

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 36. (See end of Document for details)

SCHEDULES

SCHEDULE 36

Section 182.

CONTROLLED FOREIGN COMPANIES

^{F1}1

Textual Amendments

F1 Sch. 36 para. 1 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1

2 In section 748(3) of the Taxes Act 1988 (direction under section 747(1) not to be given in cases where reduction in United Kingdom tax was not the main purpose etc) in paragraph (a), for “or any two or more of those transactions taken together” there shall be substituted “or any two or more transactions taken together, the results of at least one of which are so reflected, ”.

3 (1) Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits etc) shall be amended in accordance with the following provisions of this paragraph.

(2) In paragraph 1 (general) after sub-paragraph (3) there shall be inserted—

“(3A) In any case where—

(a) it is at any time necessary for any purpose of Chapter IV of Part XVII to determine the chargeable profits of the company for an accounting period, and

(b) at that time—

(i) no direction has been given under section 747(1) with respect to that or any earlier accounting period of the company, and

(ii) it has not been established that that or any earlier accounting period of the company is an ADP exempt period,

in determining the chargeable profits of the company for the accounting period mentioned in paragraph (a) above it shall be assumed, for the purpose of any of the following provisions of this Schedule which refer to the first accounting period in respect of which a direction is given under section 747(1) or which is an ADP exempt period, that that period (but not any earlier period) is an accounting period in respect of which such a direction is given or which is an ADP exempt period.”

^{F2}(3)

(4) In paragraph 2(1) (company assumed to have become resident in the United Kingdom at the beginning of the first accounting period in respect of which a direction is given under section 747(1) and to have continued so resident etc) for “in respect of which a direction is given under section 747(1) and” there shall be substituted—

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- “(a) in respect of which a direction is given under section 747(1), or
- (b) which is an ADP exempt period,

and .”

(5) In paragraph 4 (maximum reliefs assumed to have been claimed etc unless notice requesting other treatment is given by UK resident company or companies with a majority interest) after sub-paragraph (1) there shall be inserted—

- “(1A) Sub-paragraph (2) below applies to any accounting period of the company—
- (a) in respect of which a direction is given under section 747(1); or
 - (b) which is an ADP exempt period.”

(6) In sub-paragraph (2) of that paragraph (notice to be given not later than the expiry of the time for making an appeal under s.753 or within such longer period as the Board may allow)—

- (a) at the beginning there shall be inserted “ Where this sub-paragraph applies to an accounting period of the company, then ”; ^{F3}and
- ^{F3}(b) for “the time for the making of an appeal under section 753” there shall be substituted “ the appropriate period ”.]

^{F4}(7) After that sub-paragraph there shall be inserted—

- “(2A) For the purposes of sub-paragraph (2) above, “the appropriate period”—
- (a) in the case of an accounting period in respect of which a direction is given under section 747(1), means the time for the making of an appeal under section 753; and
 - (b) in the case of an accounting period which is an ADP exempt period, means the period of twenty months following the end of the accounting period.”]

^{F5}(8)

^{F5}(9)

(10) In paragraph 10 (capital allowances for expenditure incurred on machinery or plant before the first accounting period in respect of which a direction is given under section 747(1)) for “in respect of which a direction is given under section 747(1), the” there shall be substituted—

- “(a) in respect of which a direction is given under section 747(1), or
- (b) which is an ADP exempt period, the”.

^{F6}(11)

Textual Amendments

- F2** Sch. 36 para. 3(3) omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 16 para. 5(c)** (with Sch. 16 paras. 7, 8)
- F3** Sch. 36 para. 3(6)(b) and the preceding word “and” repealed (31.7.1998 with effect in accordance with Sch. 17 para. 37 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(27)**, Note
- F4** Sch. 36 para. 7 repealed (31.7.1998 with effect in accordance with Sch. 17 para. 37 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(27)**, Note

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- F5** Sch. 36 para. 3(8)(9) omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 16 para. 5(c)** (with Sch. 16 paras. 7, 8)
- F6** Sch. 36 para. 3(11) repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

4 (1) Schedule 25 to the Taxes Act 1988 (cases excluded from direction-making powers) shall be amended as follows.

^{F7}(2)

(3) In paragraph 2A (further provisions to determine whether a controlled foreign company which is not a trading company pursues an acceptable distribution policy)

(a) in sub-paragraph (1) (application) the words “which is not a trading company” shall be omitted;

^{F8}(b)

(c) sub-paragraphs (6) and (7) (which are superseded by amendments made to paragraph 2 by this Schedule) shall be omitted.

(4) In paragraph 3 (“available profits” and “net chargeable profits” for purposes of Part I of the Schedule)—

(a) sub-paragraphs (1) to (4) (ascertainment of “available profits”) shall be omitted;

(b) in sub-paragraph (5) (certain dividends to be left out of account in determining available profits or, where the company is not a trading company, chargeable profits) the words “the available profits or, where the company is not a trading company,” shall be omitted.

(5) In paragraph 6 (exempt activities) in sub-paragraph (2)(b) (less than 50 per cent. of gross trading receipts from wholesale, distributive or financial business to be derived from connected or associated persons) after “connected or associated persons” there shall be added “ or persons who have an interest in the company at any time during that accounting period.”

(6) In paragraph 16(2) (reductions in United Kingdom tax: extended meaning of “transaction” in paragraphs 17 and 18)—

(a) in paragraph (a), after “transaction” there shall be inserted “ the results of which are ”; and

(b) in paragraph (b), for “two or more such transactions taken together” there shall be substituted “ two or more transactions taken together, the results of at least one of which are so reflected ”.

Textual Amendments

- F7** Sch. 36 para. 4(2) omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 16 para. 5(c)** (with Sch. 16 paras. 7, 8)
- F8** Sch. 36 para. 4(3)(b) omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 16 para. 5(c)** (with Sch. 16 paras. 7, 8)

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