
STATUTORY INSTRUMENTS

1995 No. 2902

INCOME TAX

**The Taxation of Income from Land
(Non-residents) Regulations 1995**

Made - - - - 10th November 1995
Laid before the House of
Commons - - - - 10th November 1995
Coming into force - - 1st December 1995

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 42A of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Preliminary

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Taxation of Income from Land (Non-residents) Regulations 1995 and shall come into force on 1st December 1995.

(2) These Regulations shall have effect with respect to any payment made on or after 6th April 1996 which—

- (a) constitutes income of a Schedule A business carried on by a non-resident, and
- (b) either—
 - (i) is made by a person falling within subsection (2)(a) of section 42A who is a prescribed person in respect of the non-resident, or
 - (ii) is received by an agent who is a prescribed person in respect of the non-resident or by another person at the direction of that agent.

Interpretation

2. In these Regulations unless the context otherwise requires—

“agent” means a person falling within subsection (2)(b) of section 42A;

“annual period” means the period commencing on 1st April and ending on the following 31st March;

(1) 1988 c. 1; section 42A was inserted by section 40(1) of the Finance Act 1995 (c. 4).

- “the Board” means the Commissioners of Inland Revenue;
- “deductible expense” means an expense which is deductible under the Tax Acts in computing the profits or gains of a non-resident’s Schedule A business;
- “Management Act” means the Taxes Management Act 1970(2);
- “non-resident” means a person who has his usual place of abode outside the United Kingdom;
- “notice” means notice in writing;
- “prescribed person” means a person prescribed by regulation 3;
- “professional trustee” means a person who carries on, or is employed by, a business which consists of or includes the management of trusts, and who acts as trustee in the course of that business or employment;
- “quarter” means—
- (a) the period from 6th April 1996 to 30th June 1996;
 - (b) any subsequent period of 3 months ending with the last day of September, December, March or June;
- “section 42A” means section 42A of the Taxes Act;
- “Schedule A business” shall be construed in accordance with subsection (8)(a) of section 42A;
- “Taxes Act” means the Income and Corporation Taxes Act 1988(3);
- “year” means year of assessment.

Prescribed persons

Prescribed persons for the purposes of section 42A

3.—(1) In any case where a person falling within subsection 2(a) or (b) of section 42A is issued with a notice by the Board stating that he is a prescribed person for the purposes of subsection (1) of that section in respect of the Schedule A business of a non-resident, or a part of that business, that person is prescribed for the purposes of subsection (1) of that section in respect of that business or, as the case may be, the part referred to in the notice.

(2) Except where it relates to a part of a non-resident’s Schedule A business, a notice under paragraph (1) above need not specify the name of the non-resident concerned or describe his Schedule A business.

(3) In any case where—

- (a) no notice has been issued by the Board under paragraph (1) above in respect of a non-resident’s Schedule A business, or there is a part of his business in respect of which no notice has been issued under that paragraph; and
- (b) a person whose usual place of abode is in the United Kingdom—
 - (i) is an agent in respect of that business or that part,
 - (ii) has power to receive income in respect of that business or that part or has control over the direction of that income, and
 - (iii) is not an excluded person,
 that person is, subject to paragraph (4) below, prescribed for the purposes of subsection (1) of section 42A in respect of that business or, as the case may be, that part.

(2) 1970 c. 9.

(3) 1988 c. 1.

(4) Where in a case falling within paragraph (3) above there is more than one person to whom sub-paragraph (b) of that paragraph applies as respects the same business or the same part of a business, the person who is the elected agent or, if there is no elected agent, the last agent is the person prescribed for the purposes of subsection (1) of section 42A in respect of that business or, as the case may be, that part.

