



# Finance Act 1996

## 1996 CHAPTER 8

### PART III

#### LANDFILL TAX

##### *Miscellaneous*

#### **58 Partnership, bankruptcy, transfer of business, etc.**

- (1) As regards any case where a business is carried on in partnership or by another unincorporated body, regulations may make provision for determining by what persons anything required by this Part to be done by a person is to be done.
- (2) The registration under this Part of an unincorporated body other than a partnership may be in the name of the body concerned; and in determining whether taxable activities are carried out by such a body no account shall be taken of any change in its members.
- (3) The registration under this Part of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.
- (4) As regards any case where a person carries on a business of a person who has died or become bankrupt or incapacitated or whose estate has been sequestrated, or of a person which is in liquidation or receivership or [<sup>F1</sup>administration] , regulations may—
  - (a) require the first-mentioned person to inform the Commissioners of the fact that he is carrying on the business and of the event that has led to his carrying it on;
  - (b) make provision allowing the person to be treated for a limited time as if he were the other person;
  - (c) make provision for securing continuity in the application of this Part where a person is so treated.

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- (5) Regulations may make provision for securing continuity in the application of this Part in cases where a business carried on by a person is transferred to another person as a going concern.
- (6) Regulations under subsection (5) above may in particular—
- (a) require the transferor to inform the Commissioners of the transfer;
  - (b) provide for liabilities and duties under this Part of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee;
  - (c) provide for any right of either of them to repayment or credit in respect of tax to be satisfied by making a repayment or allowing a credit to the other;
- but the regulations may provide that no such provision as is mentioned in paragraph (b) or (c) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

#### Textual Amendments

- F1** Word in s. 58(4) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 28](#) (with art. 6)

## 59 Groups of companies.

- (1) Where under the following provisions of this section any bodies corporate are treated as members of a group, for the purposes of this Part—
- (a) any liability of a member of the group to pay tax shall be taken to be a liability of the representative member;
  - (b) the representative member shall be taken to carry out any taxable activities which a member of the group would carry out (apart from this section) by virtue of section 69 below;
  - (c) all members of the group shall be jointly and severally liable for any tax due from the representative member.
- (2) Two or more bodies corporate are eligible to be treated as members of a group if the condition mentioned in subsection (3) below is fulfilled and—
- (a) one of them controls each of the others,
  - (b) one person (whether a body corporate or an individual) controls all of them, or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (3) The condition is that the prospective representative member has an established place of business in the United Kingdom.
- (4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then—
- (a) from the beginning of an accounting period they shall be so treated, and
  - (b) one of them shall be the representative member,
- unless the Commissioners refuse the application; and the Commissioners shall not refuse the application unless it appears to them necessary to do so for the protection of the revenue.

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- (5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of an accounting period—
- (a) a further body eligible to be so treated shall be included among the bodies so treated,
  - (b) a body corporate shall be excluded from the bodies so treated,
  - (c) another member of the group shall be substituted as the representative member, or
  - (d) the bodies corporate shall no longer be treated as members of a group,
- unless the application is to the effect mentioned in paragraph (a) or (c) above and the Commissioners refuse the application.
- (6) The Commissioners may refuse an application under subsection (5)(a) or (c) above only if it appears to them necessary to do so for the protection of the revenue.
- (7) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.
- (8) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.
- (9) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of section 736 of the <sup>M1</sup>Companies Act 1985; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that section.

#### Marginal Citations

M1 1985 c. 6.

## 60 [F2]Information, powers, penalties, secondary liability, etc.]

Schedule 5 to this Act (which contains provisions relating to information, powers, penalties [F3, secondary liability] and other matters) shall have effect.

#### Textual Amendments

F2 Sidenote to s. 60 substituted (28.7.2000) by virtue of 2000 c. 17, s. 142(2)

F3 Words in s. 60 inserted (28.7.2000) by 2000 c. 17, s. 142(1)

## 61 Taxable disposals: special provisions.

- (1) Where—
- (a) a taxable disposal is in fact made on a particular day,

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- (b) within the period of 14 days beginning with that day the person liable to pay tax in respect of the disposal issues a landfill invoice in respect of the disposal, and
- (c) he has not notified the Commissioners in writing that he elects not to avail himself of this subsection,

for the purposes of this Part the disposal shall be treated as made at the time the invoice is issued.

