



Finance Act 1996

1996 CHAPTER 8

PART IV U.K.

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER VI U.K.

MISCELLANEOUS PROVISIONS

Special cases

178 Sub-contractors in the construction industry. U.K.

- (1) In section 566 of the Taxes Act 1988 (powers to make regulations in connection with the provisions relating to sub-contractors in the construction industry), after subsection (2) there shall be inserted the following subsection—

“(2A) The Board may by regulations make provision—

- (a) for the issue of documents (to be known as “registration cards”) to persons who are parties, as sub-contractors, to any contract relating to construction operations or who are likely to become such parties;
- (b) for a registration card to contain all such information about the person to whom it is issued as may be required, for the purposes of any regulations under this section, by a person making payments under any such contract;
- (c) for a registration card to take such form and to be valid for such period as may be prescribed by the regulations;
- (d) for the renewal, replacement or cancellation of a registration card;
- (e) for requiring the surrender of a registration card in such circumstances as may be specified in the regulations;
- (f) for requiring the production of a registration card to such persons and in such circumstances as may be so specified;

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- (g) for requiring any person who—
- (i) makes or is proposing to make payments to which section 559 applies, and
 - (ii) is a person to whom a registration card has to be produced under the regulations,
- to take steps that ensure that it is produced to him and that he has an opportunity of inspecting it for the purpose of checking that it is a valid registration card issued to the person required to produce it.
- (2B) A person who fails to comply with an obligation imposed on him by virtue of subsection (2A)(g) above shall be liable to a penalty not exceeding £3,000.
- (2C) Subject to subsection (2D) below, where—
- (a) a person who is a party to a contract relating to any construction operations (“the contractor”) makes or is proposing to make payments to which section 559 applies,
 - (b) the contractor is required by regulations under this section to make statements about another party to the contract (“the sub-contractor”) in any return, certificate or other document,
 - (c) a registration card containing the information to be stated should have been produced, in accordance with any such regulations, to the contractor, and
 - (d) the statements made in the return, certificate or other document, so far as relating to matters the information about which should have been obtainable from the card, are inaccurate or incomplete in any material respect,
- the contractor shall be liable to a penalty not exceeding £3,000.
- (2D) A person shall not be liable to a penalty under subsection (2C) above if—
- (a) a valid registration card issued to the sub-contractor, or a document which the contractor had reasonable grounds for believing to be such a card, was produced to the contractor and inspected by him before the statements in question were made; and
 - (b) the contractor took all such steps as were reasonable, in addition to the inspection of that card, for ensuring that the statements were accurate and complete.
- (2E) A person liable to a penalty under subsection (2C) above shall not, by reason only of the matters in respect of which he is liable to a penalty under that subsection, be liable to any further penalty under section 98 of the Management Act.
- (2F) Regulations under this section may make different provision for different cases.”
- (2) In the second column of the Table in section 98 of the ^{M1}Taxes Management Act 1970 (penalties in respect of certain information provisions), for the entry relating to regulations under section 566(1) and (2) of the Taxes Act 1988 there shall be substituted the following entry—
- “regulations under section 566(1), (2) or (2A);”.

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Marginal Citations

M1 1970 c. 9.

179 Roll-over relief in respect of ships. **U.K.**

Schedule 35 to this Act (which amends sections 33A to 33F of the ^{M2}Capital Allowances Act 1990) shall have effect.

Marginal Citations

M2 1990 c. 1.

180 Scientific research expenditure: oil licences. **U.K.**

- (1) The Capital Allowances Act 1990 shall have effect, and be deemed always to have had effect, with the following sections inserted after section 138 (assets ceasing to belong to traders)—

“138A Disposal of oil licences etc.

- (1) For the purposes of section 138 where—
- (a) a person (“the transferor”) disposes of any interest in an oil licence to another (“the transferee”), and
 - (b) part of the value of that interest is attributable to any allowable exploration expenditure incurred by the transferor,
- that disposal shall be deemed (subject to section 138B) to be a disposal by which an asset representing the allowable exploration expenditure to which that part of the value is attributable ceases to belong to the transferor.
- (2) Section 138 shall have effect in relation to the disposal of an interest in an oil licence, to the extent that the disposal is treated by virtue of subsection (1) above as a disposal of an asset representing allowable exploration expenditure, as if the disposal value of the asset were an amount equal to such part of the transferee’s expenditure on acquiring the interest as it is just and reasonable to attribute to the part of the value of that interest that is attributable to the allowable exploration expenditure.
- (3) In this section and section 138B references to allowable exploration expenditure are references to any allowable scientific research expenditure of a capital nature incurred on mineral exploration and access.
- (4) In this section and section 138B—
- “foreign oil concession” means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;
 - “interest” in relation to an oil licence, includes, where there is an agreement which—
 - (a) relates to oil from the whole or any part of the area to which the licence applies, and