(5) In any case where—

- (a) no notice has been issued by the Board under paragraph (1) above in respect of a non-resident's Schedule A business, or there is a part of his business in respect of which no notice has been issued under that paragraph;
- (b) there is no person to whom paragraph (3)(b) above applies in respect of that business or that part; and
- (c) a person whose usual place of abode is in the United Kingdom—
 - (i) is a tenant of premises owned by the non-resident in connection with that business or that part, and
 - (ii) is liable to pay to the non-resident in respect of his occupation of those premises sums exceeding in the aggregate £5,200 per annum or, where he occupies the premises for less than one year, the proportionate amount of that sum which is determined by the duration of his occupation,

that person is prescribed for the purposes of subsection (1) of section 42A in respect of that business or, as the case may be, that part.

Interpretation of regulation 3

4.—(1) In regulation 3—

- (a) “excluded person” means an agent whose activity on behalf of the non-resident in connection with the management or administration of his Schedule A business or part thereof (as the case may be) is confined to the provision of legal advice or legal services;
- (b) “elected agent” means the agent who is elected jointly by the last agent and himself to assume the responsibilities of a prescribed person for the purposes of subsection (1) of section 42A in relation to the Schedule A business or part thereof (as the case may be);
- (c) “last agent” means the agent by whom sums constituting income from the non-resident's Schedule A business or part thereof (as the case may be) are paid directly to the non-resident or to an agent whose usual place of abode is outside the United Kingdom or to a person who is not an agent.

(2) An election shall be made by notice to the Board signed by the last agent and the person to be elected, and any such notice shall state—

- (a) the name and address of the agent elected, and
- (b) the date from which the election has effect, not being a date earlier than the first day of the quarter in which the election is made.

(3) An election may be revoked by notice to the Board given by either of the agents who made the election, and any such revocation shall have effect—

- (a) from the first day of the quarter next following the date on which the notice is received by the Board, or
- (b) after the expiry of 30 days following the date on which the notice is received by the Board,

whichever is the later to occur.

Partnerships

5. In any case where a liability to make any payment to the Board under these Regulations arises from amounts payable or things done in the course of a business carried on by any persons in partnership, that partnership as such shall be treated for the purposes of these Regulations as a person falling within subsection (2)(a) or (b) (as the case may be) of section 42A.

Multiple branches

6.—(1) In any case where an agent—

- (a) is a prescribed person by virtue of regulation 3 in respect of the Schedule A business, or part thereof, of more than one non-resident,
- (b) acts on behalf of those non-residents through branches of his business in circumstances where the average number of non-residents in each branch at the relevant time is not less than five, and
- (c) is a person approved by the Board for the purposes of this regulation,

that person shall be treated for the purposes of these Regulations as if in respect of each branch he were a separate and distinct person.

(2) An application for approval under paragraph (1) above shall be made to the Board in a form provided or authorised by the Board which shall contain—

- (a) such information as is necessary to identify the branches concerned,
- (b) the number of non-residents in each branch, and
- (c) a declaration by the prescribed person that he does not act on behalf of any non-residents other than those whose business is managed by the branches so identified.

(3) An approval under paragraph (1) above shall, unless revoked or withdrawn, have effect for the quarter following that in which it is given and for any subsequent quarter.

(4) An approval may be revoked by the prescribed person by notice to the Board and, subject to paragraph (5) below, such revocation shall have effect for the quarter following that in which it is given and for any subsequent quarter.

(5) Notwithstanding the revocation of approval under paragraph (4) above, a further application for approval may be made by the prescribed person in accordance with paragraph (2) above at any time following the revocation; and paragraph (3) above shall apply accordingly in relation to an approval given in response to that application.

(6) The Board may, by notice to the prescribed person, refuse approval where they have reason to believe that—

- (a) the average number of non-residents in each branch is less than five at the relevant time, or
- (b) there is likely to be a failure on the part of the prescribed person to comply with the obligations imposed on him under these Regulations in relation to any branch, or
- (c) the declaration given by the prescribed person pursuant to paragraph (2)(c) above is incorrect.

(7) The Board may, by notice to the prescribed person, withdraw approval where they have reason to believe that—

- (a) the average number of non-residents in each branch was at the relevant time, or has since become, less than five, or
- (b) there has been a failure on the part of the prescribed person to comply with the obligations imposed on him under these Regulations in relation to any branch, or

(c) the declaration given by the prescribed person pursuant to paragraph (2)(c) above was, or has become, incorrect.