- (2) The reference in subsection (1) above to a landfill invoice is to a document containing such particulars as regulations may prescribe for the purposes of that subsection.
- (3) The Commissioners may at the request of a person direct that subsection (1) above shall apply—
  - (a) in relation to disposals in respect of which he is liable to pay tax, or
  - (b) in relation to such of them as may be specified in the direction,
 as if for the period of 14 days there were substituted such longer period as may be specified in the direction.

## **62 Taxable disposals: regulations.**

- (1) For the purposes of this Part, regulations may make provision under this section in relation to a disposal which is a taxable disposal (or would be apart from the regulations).
- (2) The regulations may provide that if particular conditions are fulfilled—
  - (a) the disposal shall be treated as not being a taxable disposal, or
  - (b) the disposal shall, to the extent found in accordance with prescribed rules, be treated as not being a taxable disposal.
- (3) The regulations may provide that if particular conditions are fulfilled—
  - (a) the disposal shall be treated as made at a time which is found in accordance with prescribed rules and which falls after the time when it would be regarded as made apart from the regulations, or
  - (b) the disposal shall, to the extent found in accordance with prescribed rules, be treated as made at a time which is found in accordance with prescribed rules and which falls after the time when it would be regarded as made apart from the regulations.
- (4) In finding the time when the disposal would be regarded as made apart from the regulations, section 61(1) above and any direction under section 61(3) above shall be taken into account.
- (5) The regulations may be framed by reference to—
  - (a) conditions specified in the regulations or by the Commissioners or by an authorised person, or
  - (b) any combination of such conditions;
 and the regulations may specify conditions, or allow conditions to be specified, generally or with regard to particular cases.
- (6) The regulations may make provision under subsections (2)(b) and (3)(b) above in relation to the same disposal.

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- (7) The regulations may only provide that a disposal is to be treated as not being a taxable disposal if or to the extent that—
- [<sup>F4</sup>(a) the material comprised in the disposal is held temporarily pending one or more of the following—
    - (i) the incineration or recycling of the material, or
    - (ii) the removal of the material for use elsewhere, or
    - (iii) the use of the material, if it is qualifying material within the meaning of section 42(3) above, for the restoration to use of the site at which the disposal takes place, or any part of that site, upon completion of waste disposal operations at the site, or as the case may be, that part of the site, or
    - (iv) the sorting of the material with a view to its removal elsewhere or its eventual disposal, and]
  - (b) [<sup>F5</sup>the material in question is held temporarily] in an area designated for the purpose by an authorised person.

#### Textual Amendments

**F4** S. 62(7)(a) substituted (28.7.2000) by 2000 c. 17, s. 141(2)

**F5** Words in s. 62(7)(b) substituted (28.7.2000) by 2000 c. 17, s. 141(3)

### 63 Qualifying material: special provisions.

- (1) This section applies for the purposes of section 42 above.
- (2) The Commissioners may direct that where material is disposed of it must be treated as qualifying material if it would in fact be such material but for a small quantity of non-qualifying material; and whether a quantity of non-qualifying material is small must be determined in accordance with the terms of the direction.
- (3) The Commissioners may at the request of a person direct that where there is a disposal in respect of which he is liable to pay tax the material disposed of must be treated as qualifying material if it would in fact be such material but for a small quantity of non-qualifying material, and—
  - (a) a direction may apply to all disposals in respect of which a person is liable to pay tax or to such of them as are identified in the direction;
  - (b) whether a quantity of non-qualifying material is small must be determined in accordance with the terms of the direction.
- (4) If a direction under subsection (3) above applies to a disposal any direction under subsection (2) above shall not apply to it.
- (5) An order may provide that material must not be treated as qualifying material unless prescribed conditions are met.
- (6) A condition may relate to any matter the Treasury think fit (such as the production of a document which includes a statement of the nature of the material).

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