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- (b) was made before the extraction of the oil to which it relates,
any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;
“mineral exploration and access” has the same meaning as in Part IV;
“oil”—
(a) except in relation to a UK licence, means any petroleum; and
(b) in relation to such a licence, has the same meaning as in Part I of the ^{M3}Oil Taxation Act 1975;
“oil licence” means any UK licence or foreign oil concession;
“overseas petroleum” means any petroleum that exists in its natural condition at a place to which neither the ^{M4}Petroleum (Production) Act 1934 nor the ^{M5}Petroleum (Production) Act (Northern Ireland) 1964 applies;
“petroleum” has the ^{M6}same meaning as in the Petroleum (Production) Act 1934; and
“UK licence” means a licence within the meaning of Part I of the Oil Taxation Act 1975.

138B Disposal of oil licences: election for alternative tax treatment.

- (1) Subsections (2) and (3) below apply where—
- (a) a person (“the transferor”) disposes of any interest in an oil licence to another (“the transferee”) during the transitional period;
 - (b) part of the value of the interest is attributable to allowable exploration expenditure incurred by the transferor; and
 - (c) an election is made in accordance with this section specifying an amount as the amount to be treated as so attributable.
- (2) Section 138 shall have effect in relation to the disposal as if—
- (a) the disposal were a disposal by which an asset representing the allowable exploration expenditure ceases to belong to the transferor; and
 - (b) the disposal value of that asset were an amount equal to the amount specified in the election.
- (3) For the purposes of Part IV, the amount of any expenditure incurred—
- (a) by the transferee in acquiring the interest from the transferor, or
 - (b) by any person subsequently acquiring the interest (or an interest deriving from the interest),
- which is taken to be attributable to expenditure incurred, before the disposal to the transferee, on mineral exploration and access shall be the lesser of the amount specified in the election and the amount which, apart from this subsection, would be taken to be so attributable.
- (4) An election—
- (a) shall be made by notice to the Board given by the transferor; and

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- (b) subject to subsection (5) below, shall not have effect unless a copy of it is served on the transferee and the transferee consents to it.
- (5) If the Special Commissioners are satisfied—
- (a) that the disposal was made under or in pursuance of an agreement entered into by the transferor and the transferee on the mutual understanding that a quantified (or quantifiable) part of the value of the interest disposed of was attributable to allowable exploration expenditure, and
- (b) that the part quantified in accordance with that understanding and the amount specified in the election are the same,
- they may dispense with the need for the transferee to consent to the election.
- (6) Any question falling to be determined by the Special Commissioners under subsection (5) above shall be determined by them in like manner as if it were an appeal; but both the transferor and the transferee shall be entitled to appear and be heard by those Commissioners or to make representations to them in writing.
- (7) Subject to subsection (8) below, an election may specify any amount, including a nil amount, as the amount to be treated as mentioned in subsection (1)(c) above.
- (8) Where—
- (a) a return has been made for a chargeable period of the transferor, and
- (b) the return includes, at the time when it is made, an amount which, disregarding the provisions of this section, would be treated under section 138 as a trading receipt accruing in that period,
- the election must not specify an amount less than the amount included in the return unless the Board agrees the lesser amount in question.
- (9) An election made in accordance with this section—
- (a) is irrevocable; and
- (b) shall not be varied after it is made.
- (10) For the purposes of this section a disposal is a disposal made during the transitional period if it is one made—
- (a) before 13th September 1995; or
- (b) on or after that date in pursuance of any obligation to make the disposal which, immediately before that date, was an unconditional obligation.
- (11) For the purposes of subsection (10) above, the fact that a third party who is not connected with the transferor or the transferee may, by exercising any right or withholding any permission, prevent the fulfilment of an obligation does not prevent the obligation from being treated as unconditional.
- (12) In subsection (11) above the reference to a third party is a reference to any person, body, government or public authority, whether within or outside the United Kingdom; and section 839 of the principal Act (connected persons) applies for the purposes of that subsection.
- (13) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to this section.”