(8) The prescribed person may appeal against a notice under paragraph (6) above refusing approval, or a notice under paragraph (7) above withdrawing approval, by notice to the Board within 30 days of the date of issue of the notice of refusal or, as the case may be, the notice of withdrawal.

(9) The appeal shall be to the General Commissioners except that the prescribed person may elect (in accordance with section 46(1) of the Management Act) to appeal to the Special Commissioners.

(10) The General Commissioners or, as the case may be, the Special Commissioners shall on appeal to them confirm the notice of refusal or withdrawal unless they are satisfied that it ought to be quashed.

(11) In this regulation—

- (a) references to branches of an agent's business are references to the units (of whatever kind) into which the agent has divided his business;
- (b) references to "the relevant time" are references to the time at which an application for approval is made by the prescribed person.

Registration by prescribed persons

7.—(1) The person prescribed by paragraph (2) below shall, within the period of 30 days following the date specified in paragraph (3) below, register with the Board the following details—

- (a) his name and address, and
- (b) his tax office reference, if he has one.

(2) The person prescribed by this paragraph is any person who is—

- (a) an agent in respect of the Schedule A business, or part thereof, of a non-resident, and
- (b) a person prescribed by regulation 3 in respect of that business or that part.

(3) The date specified in this paragraph is the date on which the agent became a person prescribed by regulation 3 in respect of that business or that part.

Payment and recovery of tax

Calculation of payment of tax by person falling with subsection (2)(a) of section 42A

8.—(1) A person falling within subsection (2)(a) of section 42A who is a prescribed person in respect of the Schedule A business, or part thereof, of a non-resident shall calculate for each quarter the amount of any payment to be made to the Board in respect of tax which is or may become chargeable on the income from that business or that part.

(2) The amount of the payment to be calculated by that person is the amount of tax at the basic rate on the aggregate of all income which falls to be treated as a receipt of that business or that part, other than income specified in paragraph (3) below, and which either—

- (a) was paid by him in the quarter to the non-resident, or
- (b) was paid by him in the quarter to a person other than the non-resident, not being a payment which he can reasonably be satisfied is a deductible expense.

(3) The income specified in this paragraph is any income which—

- (a) is attributable to a branch of the non-resident in the United Kingdom, and
- (b) is chargeable to corporation tax.

Calculation of payment of tax by agent

9.—(1) An agent who is a prescribed person in respect of the Schedule A business, or part thereof, of a non-resident shall calculate for each quarter the amount of any payment to be made to the Board in respect of tax which is or may become chargeable on the income from that business or that part.

(2) The amount of the payment to be calculated is the amount of tax at the basic rate on the amount which results after deducting from the income specified in paragraph (3) below—

- (a) the expenses specified in paragraph (4) below, and
- (b) any excess amount of expenses falling to be deducted from that income in accordance with paragraph (5) below.

(3) The income specified is all income which falls to be treated as a receipt of that business or that part, other than income specified in regulation 8(3), and which either—

- (a) was received by the prescribed person in the quarter concerned, or
- (b) was income which it was in his power to receive or over whose direction he had control but which was paid at his direction to another person in that quarter without being received by him.

(4) The expenses specified are all amounts paid in the quarter by the prescribed person or by another person at his direction that he can reasonably be satisfied are deductible under the Tax Acts in computing the profits or gains of that business or that part.

(5) Where in any quarter in an annual period the expenses specified in paragraph (4) above exceed the income specified in paragraph (3) above—

- (a) the amount of the excess shall first be deducted from the income specified in paragraph (3) above for previous quarters in that annual period, taking later quarters before earlier quarters, and
- (b) any balance remaining of that amount shall be carried forward and deducted from the income specified in paragraph (3) above for subsequent quarters, including quarters after the end of that annual period, taking earlier quarters before later quarters.

