
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 12

**The Ports (Levy on Disposals of Land,
etc.) Order (Northern Ireland) 1997**

Interpretation

2.—(1) In this Order—

“the 1988 Act” means the Income and Corporation Taxes Act 1988⁽¹⁾;

“the 1992 Act” means the Taxation of Chargeable Gains Act 1992⁽²⁾;

“the 1994 Order” means the Ports (Northern Ireland) Order 1994;

“annual reporting date”, in relation to a disposal period, means—

- (a) the day falling 180 days after the last day of that period; or
- (b) if the last disposal period ends with a date other than the last day of a financial year, then, in relation to that disposal period, the day falling 180 days after the last day of the financial year in which that disposal period ends;

or, if that day is not a business day, the next succeeding business day;

“base rate” shall be construed in accordance with Article 15;

“business day” means any day other than a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882⁽³⁾;

“chargeable disposal” has the meaning given to it by Article 6;

“company” means any body corporate or unincorporated association but does not include a partnership or a district council;

“disposal date”, in relation to a disposal, means, subject to the provisions of this Order, the date on which the disposal is made for the purposes of the 1992 Act;

“disposal period”, in relation to a chargeable company, means—

- (a) the first disposal period shall begin with the first day of the levy period and end with the final day of the financial year in which that day falls;
- (b) the last disposal period shall end with the last day of the levy period, whether or not that day is the end of a financial year; and
- (c) in any other case, a financial year;

“disposal statement” means a statement required to be furnished under Article 36;

“disregarded disposal” means a disposal on which, by virtue of Article 8(6), no gain is regarded as having accrued;

“financial year”, in relation to a chargeable company, means the financial year of that company within the meaning given by Article 231 of the Companies (Northern Ireland) Order 1986⁽⁴⁾;

(1) 1988 c. 1

(2) 1992 c. 12

(3) 1882 c. 61; section 92 was amended by sections 3(1) and (3) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80)

(4) S.I.1986/1032 (N.I. 6); Art. 231 was inserted by Art. 5 of the Companies (Northern Ireland) Order 1990 S.I. 1990/593 (N.I. 5)

“group”, in relation to a chargeable company, means (except in the expression “wholly-owned group”) the group formed by—

- (a) that chargeable company;
- (b) any company or other person of which that chargeable company is an effective subsidiary;
- (c) any company which is an effective subsidiary of that chargeable company; and
- (d) any company which is an effective subsidiary of any company or other person of which the chargeable company is an effective subsidiary;

and for this purpose a company (“A”) is an effective subsidiary of another company or other person (“B”) if—

- (i) A would be an “effective 51 per cent subsidiary” within the meaning that it would have for the purposes of sections 170 to 181 of the 1992 Act by virtue of section 170(7) and (8) if the word “or” were substituted for the word “and” at the end of section 170(7)(a); or
- (ii) B, or B together with any person connected with B, has control of A (and for this purpose any question whether a person is connected with another shall be determined in accordance with the provisions of section 839 of the 1988 Act, but as if the exception in subsection (4) of that section were omitted; and “control” has the meaning given by section 840 of that Act);

“lease” has the same meaning as it has for the purposes of paragraph 10(1)(a) of Schedule 8 to the 1992 Act;

“market value”, subject to Article 18, has the meaning given by section 272 of the 1992 Act;

“quarter date” shall be construed in accordance with Article 13(2) to (5);

“referee” means a person appointed under Article 38;

“retail prices index” means the general index of retail prices (for all items) published by the Central Statistical Office of the Chancellor of the Exchequer, and, if that index is not published for any month, any substituted index or index figures published by that Office for that month;

“section 178 or 179 disposal” means a disposal which is treated as taking place by virtue of section 178(3) or (5) or 179(3) or (6) of the 1992 Act or Article 19(6) of the 1994 Order;

“small disposal” means a disposal on which, by virtue of Article 8(2), no gain is regarded as having accrued;

“wholly-owned group”, in relation to a chargeable company, means the group formed by—

- (a) the chargeable company; and
- (b) every company which would be a member of the same group as the chargeable company for the purposes of section 170 of the 1992 Act if—
 - (i) subsections (4) to (6) of that section were omitted (and subsections (2)(b), (3) and (8) were construed accordingly); and
 - (ii) the references to “75 per cent”, “51 per cent” and “more than 50 per cent” in that section and in section 838(1)(b) of, and Schedule 18 to, the 1988 Act were each references to 100 per cent.

(2) In this Order a reference to the 1992 Act or to any provision of that Act or to any other statutory provision relating to corporation tax on chargeable gains is, except in so far as it applies in determining whether there is a disposal of land or an estate in land for the purposes of Article 19 of the 1994 Order, a reference to that Act or that provision as it applies immediately before the coming into operation of this Order; and references to the purposes of the 1992 Act or of the statutory provisions relating to corporation tax on chargeable gains include references to the purposes of the 1992 Act as it applies by virtue of Article 19(6) of the 1994 Order.

(3) In this Order, “the purposes of Article 19 of the 1994 Order” shall include all or any of the purposes of this Order.