



# Finance Act 1994

## 1994 CHAPTER 9

### PART VIII

#### MISCELLANEOUS AND GENERAL

##### *Companies treated as non-resident*

#### **249 Certain companies treated as non-resident.**

- (1) A company which—
  - (a) would (apart from this section) be regarded as resident in the United Kingdom for the purposes of the Taxes Acts, and
  - (b) is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom and not resident in the United Kingdom,shall be treated for the purposes of the Taxes Acts as resident outside the United Kingdom and not resident in the United Kingdom.
- (2) For the purpose of deciding whether the company is regarded as mentioned in subsection (1)(b) above it shall be assumed that—
  - (a) the company has made a claim for relief under the arrangements, and
  - (b) in consequence of the claim it falls to be decided whether the company is to be regarded as mentioned in subsection (1)(b) above.
- (3) This section shall apply whether the company would otherwise be regarded as resident in the United Kingdom for the purposes of the Taxes Acts by virtue of section 66(1) of the <sup>M1</sup>Finance Act 1988 (company incorporated in UK to be regarded as resident there) or by virtue of some other rule of law.
- (4) In this section—
  - (a) “double taxation relief arrangements” means arrangements having effect by virtue of section 788 of the Taxes Act 1988;

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(b) “the Taxes Acts” has the same meaning as in the <sup>M2</sup>Taxes Management Act 1970.

(5) This section shall be deemed to have come into force on 30th November 1993.

#### Marginal Citations

**M1** 1988 c. 39.

**M2** 1970 c. 9.

## 250 Companies treated as non-resident: supplementary.

(1) Sections 130(1) to (6) and 131(1) to (5) of the Finance Act 1988 (securing payment of outstanding tax) shall not apply where the company concerned ceases to be resident in the United Kingdom on 30th November 1993 solely by virtue of the coming into force of section 249 above.

(2) References in section 179 of the <sup>M3</sup>Taxation of Chargeable Gains Act 1992 to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group by virtue of that company, or another company, ceasing to be resident in the United Kingdom on 30th November 1993 solely by virtue of the coming into force of section 249 above.

(3) Subsection (4) below applies where—

- (a) a company ceases to be resident in the United Kingdom on 30th November 1993 solely by virtue of the coming into force of section 249 above, and
- (b) by virtue of section 185(2) of the <sup>M4</sup>Taxation of Chargeable Gains Act 1992 it is deemed to have disposed of assets immediately before the time it so ceases.

(4) In such a case—

- (a) if the company makes an actual disposal of the assets on or before the day when (apart from this subsection) corporation tax is due and payable in respect of the deemed disposal, the tax shall be due and payable on that day;
- (b) in any other case the tax shall be due and payable on the day the company makes an actual disposal of the assets or on 30th November 1999 (whichever falls first).

(5) Where subsection (4) above applies, for the purposes of section 87A of the <sup>M5</sup>Taxes Management Act 1970 (interest on overdue corporation tax) the tax shall be treated as becoming due and payable on the relevant day in accordance with section 10 of the Taxes Act 1988; and the relevant day is the day on which the tax is due and payable by virtue of subsection (4) above.

(6) If the company makes an actual disposal of part of the assets subsections (4) and (5) above shall be applied separately as regards the different parts and the tax shall be apportioned (and carry interest) accordingly.

#### Marginal Citations

**M3** 1992 c. 12.

**M4** 1992 c. 12.

**M5** 1970 c.9.

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## **251 Companies treated as non-resident: repeals.**