(6) Where an amount paid by a prescribed person in a previous quarter becomes repayable as a result of an excess amount being deducted from income pursuant to paragraph (5)(a) above, the amount repayable—

- (a) shall first be set off by the prescribed person against payments due under this regulation in respect of other non-residents in respect of whose Schedule A business or part thereof he is a prescribed person for the quarter in which the excess amount arises, and
- (b) any balance remaining shall, on a claim being made to the Board by the prescribed person, be repaid to him.

(7) A claim under paragraph (6)(b) above (“a repayment claim”) shall be made in a quarterly return under regulation 10.

(8) An appeal shall lie to the Special Commissioners from the Board’s decision on a repayment claim, and the appeal shall be brought by giving notice to the Board within 30 days of receipt of notice of the decision.

(9) All such assessments, payments and repayments shall be made as are necessary to give effect to the Board’s decision on a repayment claim or to any variation of that decision on appeal.

Accounting for tax— quarterly returns

10.—(1) In the circumstances specified in paragraph (2) below and within 30 days after the end of a quarter, a prescribed person shall make a return to the Board, in such form as the Board may

prescribe, containing the information specified in paragraph (3) below and the declaration specified in paragraph (4) below.

- (2) The circumstances specified are where—
 - (a) an amount is payable by the prescribed person in respect of the quarter, calculated in accordance with regulation 8 or 9 as the case may be, or
 - (b) a repayment of tax is due under regulation 9(6)(b), or
 - (c) the Board have issued a notice to the prescribed person requiring a return to be made in respect of that quarter.
- (3) The information specified is—
 - (a) the name and address of the prescribed person;
 - (b) where the prescribed person is a person falling within subsection (2)(a) of section 42A, the aggregate of the amounts payable by him for that quarter, calculated in accordance with regulation 8, in respect of all non-residents in respect of whose Schedule A businesses (or parts thereof) he is a prescribed person;
 - (c) where the prescribed person is an agent, the aggregate of the amounts payable by him for that quarter, calculated in accordance with regulation 9, in respect of all non-residents in respect of whose Schedule A businesses (or part thereof) he is a prescribed person, after set off of any amounts repayable pursuant to paragraph (6)(a) of that regulation; and
 - (d) a claim for repayment of an amount pursuant to regulation 9(6)(b), where appropriate.
- (4) The declaration specified is a declaration by the prescribed person that the particulars given in the return are to the best of his knowledge correct and complete.
- (5) The aggregate amount referred to in paragraph (3)(b) or (c) above shall be due at the time by which the return under paragraph (1) above is to be made, and that amount so due—
 - (a) shall be payable by the prescribed person without the making of an assessment, and
 - (b) may be assessed on the prescribed person (whether or not it has been paid when the assessment is made) if it, or any part of it, is not paid on or before the due date.
- (6) The amount so due shall carry interest at the rate applicable under section 178 of the Finance Act 1989 to section 87 of the Management Act⁽⁴⁾ from the date when the amount becomes due until payment.
- (7) Where an amount paid by a prescribed person in a previous quarter is repaid pursuant to a claim under regulation 9(6)(b), the repayment shall not affect interest under paragraph (6) above on the amount repaid for such time as is specified in paragraph (8) below but, subject to that, paragraph (6) above shall apply as if any such amount which is repaid had never become payable.
- (8) The time for which interest is not affected is—
 - (a) any time before the expiration of the period of 30 days from the end of the quarter in which the excess of expenses giving rise to the repayment arose, unless the return for that quarter is made earlier in that period; and
 - (b) if that return is made earlier in that period, any time ending before the date on which the return is made.
- (9) If it appears to the Board that there is an amount which ought to have been but has not been included in a quarterly return as payable to the Board, or if the Board are dissatisfied with any

(4) Section 87 was substituted by paragraph 10 of Schedule 24 to the Finance Act 1972 (c. 41), and the section as substituted was amended by section 46(3)(b) of the Finance (No. 2) Act 1975 (c. 45), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, and sections 158(1)(b) and 179(1)(b) of, and Part VIII of Schedule 17 to, the Finance Act 1989 (c. 26).

quarterly return, they may make an assessment on the prescribed person to the best of their judgment in respect of that amount.

