



# Finance Act 2000

## 2000 CHAPTER 17

### PART III

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

### CHAPTER II

#### OTHER PROVISIONS

#### *Groups and group relief*

#### **97 Group relief for non-resident companies etc**

Schedule 27 to this Act has effect.

In that Schedule—

Part I makes amendments of Chapter IV of Part X of the Taxes Act 1988 (group relief), and

Part II contains consequential amendments.

#### **98 Recovery of tax payable by non-resident company**

(1) Schedule 28 to this Act has effect with respect to the recovery of unpaid corporation tax payable by a company not resident in the United Kingdom.

(2) The provisions of that Schedule have effect in relation to corporation tax for accounting periods ending on or after 1st April 2000.

#### **99 Joint arrangements for claims**

In paragraph 77 of Schedule 18 to the Finance Act 1998 (power to make provision by regulations about joint arrangements for group relief), in sub-paragraph (1)(a) (arrangements permitting claim for relief without copy of notice of consent to

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surrender), after “the surrendering company” insert “, provided authority for the claim being so made is given by a company which is authorised in relation to the claimant company as mentioned in paragraph (b)”.

## **100 Limit on amount of group relief in case of consortium claim**

- (1) For section 403C of the Taxes Act 1988 (special rules for consortium cases) substitute—

### **“403C Amount of relief in consortium cases**

- (1) In the case of a consortium claim the amount that may be set off against the total profits of the claimant company is limited by this section.
- (2) Where the claimant company is a member of the consortium, the amount that may be set off against the total profits of that company for the overlapping period is limited to the relevant fraction of the surrenderable amount.

That fraction is whichever is the lowest in that period of the following percentages—

- (a) the percentage of the ordinary share capital of the surrendering company that is beneficially owned by the claimant company;
- (b) the percentage to which the claimant company is beneficially entitled of any profits available for distribution to equity holders of the surrendering company; and
- (c) the percentage to which the claimant company would be beneficially entitled of any assets of the surrendering company available for distribution to its equity holders on a winding-up.

If any of those percentages have fluctuated in that period, the average percentage over the period shall be taken.

- (3) Where the surrendering company is a member of the consortium, the amount that may be set off against the total profits of the claimant company for the overlapping period is limited to the relevant fraction of the claimant company’s total profits for the overlapping period.

That fraction is whichever is the lowest in that period of the following percentages—

- (a) the percentage of the ordinary share capital of the claimant company that is beneficially owned by the surrendering company;
- (b) the percentage to which the surrendering company is beneficially entitled of any profits available for distribution to equity holders of the claimant company; and
- (c) the percentage to which the surrendering company would be beneficially entitled of any assets of the claimant company available for distribution to its equity holders on a winding-up.

If any of those percentages have fluctuated in that period, the average percentage over the period shall be taken.

- (4) In any case where the claimant or surrendering company is a subsidiary of a holding company which is owned by a consortium, for the references in

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subsection (2) or (3) above to the claimant or surrendering company there shall be substituted references to the holding company.

(5) Expressions used in this section and in section 403A have the same meanings in this section as in that section.

(6) Schedule 18 has effect for supplementing this section.”.

(2) In section 406(6) of the Taxes Act 1988 (claims relating to losses etc. of consortium company or group member), for “accounting period in respect of which the member’s share in the consortium” substitute “overlapping period in respect of which the relevant fraction”.

(3) The following provisions shall cease to have effect—

- (a) in section 402(4) of the Taxes Act 1988, the words from “if the share in the consortium” to “is nil or”; and
- (b) in section 413 of that Act, subsections (8) and (9).

(4) In Schedule 18 to the Taxes Act 1988—

- (a) in paragraphs 1(1), 2(1), 3(1), 4(3) and (4), 5A(3) and (4), 5C(3) and (4), 5D(3) and (4), 5E(3) and (4) and 6, for “section 413(7) to (9)” substitute “sections 403C and 413(7)”; and
- (b) in paragraph 7(1)(b), for “subsection (8) of that section” substitute “section 403C”.

(5) The amendments in this section shall be deemed always to have had effect.

## **101 Notional transfers within groups of companies**

(1) After section 171 of the Taxation of Chargeable Gains Act 1992 insert—

### **“171A Notional transfers within a group**

(1) This section applies where—

- (a) two companies (“A” and “B”) are members of a group of companies; and
- (b) A disposes of an asset to a person who is not a member of the group (“C”).

(2) Subject to subsections (3) and (4) below, A and B may, by notice in writing to an officer of the Board, jointly elect that, for the purposes of corporation tax on chargeable gains—

- (a) the asset, or any part of it, shall be deemed to have been transferred by A to B immediately before the disposal to C;
- (b) section 171(1) shall be deemed to have applied to that transfer; and
- (c) the disposal of the asset or part to C shall be deemed to have been made by B.

(3) No election may be made under subsection (2) above unless section 171(1) would have applied to an actual transfer of the asset or part from A to B.

(4) An election under that subsection must be made before the second anniversary of the end of the accounting period of A in which the disposal to C was made.

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- (5) Any payment by A to B, or by B to A, in pursuance of an agreement between them in connection with the election—
- (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and
  - (b) shall not for any purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income,
- provided it does not exceed the amount of the chargeable gain or allowable loss that is treated, as a result of the disposal, as accruing to B.”.
- (2) This section has effect in relation to disposals made on or after 1st April 2000.

## **102 Chargeable gains: non-resident companies and groups etc**

Schedule 29 to this Act has effect.

In that Schedule—

Part I makes provision with respect to the application of the Taxation of Chargeable Gains Act 1992 to companies not resident in the United Kingdom and groups of companies etc,

Part II contains minor and consequential amendments, and

Part III contains transitional provisions.