
STATUTORY INSTRUMENTS

2010 No. 157

The Enactment of Extra-Statutory Concessions Order 2010

Compensation for deprivation of foreign assets

9.—(1) In the Taxation of Chargeable Gains Act 1992, after section 268A(1) insert—

“268B Compensation for deprivation of foreign assets

- (1) A gain is not a chargeable gain if—
 - (a) it accrues to a person on receipt of a capital sum paid by way of compensation for the deprivation of a foreign asset,
 - (b) no legal redress was available when the deprivation occurred, and
 - (c) the sum is paid as the result of a relevant compensation award.
- (2) A relevant compensation award is an award or distribution made—
 - (a) under—
 - (i) an Order in Council made under the Foreign Compensation Act 1950(2), or
 - (ii) arrangements established by the government of a territory outside the United Kingdom that are equivalent in effect to such an Order,
 - (b) as a result of a recommendation of—
 - (i) the Spoliation Advisory Panel, or
 - (ii) a body outside the United Kingdom whose purposes and functions are equivalent to those of the Panel, or
 - (c) in settlement of a legal claim to the effect that the deprivation was unlawful or in accordance with an order to that effect made by a court, tribunal or other competent authority with jurisdiction to decide such a claim.
- (3) Reference in this section to the payment of a capital sum by way of compensation for the deprivation of a foreign asset includes—
 - (a) payment as a result of the abandonment or extinguishment of rights in respect of the deprivation;
 - (b) return of the asset itself.
- (4) In the case of a gain accruing to a person other than the original owner—
 - (a) subsection (1) does not apply if consideration had been given at any time (whether by that person or someone else) for the right to receive the compensation, but
 - (b) consideration given on an acquisition falling within section 58(1) or 171(1)(3) is to be ignored for these purposes.

(1) Section 268A was inserted by section 64(4) of the [Finance Act 2006 \(c. 25\)](#).

(2) [1950 c. 12](#) (14 Geo 6); amended by Part 2 of the Schedule to the [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), paragraph 12(2) of Schedule 2 to the [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), paragraph 25 of Schedule 6 to the [Judicial Pensions and Retirement Act 1993 \(c. 8\)](#) and the [Foreign Compensation \(Amendment\) Act 1993 \(c. 16\)](#).

(3) Section 171(1) was substituted by paragraph 2(2) of Schedule 29 to the [Finance Act 2000 \(c. 17\)](#).

(5) If the capital sum is paid (or the foreign asset returned) to a person to whom an allowable loss has accrued as a result of—

- (a) the deprivation of the foreign asset, or
- (b) the abandonment or extinguishment of rights in respect of the deprivation,

subsection (1) applies only to so much of any gain as exceeds that loss.

(6) For a person to obtain relief under this section, the person must make a claim.

(7) If the capital sum is paid by means of the transfer of an asset (or the foreign asset is returned), that asset is to be treated for the purposes of computing a gain or a loss on its subsequent disposal as if it were acquired for a consideration equal to its market value at the time of the transfer.

(8) In this section—

“capital sum” means money or money’s worth;

“deprivation”, in relation to a foreign asset, includes deprivation resulting from—

- (a) the seizure, confiscation, forfeiture, destruction or expropriation of the asset,
- (b) the disposal of the asset by a sale under duress for less than market value;

“foreign asset” means an asset which was situated outside the United Kingdom at the time of the deprivation;

“legal redress”, in relation to the deprivation of a foreign asset, means a right to recover the asset or to receive compensation for the deprivation;

“original owner” means the person who owned the foreign asset at the time of the deprivation;

“Spoliation Advisory Panel” includes any successor to that Panel.

(9) This section does not apply in relation to a gain to which section 268A applies.”.

(2) The amendment made by paragraph (1) has effect—

- (a) for corporation tax purposes, in relation to capital sums received on or after 1st April 2010, and
- (b) for capital gains tax purposes, in relation to capital sums received on or after 6th April 2010.