(10) The like provisions as are contained in paragraph 10 of Schedule 16 to the Taxes Act⁽⁵⁾ (assessments and due date of tax) shall have effect in relation to an assessment under paragraph (9) above as if—

- (a) for references to an assessment under that Schedule there were substituted references to an assessment under paragraph (9) above;
- (b) the references to paragraphs 4(1) and 9 of that Schedule were omitted;
- (c) sub-paragraph (5) were omitted.

(11) Any income tax due under an assessment made by virtue of paragraph (9) above shall carry interest at the rate applicable under section 178 of the Finance Act 1989 to section 87 of the Management Act from the date when the tax becomes due until payment; and for that purpose the tax shall be treated as having become due at the time when it would have become due if a correct return had been made.

Annual returns

11.—(1) Not later than the 5th July following the end of an annual period, a prescribed person, other than a person specified in paragraph (3) below, shall make a return to the Board for that period—

- (a) in respect of the non-resident or, if more than one, each non-resident separately, in respect of whose Schedule A business (or part thereof) he was a prescribed person at any time falling within that period, and
- (b) containing the information specified in paragraph (4) below and the declaration specified in paragraph (5) below.

(2) A return under paragraph (1) above shall be in such form as the Board may prescribe.

(3) The person specified is any tenant who, as a result of a notice given by the Board under regulation 17(5)(b), was not obligated to make payments to the Board in respect of any payments made to a non-resident in that period.

(4) The information specified is—

- (a) the name of the non-resident;
- (b) where the non-resident is—
 - (i) an individual, or
 - (ii) a trustee other than a corporate or a professional trustee,
the principal residential address of the non-resident;
- (c) where the non-resident is a company, the address of its registered office or its principal place of business;
- (d) where the non-resident is a professional trustee, the address of his employment or principal place of business;
- (e) where the prescribed person is an agent, the amount of income which, before deduction of any expenses, fell to be taken into account in the annual period in calculating under regulation 9 amounts of tax payable by him in respect of the Schedule A business (or part thereof) of the non-resident, or which would have fallen so to be taken into account if the non-resident had not been an approved person for the purposes of regulation 17 in that period;

(5) Paragraph 10(1) of Schedule 16 was amended by section 149(3)(d) of the Finance Act 1989.

- (f) where the prescribed person is a person falling within subsection (2)(a) of section 42A, the aggregate of the following amounts of income—
 - (i) the amount of income which fell to be taken into account in the annual period in calculating under regulation 8 amounts of tax payable by him in respect of the Schedule A business (or part thereof) of the non-resident, or which would have fallen so to be taken into account if the non-resident had not been an approved person for the purposes of regulation 17 in that period, and
 - (ii) the amount of income which did not fall so to be taken into account because it was paid to a person other than the non-resident in circumstances where the prescribed person could reasonably be satisfied that the amount of the payment was a deductible expense;
 - (g) except where the non-resident is an approved person for the purposes of regulation 17, the aggregate of—
 - (i) all amounts paid during the annual period on behalf of the non-resident by or at the direction of the prescribed person which the prescribed person could reasonably be satisfied constituted deductible expenses, and
 - (ii) amounts carried forward to that period from a previous period pursuant to regulation 9(5)(b);
 - (h) the aggregate of the amounts specified as payable to the Board in quarterly returns made by the prescribed person for the annual period;
 - (j) the reference number relating to an approval by the Board of the non-resident under regulation 17.
- (5) The declaration specified is a declaration by the prescribed person that the particulars given in the return are to the best of his knowledge correct and complete.

