



# Finance Act 1985

## 1985 CHAPTER 54

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

34— .....<sup>F1</sup>  
49.

#### Textual Amendments

**F1** Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25 paras. 7–9 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)

#### 50 Agents acting for non-residents.

- (1) Section 78 of the <sup>M1</sup>Taxes Management Act 1970 (method of charging non-residents) shall be amended in accordance with subsection (2) and (3) below, and the amendments made by those subsections shall have effect—
  - (a) for the year 1985-86 and subsequent years of assessment, in the case of profits or gains chargeable to income tax; and
  - (b) for accounting periods ending on or after 1st April 1985, in the case of profits or gains chargeable to corporation tax.
- (2) After the words “Subject to” there shall be inserted “subsection (2) below and”.
- (3) At the end of the section there shall be inserted the following subsections—

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985, Chapter I. (See end of Document for details)*

“(2) Subject to the following provisions of this section, a person who is not resident in the United Kingdom shall not, by virtue of this section, be chargeable in the name of an agent in respect of profits or gains arising from investment transactions carried out by the agent if—

- (a) the agent is carrying on a business of providing investment management services to a number of clients of whom the non-resident person is one; and
- (b) the investment transactions concerned were carried out in the ordinary course of the business referred to in paragraph (a) above; and
- (c) the remuneration which the agent receives for the provision of investment management services to the non-resident person is at a rate which is not less than that which is customary for that class of business; and
- (d) in the case of profits or gains which are chargeable to tax as the profits or income of the non-resident person from carrying on a trade in the United Kingdom through a branch or agency, the agent carrying out the investment transaction is also the agency through which the trade is carried on;

and in the case of an agent who provides investment management services as part only of a business, paragraphs (a) to (d) above shall apply as if that part were a separate business.

(3) In subsection (2) above ‘investment transactions’ means—

- (a) transactions in shares, stock or securities of any other description, excluding commodity or financial futures,
- (b) transactions on a recognised futures exchange, within the meaning of the Capital Gains Tax Act 1979, and
- (c) the placing of money at interest,

and for the purposes of that subsection an agent carries out such a transaction on behalf of his client whether he undertakes the transaction himself or by giving instructions to another person.

(4) Subsection (2) above does not apply to profits or gains which constitute income of an offshore fund, within the meaning of Chapter VII of Part II of the Finance Act 1984.

(5) Subsection (2) above does not apply if the non-resident person and the agent are connected with each other, within the terms of section 533 of the principal Act.”

**Marginal Citations**

M1 1970 c. 9.

51—53 ..... F2

**Textual Amendments**

F2 Ss. 51–53 repealed by [Income and Corporation Taxes Act 1988 \(c.1, SIF 1\)](#), s. 844, [Sch. 31](#)

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**[<sup>F3</sup>54] Withdrawal of right of certain non-resident companies to payment of tax credits.**

- (1) This section applies to a company which has, or is an associated company of a company which has, a qualifying presence in a unitary state and, at any time when it or its associated company has such a qualifying presence, is entitled by virtue of arrangements having effect under section 497(1) of the Taxes Act (relief by agreement with other countries) to a tax credit under section 86 of the <sup>M2</sup>Finance Act 1972 (tax credit for certain recipients of qualifying distributions) in respect of qualifying distributions made to it by companies which are resident in the United Kingdom which is equal to one half of the tax credit to which an individual resident in the United Kingdom would be entitled in respect of such distributions.
- (2) Schedule 13 to this Act has effect to supplement the provisions of this section.
- (3) Notwithstanding anything to the contrary in the arrangements referred to above and subject to paragraph 2 of the said Schedule, a company to which this section applies shall not be entitled to claim under subsection (4) of the said section 86 to have the tax credit referred to in subsection (1) above set against the income tax chargeable on its income for the year of assessment in which the distribution is made or, where the credit exceeds that income tax, to have the excess paid to it.
- (4) A company shall be treated as having a qualifying presence in a unitary state if it is a member of a group and, in any period for which members of the group make up their accounts ending after the relevant date, 7½ per cent or more in value of the property, payroll or sales of such members situated in, attributable to or derived from the territory outside the United Kingdom, of which that state is a province, state or other part, are situated in, attributable to or derived from that state.
- (5) For the purposes of subsection (4) above—
  - (a) 7½ per cent or more in value of such property, payroll or sales as are referred to in that subsection shall be treated as being situated in, attributable to or derived from the state there referred to, unless, on making any claim under subsection (4) of the said section 86, the claimant proves otherwise to the satisfaction of the Board, and
  - (b) the value of the property, payroll or sales of a company shall be taken to be the value as shown in its accounts for the period in question and for this purpose the value of any property consisting of an interest in another member of the group or of any sales made to another such member shall be disregarded.
- (6) In this section “the relevant date” means the date on which this section comes into force or, if earlier, the earliest date on which a distribution could have been made in relation to which the provisions of this section are applied by an order made under this section.
- (7) This section shall come into force on such date as the Treasury may by order made by statutory instrument appoint and the Treasury may in addition by order made by statutory instrument—
  - (a) prescribe that the provisions of this section shall apply in relation to distributions made on or after a date before that on which the order bringing them into force is made, being a date not earlier than 1st April 1985,
  - (b) prescribe those provinces, states or other parts of a territory outside the United Kingdom which are to be treated as unitary states for the purposes of this section, and

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- (c) prescribe that for subsections (4) and (5) of this section (or for those subsections as they have effect at any time) there shall be substituted either the following provisions—

“(4) A company shall be treated as having a qualifying presence in a unitary state if it is subject to tax in such a state for any period ending after the relevant date for which that state charges tax.

(5) For the purposes of subsection (4) above a company shall be regarded as subject to tax in a unitary state if it is liable there to a tax charged on its income or profits by whatever name called and shall be treated as so charged unless it proves otherwise to the satisfaction of the Board”

or the following provisions—

“(4) A company shall be treated as having a qualifying presence in a unitary state if it has its principal place of business in such a state at any time after the relevant date.

(5) For the purposes of subsection (4) above—

- (a) a company shall be treated as having its principal place of business in a unitary state unless it proves otherwise to the satisfaction of the Board, and
- (b) the principal place of business of a company shall include both the place where the central management and control of the company is exercised and the place where the immediate day-to-day management of the company as a whole is exercised.”

- (8) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.]

#### **Textual Amendments**

**F3** S. 54 repealed by [Income and Corporation Taxes Act 1988 \(c.1\)](#), s. 844, [Sch. 31](#) (with saving in [Sch. 30 para. 20](#))

#### **Marginal Citations**

**M2** 1972 c. 41.

**Status:**

Point in time view as at 01/12/1992.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1985, Chapter I.