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- (2) Section 151(1) of the ^{M7}Capital Allowances Act 1990 (procedure on apportionments under Parts I, III to VI and Part VIII) shall have effect, and be deemed always to have had effect, as if for “VI” there were substituted “ VII ”.
- (3) In section 118 of the Capital Allowances Act 1990 (mineral extraction licences in the case of assets formerly owned by non-traders), the existing provisions shall become subsection (1) of that section and the following subsection shall be inserted after that subsection—
- “(2) Section 138A shall have effect for the purposes of subsection (1) above in relation to expenditure on mineral exploration and access as it has effect for the purposes of section 138 in relation to allowable scientific research expenditure of a capital nature.”
- (4) Subsection (3) above applies in relation to any sale taking place on or after 13th September 1995.
- (5) In any case to which enactments re-enacted in the ^{M8}Capital Allowances Act 1990 apply instead of that Act, this section shall have effect as if it required amendments equivalent to those made by subsections (1) and (2) above to have effect, and be deemed always to have had effect, in relation to those enactments.

Marginal Citations

M3	1975 c. 22.
M4	1934 c. 36.
M5	1964 c. 28 (N.I.).
M6	1934 c. 36.
M7	1990 c. 1.
M8	1990 c. 1.

181 Overseas petroleum. **U.K.**

- (1) In subsection (1) of section 196 of the ^{M9}Taxation of Chargeable Gains Act 1992 (interpretation of sections 194 and 195), for “licence” there shall be substituted “ UK licence ”.
- (2) After subsection (1) of section 196 of that Act there shall be inserted the following subsection—
- “(1A) For the purposes of section 194 a licence other than a UK licence relates to an undeveloped area at any time if, at that time—
- (a) no development has actually taken place in any part of the licensed area; and
 - (b) no condition for the carrying out of development anywhere in that area has been satisfied—
 - (i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area; or
 - (ii) by the approval or service on the licensee, by any such authorities, of any programme of development.”;

and in subsection (2) of that section for “subsection (1) above” there shall be substituted “ subsections (1) and (1A) above ”.

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(3) For subsection (5) of section 196 of that Act there shall be substituted the following subsections—

“(5) In sections 194 and 195 and this section—

“foreign oil concession” means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;

“interest” in relation to a licence, includes, where there is an agreement which—

- (a) relates to oil from the whole or any part of the licensed area, and
- (b) was made before the extraction of the oil to which it relates,

any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;

“licence” means any UK licence or foreign oil concession;

“licensed area” (subject to subsection (4) above)—

- (a) in relation to a UK licence, has the same meaning as in Part I of the ^{M10}Oil Taxation Act 1975; and
- (b) in relation to a foreign oil concession, means the area to which the concession applies;

“licensee”—

- (a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and
- (b) in relation to a foreign oil concession, means the person with the concession or any person having an interest in it;

“oil”—

- (a) except in relation to a UK licence, means any petroleum (within the meaning of the ^{M11}Petroleum (Production) Act 1934); and
- (b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975;

“overseas petroleum” means any oil that exists in its natural condition at a place to which neither the ^{M12}Petroleum (Production) Act 1934 nor the ^{M13}Petroleum (Production) Act (Northern Ireland) 1964 applies; and

“UK licence” means a licence within the meaning of Part I of the ^{M14}Oil Taxation Act 1975.

(5A) References in sections 194 and 195 to a part disposal of a licence shall include references to the disposal of any interest in a licence.”

(4) Subsections (1) to (3) above shall have effect in relation to any disposal on or after 13th September 1995 and subsection (3) shall also have effect, and be deemed always to have had effect, for the construction of section 195 of the ^{M15}Taxation of Chargeable Gains Act 1992 in its application to disposals before that date.

(5) Where enactments re-enacted in the ^{M16}Taxation of Chargeable Gains Act 1992 apply, instead of that Act, in the case of any disposal before 13th September 1995, this section shall have effect as if it required amendments equivalent to those made by subsection (3) above to have effect, and be deemed always to have had effect, for the construction of any enactment corresponding to section 195 of that Act.

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Marginal Citations

- M9** 1992 c. 12.
- M10** 1975 c. 22.
- M11** 1934 c. 36.
- M12** 1934 c. 36.
- M13** 1964 c. 28 (N.I.).
- M14** 1975 c. 22.
- M15** 1992 c. 12.
- M16** 1992 c. 12.

182 Controlled foreign companies. U.K.

Schedule 36 to this Act (which contains amendments of Chapter IV of Part XVII of the Taxes Act 1988) shall have effect in relation to accounting periods of a controlled foreign company, within the meaning of that Chapter, beginning on or after 28th November 1995.

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