Certificate of tax liability

12.—(1) Not later than the 5th July following the end of an annual period, a prescribed person who is liable under these Regulations to make any payments to the Board for any quarter falling within that period in respect of tax chargeable on the income of a non-resident, shall provide the non-resident with a certificate which shall include the particulars specified in paragraph (2) below and the declaration specified in paragraph (3) below.

- (2) The particulars specified are—
 - (a) the name of the non-resident;
 - (b) where the non-resident is—
 - (i) an individual, or
 - (ii) a trustee other than a corporate or a professional trustee,the principal residential address of the non-resident;
 - (c) where the non-resident is a company, the address of its registered office or its principal place of business;
 - (d) where the non-resident is a professional trustee, the address of his employment or principal place of business;
 - (e) the name and address of the prescribed person;
 - (f) the annual period to which the certificate relates;
 - (g) the aggregate amount of the liability referred to in paragraph (1) above for all quarters falling within the annual period.

(3) The declaration specified is a declaration by the prescribed person that the certificate is to the best of his knowledge correct and complete.

Provision of information and inspection and keeping of records

Information to be provided to the Board by prescribed persons

13. The Board may by notice require a prescribed person to furnish them, within such time (not being less than 14 days) as may be provided by the notice, such information as they may reasonably require to satisfy themselves that the prescribed person has complied with the requirements of these Regulations.

Inspection of records by officer of the Board

14.—(1) The Board may by notice require a prescribed person, within such time (not being less than 14 days) as may be provided by the notice, to make available for inspection by an officer of the Board authorised for that purpose all such books, documents and other records in his possession or under his control as they may reasonably require to satisfy themselves that the prescribed person has complied with the requirements of these Regulations.

(2) Where a document or other record is maintained by computer, the prescribed person shall provide the officer making the inspection with all the facilities necessary for obtaining information from that document or other record.

Keeping of records

15. A prescribed person shall at all times maintain and retain sufficient records to enable an officer of the Board to satisfy himself on inspection of those records that the prescribed person has complied with the requirements of these Regulations.

Use of information

16.—(1) Subject to paragraph (2) below, information obtained by the Board under regulation 13 or 14—

- (a) shall not be used for the purpose of ascertaining the tax liability (if any) of any person other than—
 - (i) a person whose usual place of abode is outside the United Kingdom, or
 - (ii) a person falling within subsection (2)(a) of section 42A, or
 - (iii) an agent.

(2) Paragraph (1) above shall not be construed as preventing any disclosure of information within section 182(5) of the Finance Act 1989.

Gross payment of property income

Application for gross payment of property income

17.—(1) A non-resident may apply to the Board for the obligation imposed under these Regulations to make payments to the Board not to apply in relation to payments falling to be treated as receipts of a Schedule A business carried on by him.

(2) An application under paragraph (1) above shall be made on a form provided by the Board and shall contain the information specified in paragraph (3) below and the undertakings specified in paragraph (4) below.

(3) The information specified is—

- (a) the name of the applicant;
- (b) the date of the application;
- (c) where the applicant is—
 - (i) an individual, or
 - (ii) a trustee other than a corporate or a professional trustee, the principal residential address of the applicant;
- (d) where the applicant is a company, the address of its registered office or its principal place of business, and the names and principal residential addresses of its directors;
- (e) where the applicant is a professional trustee, the address of his employment or principal place of business;
- (f) the applicant's national insurance number, if he has one;
- (g) the applicant's United Kingdom tax office reference, if he has one;
- (h) the name and address of the prescribed person or, if more than one, each of the prescribed persons by or through whom payments falling to be treated as receipts of the applicant's Schedule A business are made;
- (j) a statement that—
 - (i) the applicant has complied with all obligations imposed on him by or under the Tax Acts or the Management Act prior to the date of the application; or
 - (ii) the applicant has not had any obligations imposed on him by or under the Tax Acts or the Management Act prior to the date of the application; or
 - (iii) he does not expect to be liable to pay any amount by way of United Kingdom income tax for the year in which the application is made.

