### **56 Transitional provisions in connection with section 55.**

- (1) Subject to subsection (6) below, subsection (2) below applies if—
  - (a) a construction trade is being carried on by a person ("the sub-contractor") at the end of the year 1997-98; and
  - (b) there are receipts of that trade which, but for section 134(5)(c) of the Taxes Act 1988, would have fallen to be treated for the year 1997-98 as the emoluments of an office or employment.
- (2) Where this subsection applies, then, subject to subsections (4) and (5) below—
  - (a) the trade shall be deemed to have been permanently discontinued at the end of the year 1997-98; and
  - (b) to the extent (if any) that the trade includes activities in addition to the rendering of services falling by virtue of section 55 to be treated as the duties of an office or employment, a new trade shall be deemed to have been set up and commenced on 6th April 1998.
- (3) Subsection (4) below applies if—
  - (a) a construction trade ("the old trade") is deemed by virtue of subsection (2)(a) above to have been permanently discontinued; and
  - (b) a construction trade ("the new trade")—

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1998, Section 56. (See end of Document for details)*

---

- (i) is deemed by virtue of subsection (2)(b) above to have been set up and commenced; or
  - (ii) (where sub-paragraph (i) above does not apply) is actually set up and commenced in the year 1998-99.
- (4) Where this subsection applies then, notwithstanding the deemed discontinuance, the old trade and the new trade shall be treated as the same for the purposes of [F<sup>1</sup>section 83 of the Income Tax Act 2007] (carry-forward of losses against subsequent profits).
- (5) An officer of the Board shall not become entitled by virtue of anything in this section to give a direction under paragraph 3(2) of Schedule 20 to the M<sup>1</sup>Finance Act 1994 (power to revise assessment so that made on the actual basis) in the case of a person whose trade is deemed under subsection (2) above to cease on 5th April 1998.
- (6) Subsection (2) above does not apply if the sub-contractor by notice to an officer of the Board otherwise elects.
- (7) An election under subsection (6) above—
- (a) if it relates to a trade carried on by an individual, must be included in a return under section 8 of the M<sup>2</sup>Taxes Management Act 1970 which is made and delivered in that individual’s case on or before the day on which it is required to be made and delivered under that section; and
  - (b) if it relates to a trade carried on by persons in partnership, must be included in a return under section 12AA of that Act which is made and delivered in the partners’ case, or in the case of any one or more of them, on or before the day specified in relation to that return under subsection (2) or (3) of that section.
- (8) In this section “construction trade” means a trade consisting in or including the rendering of services under contracts relating to construction operations (within the meaning of [F<sup>2</sup>section 74 of the Finance Act 2004]).
- (9) Where at any time on or after 17th March 1998 and before the day on which this Act is passed any election corresponding to an election under subsection (6) above has been made under a resolution of the House of Commons having effect in accordance with the provisions of the M<sup>3</sup>Provisional Collection of Taxes Act 1968, this section has effect, on and after the day on which this Act is passed, as if that election were an election under subsection (6) above.

---

**Textual Amendments**

- F1** Words in s. 56(4) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 381](#) (with [Sch. 2](#))
- F2** Words in s. 56(8) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 12 para. 15\(2\)](#)
- 

**Marginal Citations**

- M1** 1994 c. 9.  
**M2** 1970 c. 9.  
**M3** 1968 c. 2.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1998, Section 56.