



# Finance Act 2003

## 2003 CHAPTER 14

### PART 9

#### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

##### *International matters*

#### **197 Exchange of information between tax authorities of member States**

- (1) No obligation as to secrecy imposed by statute or otherwise precludes the Commissioners or an authorised officer of the Commissioners from disclosing to the competent authorities of another member State any information required to be so disclosed by virtue of the Mutual Assistance Directive.
- (2) Neither the Commissioners nor an authorised officer shall disclose any information in pursuance of the Mutual Assistance Directive unless satisfied that the competent authorities of the other State are bound by, or have undertaken to observe, rules of confidentiality with respect to the information that are not less strict than those applying to it in the United Kingdom.
- (3) Nothing in this section permits the Commissioners or an authorised officer of the Commissioners to authorise the use of information disclosed by virtue of the Mutual Assistance Directive otherwise than for the purposes of taxation or to facilitate legal proceedings for failure to observe the tax laws of the receiving State.
- (4) In this section—
  - “the Commissioners” means the Commissioners of Inland Revenue or the Commissioners of Customs and Excise;
  - the “Mutual Assistance Directive” means Council Directive [77/799/EEC](#), as amended by Council Directives [79/1070/EEC](#) and [92/12/EEC](#).
- (5) The Treasury may by order make such provision amending the definition of the “Mutual Assistance Directive” in subsection (4) as appears to them appropriate for the purpose of giving effect to any Council Directive adopted after 16th April 2003 amending or replacing the Mutual Assistance Directive.

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- (6) An order under subsection (5) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (7) In section 48 of the Value Added Tax Act 1994 (c. 23) (VAT representatives)—
- (a) in subsection (1B) (meaning of “the mutual assistance provisions”) for paragraphs (a) and (b) substitute—
    - “(a) section 134 of the Finance Act 2002 and Schedule 39 to that Act (recovery of taxes etc due in other member States);
    - (b) section 197 of the Finance Act 2003 (exchange of information between tax authorities of member States);”;
  - (b) after subsection (8) insert—
    - “(9) The Treasury may by order amend the definition of “the mutual assistance provisions” in subsection (1B) above.”.

### **198 Arrangements for mutual exchange of tax information**

- (1) In the following provisions (which confer power to make arrangements for the exchange of information necessary for carrying out the tax laws of the UK and the territory to which the arrangements relate) for “necessary for carrying out” substitute “foreseeably relevant to the administration or enforcement of”.
- (2) The provisions are—
- sections 788(2) and 815C(1) of the Taxes Act 1988 (income tax, capital gains tax and corporation tax), and
  - sections 158(1A) and 220A(1) of the Inheritance Tax Act 1984 (c. 51) (inheritance tax).
- (3) Any reference in arrangements made before the passing of this Act, or in any Order in Council under which such arrangements have effect, to information necessary for the carrying out of the tax laws of the United Kingdom or the territory to which the arrangements relate shall be read as including any information foreseeably relevant to the administration or enforcement of the tax laws of the United Kingdom or, as the case may be, of that territory.

### **199 Savings income: Community obligations and international arrangements**

- (1) The Treasury may make regulations for implementing and for dealing with matters arising out of or related to—
- (a) any Community obligation created with a view to ensuring the effective taxation of savings income under the law of the United Kingdom and the laws of the other member States, or
  - (b) any arrangements made with a territory other than a member State with a view to ensuring the effective taxation of savings income under the law of the United Kingdom and the law of the other territory.
- (2) Regulations under this section may, in particular, require paying agents—
- (a) to obtain and verify prescribed descriptions of information about the identity and residence of relevant payees to whom they make savings income payments, and
  - (b) to provide to the Inland Revenue (or an officer of the Inland Revenue) prescribed descriptions of information about relevant payees to whom they

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make savings income payments and about the savings income payments which they make to them.

- (3) Regulations under this section may include provision for the inspection on behalf of the Inland Revenue of books, documents and other records of persons who are, or appear to an officer of the Inland Revenue to be, paying agents.
- (4) Regulations under this section may include provision for notices under such regulations to be combined with notices under sections 17 and 18 of the Taxes Management Act 1970 (c. 9) (interest paid or credited by banks and others).
- (5) Regulations under this section may include provision about the time at or within which, and the manner in which, any requirement imposed by such regulations is to be complied with.
- (6) Regulations under this section may include provision for penalties for failure to comply with requirements imposed by such regulations (including provision applying any provision of the Taxes Management Act 1970 about the determination of penalties or any other matter relating to penalties); and in the first column of the Table in section 98 of that Act (penalties for failure to furnish information etc), insert at the appropriate place “Regulations under section 199 of the Finance Act 2003.”.
- (7) In this section “paying agents” means persons of a prescribed description who make savings income payments to other persons; and the descriptions of persons who may be prescribed as paying agents include, in particular, public officers and government departments.
- (8) For the purposes of this section a person makes savings income payments to another person if the person—
  - (a) makes payments of savings income to the other person, or
  - (b) secures the payment of savings income for the other person.
- (9) In this section “savings income” means interest (apart from interest of a prescribed description) or other sums of a prescribed description.
- (10) In this section “relevant payees” means persons of a prescribed description who are resident (within the meaning of the regulations) in a prescribed territory and persons of any such other description as may be prescribed; and the only territories which may be prescribed are the other member States and territories with which arrangements such as are mentioned in subsection (1)(b) have been made.
- (11) Regulations under this section—
  - (a) may make different provision for different cases or descriptions of case, and
  - (b) may include supplementary, incidental, consequential or transitional provision.
- (12) The power to make regulations under this section is exercisable by statutory instrument.
- (13) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (14) In this section—

“the Inland Revenue” means the Commissioners of Inland Revenue, and  
“prescribed” means prescribed by regulations under this section.

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## **200 Controlled foreign companies: exempt activities**

- (1) Schedule 42 to this Act (which amends Part 2 of Schedule 25 to the Taxes Act 1988 (exempt activities)) shall have effect.
- (2) The amendments made by that Schedule have effect in relation to accounting periods of a controlled foreign company beginning on or after 27th November 2002.
- (3) In this section “accounting period” and “controlled foreign company” have the same meaning as in Chapter 4 of Part 17 of the Taxes Act 1988.
- (4) This section shall be taken to have come into force on 27th November 2002.

## **201 Application of CFC provisions to Hong Kong and Macao companies**

- (1) In Part 2 (exempt activities) of Schedule 25 to the Taxes Act 1988 (cases where section 747(3) does not apply), in paragraph 5 insert after sub-paragraph (2)—
  - “(3) In the case of a controlled foreign company—
    - (a) which is, by virtue of section 749(5), presumed to be resident in a territory in which it is subject to a lower level of taxation,
    - (b) the business affairs of which are, throughout the accounting period in question, effectively managed in a special administrative region, and
    - (c) which is liable to tax for that period in that region,references in the following provisions of this Part of this Schedule to the territory in which that company is resident shall be construed as references to that region.
  - (4) In sub-paragraph (3) above “special administrative region” means the Hong Kong or the Macao Special Administrative Region of the People’s Republic of China.
  - (5) Where sub-paragraph (3) above applies, it applies in place of sub-paragraph (2).”.
- (2) This section shall be deemed to have had effect—
  - (a) as from 1st July 1997, so far as relating to the Hong Kong Special Administrative Region;
  - (b) as from 20th December 1999, so far as relating to the Macao Special Administrative Region.