(4) The undertakings specified are that—

- (a) where the applicant makes a statement falling within paragraph (3)(j)(iii) above, he will notify the Board in writing if he becomes liable to pay any such amount;
- (b) the applicant will fully comply with all obligations imposed on him by or under the Tax Acts or the Management Act;
- (c) the applicant will inform the Board if his usual place of abode ceases to be outside the United Kingdom.

(5) Where the Board approve an application under paragraph (1) above, they shall give—

- (a) notice of the approval to the non-resident, and
- (b) notice to the prescribed person or, if more than one, each prescribed person, specifying the date from which the obligations referred to in paragraph (1) above shall cease to apply in relation to payments falling to be treated as receipts of the applicant's Schedule A business and made on or after that date.

(6) The Board may, by notice to the applicant, refuse an application under paragraph (1) above where—

- (a) they are not satisfied that the statement contained in the application and falling within paragraph (3)(j)(i), (ii) or (iii) above, as the case may be, is correct; or

(b) they are not satisfied that the applicant will comply with the undertakings contained in the application.

(7) The applicant may appeal against the Board's refusal of his application under paragraph (6) above by giving notice to the Board within 90 days of receipt of the notice of refusal.

(8) The appeal shall be to the General Commissioners, except that the appellant may elect (in accordance with section 46(1) of the Management Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.

(9) The General Commissioners or the Special Commissioners, as the case may be, shall on appeal to them confirm the notice refusing approval unless they are satisfied that the notice ought to be quashed.

Review of approval under regulation 17— furnishing of information

18. Where the Board have approved an application under regulation 17, they may by notice require the non-resident by whom the application was made to furnish them, within such time (not being less than 42 days) as may be provided by the notice, such information as they may reasonably require to enable them to review the approval.

Withdrawal of approval under regulation 17

19.—(1) An approval of an application under regulation 17 may be withdrawn by the Board by notice to the non-resident by whom the application was made specifying—

- (a) the reasons for the withdrawal, and
- (b) the date from which the withdrawal of approval shall take effect.

(2) The Board may withdraw their approval of an application where—

- (a) they cease to be satisfied that the statement contained in the application and falling within regulation 17(3)(j)(i), (ii) or (iii), as the case may be, is correct; or
- (b) they cease to be satisfied that the non-resident will comply with the undertakings contained in the application; or
- (c) the non-resident fails to furnish information to the Board in accordance with regulation 18.

(3) Where the Board withdraw their approval of an application under paragraph (1) above, they shall give notice to the prescribed person or, if more than one, each prescribed person, specifying the date from which the obligations imposed under these Regulations to make payments to the Board shall apply in relation to payments falling to be treated as receipts of the applicant's Schedule A business and made on or after that date.

(4) A non-resident may appeal against the Board's withdrawal of approval under paragraph (1) above by giving notice to the Board within 90 days of the date of issue of the notice withdrawing approval.

(5) The appeal shall be to the General Commissioners, except that the non-resident may elect (in accordance with section 46(1) of the Management Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.

(6) The General Commissioners or the Special Commissioners, as the case may be, shall on appeal to them confirm the notice withdrawing approval unless they are satisfied that the notice ought to be quashed.

Provisions relating to self assessment

Self-assessment— payments on account

20. Section 59A of the Management Act(6) (payments on account of income tax) (“section 59A”) shall have effect in relation to payments to be made to the Board by virtue of section 42A in respect of any tax as if any reference in section 59A to income tax deducted at source included a reference to such payments.

Self-assessment— consequential provisions

21.—(1) A non-resident may set off against either of the amounts specified in paragraph (2) below the aggregate amount of the payments which—

- (a) were liable to be made to the Board under these Regulations for each quarter ending in a year by any person who is a prescribed person in respect of the Schedule A business (or part thereof) carried on by the non-resident in that year, and
- (b) were retained by the prescribed person out of sums due from him to the non-resident in order to meet that liability.

(2) The amounts specified are—

- (a) the amount in which the non-resident is chargeable to income tax for the year in question, and
- (b) the amount of the first payment on account of his liability to income tax for that year.

