



Finance Act 2006

2006 CHAPTER 25

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 8

AVOIDANCE: MISCELLANEOUS

International matters

78 Controlled foreign companies and treaty non-resident companies

- (1) Section 90 of FA 2002 (controlled foreign companies and treaty non-resident companies) is amended as follows.
- (2) In subsection (2) (application of subsection (1), which inserted section 747(1B) of ICTA (disregard of section 249 of FA 1994 for most purposes of Chapter 4 of Part 17 of ICTA (controlled foreign companies))), for paragraph (b) (exclusion for companies which were non-resident immediately before 1st April 2002) substitute—
 - “(b) does not apply to a company (“the non-resident company”) that—
 - (i) by virtue of section 249 of the Finance Act 1994 was treated as resident outside the United Kingdom, and not resident in the United Kingdom, immediately before that date, and
 - (ii) has not subsequently ceased to be so treated,unless condition A or B is met in relation to the non-resident company at any time on or after 22nd March 2006.”.
- (3) After that subsection insert—
 - “(3) Condition A is met in relation to the non-resident company at any time on or after 22nd March 2006 if—

Changes to legislation: *There are currently no known outstanding effects for the Finance Act 2006, Section 78. (See end of Document for details)*

- (a) immediately before 22nd March 2006 the non-resident company does not own directly or indirectly any company as a subsidiary company, and
 - (b) at any time on or after that date the non-resident company becomes the direct or indirect owner of a UK resident company as a subsidiary company.
- (4) Condition B is met in relation to the non-resident company at any time on or after 22nd March 2006 if—
 - (a) immediately before 22nd March 2006 the non-resident company owns directly or indirectly any company as a subsidiary company (which may be a UK resident company),
 - (b) at any time (“the relevant time”) on or after that date the non-resident company becomes the direct or indirect owner of any UK resident company as a subsidiary company (or, as the case may be, another UK resident company), and
 - (c) directly or indirectly in consequence of, or otherwise in connection with, the ownership mentioned in paragraph (b) there is a qualifying change in activities.
- (5) There is a qualifying change in activities if, at the relevant time or any subsequent time,—
 - (a) there is a major change in the nature, conduct or scale of the non-resident company's activities, or
 - (b) there is a major change in the nature, conduct or scale of the activities of the group of companies of which the non-resident company is a member.
- (6) In this section references to directly or indirectly owning a company are references to owning it—
 - (a) directly or through another company or companies, or
 - (b) partly directly and partly through another company or companies.
- (7) In this section references to ownership are to be read as references to beneficial ownership.
- (8) In this section “UK resident company”, in relation to any time, means any company which is resident in the United Kingdom at that time.”

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2006, Section 78.