- (1) For the purposes of this section—
  - (a) the relevant date is 30th November 1993;
  - (b) the <sup>M6</sup>1992 Act is the Taxation of Chargeable Gains Act 1992.
- (2) In section 468F of the Taxes Act 1988 the following shall be omitted—
  - (a) in subsection (1)(c) the words “and not a dual resident”;
  - (b) in subsection (8) the definition of “dual resident”;and this subsection shall have effect where the date of payment is the relevant date or later.
- (3) In sections 742(8) and 745(4) of the Taxes Act 1988 the words “, or regarded for the purposes of any double taxation arrangements having effect by virtue of section 788 as resident in a territory outside the United Kingdom,” shall be omitted; and—
  - (a) subject to paragraph (b) below, the omissions shall apply in relation to transfers of assets and associated operations on or after the relevant date;
  - (b) in so far as the omission in subsection (4) of section 745 relates to subsections (3)(b) and (5) of that section, it shall be deemed to have come into force on the relevant date.
- (4) Sections 749(4A) and 751(2)(bb) of the Taxes Act 1988 shall be omitted; and this subsection shall be deemed to have come into force on the relevant date.
- (5) Section 139(3) of the 1992 Act shall be omitted; and this subsection shall have effect in relation to acquisitions on or after the relevant date.
- (6) Section 160 of the 1992 Act shall be omitted; and this subsection shall have effect where the disposal of the old assets (or of the interest in them) is made on or after the relevant date or the acquisition of the new assets is made (or the acquisition of the interest in them is made or the unconditional contract for their acquisition is entered into) on or after the relevant date.
- (7) The following provisions shall be omitted—
  - (a) in section 166(2) of the 1992 Act the words “or a company” and the words “or company”;
  - (b) in section 171(2) of that Act, paragraph (e) and the word “or” immediately preceding it;
  - (c) section 172(3)(a) of that Act;and this subsection shall have effect in relation to disposals on or after the relevant date.
- (8) In section 175(2) of the 1992 Act the words from “or a company which” to the end of paragraph (b) shall be omitted; and this subsection shall have effect where the disposal of the old assets (or of the interest in them) or the acquisition of the new assets (or of the interest in them) is made on or after the relevant date.
- (9) Section 186 of the 1992 Act shall be omitted together with the following in section 187—
  - (a) in subsection (1)(a) the words “or 186”;
  - (b) in subsection (6) the words “or, as the case may be, section 186(2),” and the words “or, as the case may be, section 186(1)”;

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and this subsection shall have effect where the company concerned becomes on or after the relevant date a company which falls to be regarded as mentioned in section 186(1) .

- (10) Section 188 of the 1992 Act shall be omitted; and this subsection shall be deemed to have come into force on the relevant date.
- (11) In section 211(3) of the 1992 Act the words “(and would not be a gain on which, under any double taxation relief arrangements, it would not be liable to tax)” shall be omitted; and this subsection shall have effect where the transfer is made on or after the relevant date.
- (12) Section 61(3) of the <sup>M7</sup>Finance Act 1993 shall be omitted; and this subsection shall be deemed to have come into force on the relevant date.

#### Commencement Information

**I1** S. 251 partly in force retrospectively (to 30.11.1993) as mentioned in this section.

#### Marginal Citations

**M6** 1992 c. 12.

**M7** 1993 c. 34.

### *Privatisations*

#### **252 Railways.**

- (1) Schedule 24 to this Act (which makes provision in connection with transfers and other disposals under or by virtue of the <sup>M8</sup>Railways Act 1993) shall have effect.
- (2) Paragraphs 4(1) and 17 of that Schedule, and this section so far as relating to those provisions, shall be taken to have come into force on 5th November 1993 (the date on which the <sup>M9</sup>Railways Act 1993 was passed).
- (3) Subject to subsection (2) above, this section and that Schedule shall be taken to have come into force on 11th January 1994.

#### Commencement Information

**I2** S. 252 in force retrospectively (partly 5.11.93 and partly 11.1.1994) as mentioned in s. 252(2)(3)

#### Marginal Citations

**M8** 1993 c. 43.

**M9** 1993 c. 43.

#### **253 Northern Ireland Airports Limited.**

Schedule 25 to this Act (which makes provision in connection with the transfer of the undertaking of Northern Ireland Airports Limited) shall have effect.

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## Management

### 254 Practice and procedure in connection with appeals.

- (1) Section 56B of the <sup>M10</sup>Taxes Management Act 1970 (regulations about practice and procedure in connection with appeals) shall be amended as follows.
- (2) In subsection (2)(b) (documents to be made available for inspection by Commissioners or by officers of the Board) for “the Commissioners or by officers of the Board” there shall be substituted “ specified persons ”.
- (3) The following subsection shall be inserted after subsection (2)—
  - “(2A) In subsection (2)(b) above “specified persons” means such of the following as may be specified in the regulations—
    - (a) the Commissioners;
    - (b) any party to the appeal;
    - (c) officers of the Board.”