(3) Where pursuant to paragraph (1) above an amount is set off against the amount specified in paragraph (2)(a) above, section 59A (as modified by regulation 20) shall have effect as if the reference in subsection (1) of that section to the amount which is the assessed amount were a reference to that assessed amount reduced by the amount set off.

(4) Where pursuant to paragraph (1) above an amount is set off against the amount specified in paragraph (2)(b) above, section 59A (as so modified) shall have effect as if the reference in subsection (2) of that section to the first payment on account were a reference to the amount of that payment reduced by the amount set off.

(5) In any case where—

- (a) by virtue of regulation 17 the obligations imposed under these Regulations to make payments to the Board do not apply in any year in relation to payments falling to be treated as receipts of a Schedule A business carried on by a non-resident in that year, and
- (b) those obligations applied to such payments in the immediately preceding year,

subsection (1) of section 59A (as so modified) shall have effect as if those obligations did not apply in the immediately preceding year.

*S C T Matheson
C W Corlett*

10th November 1995

Two of the Commissioners of Inland Revenue

(6) Section 59A was inserted by section 192 of the Finance Act 1994 (c. 9) with respect to the year 1996-97 and subsequent years of assessment, and was amended by section 108 of the Finance Act 1995. The section as amended was modified as respects the year 1996-97 by paragraph 2 of Schedule 21 to the Finance Act 1995.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision, with effect from 6th April 1996, in relation to the taxation of income of a Schedule A business (income from land) carried on by a person whose usual place of abode is outside the United Kingdom (“non-resident”). The Regulations arrange for tax on that income to be collected in certain circumstances from the person acting as agent for the business concerned, or from a person by whom rent is payable to the non-resident.

Regulation 1 provides for citation, commencement and effect, and regulation 2 contains definitions.

Regulation 3 prescribes the persons who, as agents for a non-resident or as persons by whom rent is payable to a non-resident, are liable in the circumstances specified in the regulation to make payments to the Board of Inland Revenue (“the Board”) in respect of tax on the income of the non-resident’s Schedule A business.

Regulation 4 contains definitions for the purposes of regulation 3.

Regulation 5 makes provision enabling a partnership to be a person prescribed by regulation 3.

Regulation 6 provides that an agent acting in relation to the Schedule A businesses of several non-residents through branches of his business may, if approved by the Board, be treated for the purposes of these Regulations as a separate person for each branch.

Regulation 7 makes provision requiring agents who are prescribed persons to register with the Board.

Regulation 8 provides for the calculation of the amount of tax payable quarterly by a prescribed person by whom rent is payable to a non-resident.

Regulation 9 provides for the calculation of the amount of tax payable quarterly by an agent who is a prescribed person, and also provides for repayment of tax to the agent in certain circumstances.

Regulation 10 provides for the making of quarterly returns by prescribed persons and for tax payable in respect of the quarter to be paid with the return. The regulation also makes provision for interest on unpaid tax, and for assessments in respect of amounts omitted from returns.

Regulation 11 makes provision for annual returns by prescribed persons.

Regulation 12 provides that after the end of each year ended 31st March the prescribed person shall provide the non-resident with a certificate specifying the amount of tax which the prescribed person is liable to pay for that year in respect of the income of the non-resident’s Schedule A business.

Regulations 13 to 15 provide for information to be furnished to the Board by prescribed persons and for inspection and keeping of records.

Regulation 16 restricts the use of information obtained by the Board under regulation 13 or 14.

Regulation 17 provides that a non-resident whose application for that purpose is approved by the Board may receive income in respect of his Schedule A business without the obligation on the part of a prescribed person to account for tax on that income.

Regulation 18 enables the Board to require a non-resident to furnish information in order to review their approval of his application under regulation 17.

Regulation 19 enables the Board to withdraw their approval of an application under regulation 17.

Regulations 20 and 21 apply with modifications section 59A of the Taxes Management Act 1970 (payments on account of tax under self-assessment) to payments of tax by prescribed persons.

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