#### Marginal Citations

M10 1970 c.9.

### 255 Calling for documents of taxpayers and others.

- (1) Section 20 of the <sup>M11</sup>Taxes Management Act 1970 (power to call for documents) shall be amended as follows.
- (2) The following subsections shall be inserted after subsection (7A)—
  - “(7AB) A Commissioner who has given his consent under subsection (7) above shall neither take part in, nor be present at, any proceedings on, or related to, any appeal brought—
    - (a) in the case of a notice under subsection (1) above, by the person to whom the notice applies, or
    - (b) in the case of a notice under subsection (3) above, by the taxpayer concerned,if the Commissioner has reason to believe that any of the required information is likely to be adduced in evidence in those proceedings.
  - (7AC) In subsection (7AB) above “required information” means any document or particulars which were the subject of the proposed notice with respect to which the Commissioner gave his consent.”
- (3) The following subsections shall be inserted after subsection (8D)—
  - “(8E) An inspector who gives a notice under subsection (1) or (3) above shall also give to—
    - (a) the person to whom the notice applies (in the case of a notice under subsection (1) above), or
    - (b) the taxpayer concerned (in the case of a notice under subsection (3) above),

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a written summary of his reasons for applying for consent to the giving of the notice.

- (8F) Subsection (8E) above does not apply, in the case of a notice under subsection (3) above, if by virtue of section 20B(1B) a copy of that notice need not be given to the taxpayer.
- (8G) Subsection (8E) above does not require the disclosure of any information—
- (a) which would, or might, identify any person who has provided the inspector with any information which he took into account in deciding whether to apply for consent; or
  - (b) if the Commissioner giving the required consent has given a direction that that information is not to be subject to the obligation imposed by that subsection.
- (8H) A General or Special Commissioner shall not give a direction under subsection (8G) above unless he is satisfied that the inspector has reasonable grounds for believing that disclosure of the information in question would prejudice the assessment or collection of tax.”

#### Marginal Citations

M11 1970 c. 9.

#### *Assigned matters*

#### 256 Minor corrections.

- (1) The provisions mentioned in subsection (2) below (which enable revenue traders and taxable persons to be required to keep records) shall be amended in accordance with subsections (3) and (4) below (which correct minor errors in those provisions so far as they relate to the admissibility in evidence of the recorded information).
- (2) The provisions are—
  - (a) in the <sup>M12</sup>Customs and Excise Management Act 1979, section 118A; and
  - (b) in Schedule 7 to the <sup>M13</sup>Value Added Tax Act 1983, paragraph 7.
- (3) In subsection (6) and sub-paragraph (5) of those provisions—
  - (a) in paragraph (c) for the words “sections 13 and 14 of the <sup>M14</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1968” there shall be substituted “sections 5 and 6 of the Civil Evidence (Scotland) Act 1988”; and
  - (b) in paragraph (d), for the words “except in accordance with the said sections 13 and 14” to the end there shall be substituted “except in accordance with Schedule 3 to the Prisoners and Criminal Proceedings (Scotland) Act 1993”.
- (4) Subsection (7) and sub-paragraph (6) of those provisions shall be omitted.

#### Marginal Citations

M12 1979 c. 2.

M13 1983 c. 55.

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**M14** 1968 c. 70.

### *General*

#### **257 Interpretation and construction.**

- (1) In this Act “the Taxes Act 1988” means the <sup>M15</sup>Income and Corporation Taxes Act 1988.
- (2) Part V of this Act shall be construed as one with Part I of the <sup>M16</sup>Oil Taxation Act 1975, and in Part V that Act is referred to as “the principal Act”.
- (3) Part VI of this Act shall be construed as one with the <sup>M17</sup>Stamp Act 1891.

#### **Marginal Citations**

- M15** 1988 c. 1.  
**M16** 1975 c. 22.  
**M17** 1891 c. 39.

#### **258 Repeals.**

The enactments specified in Schedule 26 to this Act (which include provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision of that Schedule.

#### **259 Short title.**

This Act may be cited as the Finance Act 1994.

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