

2007 No. 3506

INCOME TAX

CORPORATION TAX

CAPITAL GAINS TAX

The Income Tax Act 2007 (Amendment) (No. 3) Order 2007

<i>Made</i>	- - - -	<i>12th December 2007</i>
<i>Laid before the House of Commons</i>		<i>13th December 2007</i>
<i>Coming into force</i>	- -	<i>3rd January 2008</i>

The Treasury make the following Order in exercise of the powers conferred by sections 1028 and 1029 of the Income Tax Act 2007(a).

Citation, commencement and effect

1.—(1) This Order may be cited as the Income Tax Act 2007 (Amendment) (No. 3) Order 2007 and shall come into force on 3rd January 2008.

(2) This Order has effect—

- (a) for income tax and capital gains tax purposes, for the tax year 2007-08 and subsequent tax years, and
- (b) for corporation tax purposes, for accounting periods ending after 5th April 2007.

Amendments to the Income and Corporation Taxes Act 1988

2.—(1) The Income and Corporation Taxes Act 1988(b) is amended as follows.

(2) In section 217 (information)—

(a) in subsection (2)—

- (i) for “or make by virtue of section 214(1)(b) or 216(2) or (3) in respect of any payment or transfer,” substitute—

“or make—

- (a) by virtue of section 216(2) or (3), in respect of any payment or transfer, or
- (b) by virtue of any of sections 949(2), 950(2) and 963(2) of ITA 2007, in respect of a payment to which section 928 of that Act (chargeable payments connected with exempt distributions) applies;” and

- (ii) after “section 214” insert “of this Act or section 928 of ITA 2007 or Chapter 15 (collection: deposit-takers, building societies and certain companies) or Chapter 16 (collection: certain payments by other persons) of Part 15 of that Act”; and
 - (b) in subsection (3) for “of section 214” substitute “mentioned in subsection (2)”.
- (3) In Schedule 23A (manufactured dividends and interest)(a)—
- (a) in paragraph 4(4)(a) after “under section 922(2) of ITA 2007” insert “or (as the case may be) accounted for and paid under section 923 of that Act”, and
 - (b) in paragraph 4(4)(b) after “so deducted” insert “or so accounted for and paid”.
- (4) In Schedule 28AA (provision not at arm’s length), in paragraph 6E(b) after “ITTOIA 2005” insert “and shall not be subject to the provisions of Part 15 of ITA 2007 (deduction of income tax at source)”.

Amendments to the Income Tax Act 2007

3.—(1) The Income Tax Act 2007 is amended as follows.

(2) In section 396 (loan to buy interest in employee-controlled company), in subsection (2) for paragraph (a) substitute—

- “(a) acquiring part of the ordinary share capital of a company that first becomes an employee-controlled company—
 - (i) after the date of acquisition, or
 - (ii) not earlier than 12 months before that date, and”.

(3) In section 540 (charitable trusts: the non-exempt amount), in subsection (3)(b) for “section 261” substitute “section 256(1)”.

(4) In section 816 (meaning of “disregarded company income”)—

(a) in subsection (1) for paragraphs (c) and (d) substitute—

- “(c) income arising from a transaction carried out through a broker in the United Kingdom acting as an agent of independent status in the ordinary course of the broker’s business,
- (d) income arising from a transaction carried out through an investment manager in the United Kingdom acting as an agent of independent status in the ordinary course of the investment manager’s business, or”;

(b) for subsection (2) substitute—

“(2) A broker is regarded for the purposes of subsection (1)(c) as an agent of independent status acting in the ordinary course of the broker’s business in relation to a transaction carried out on behalf of a non-UK resident company in the course of that company’s trade if, and only if, the independent broker conditions are met in relation to the transaction (see section 817).

(3) An investment manager is regarded for the purposes of subsection (1)(d) as an agent of independent status acting in the ordinary course of the investment manager’s business in relation to an investment transaction carried out on behalf of a non-UK resident company in the course of that company’s trade if, and only if, the independent investment manager conditions are met in relation to the investment transaction (see sections 818 to 824).

(4) This section needs to be read with—

section 827 (meaning of “investment manager” and “investment transaction”), and section 828 (transactions through brokers and investment managers).”.

(a) Schedule 23A was inserted by paragraph 1 of Schedule 13 to the Finance Act 1991 (c. 31); paragraph 4(4) of that Schedule was amended by paragraph 238(5) of Schedule 1 to the Income Tax Act 2007.

(b) Schedule 28AA was inserted by Schedule 16 to the Finance Act 1998 (c. 36); paragraph 6E of that Schedule was inserted by section 35(4) of the Finance Act 2004 (c. 12), and amended by paragraph 351(3) of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

(5) In paragraph 193 of Schedule 1 to ITA (minor and consequential amendments)(a), at the end insert—

“(5) This paragraph does not have effect in relation to section 796 as applied by section 277(1) of TCGA 1992 (application of double taxation relief provisions for capital gains purposes).”.

(6) In Schedule 3 (repeals and revocations) at the end of Part 1 (general) insert—

“*Note* The repeal of section 796(3) of ICTA does not have effect in relation to that section as applied by section 277(1) of TCGA 1992.”.

Dave Watts
Alan Campbell

12th December 2007

Two of the Lords Commissioners of Her Majesty's Treasury

(a) Paragraph 193 of Schedule 1 to the Income Tax Act 2007 makes amendments to section 796 of the Income and Corporation Taxes Act 1988; section 796(3) was omitted by paragraph 193(4) of Schedule 1 to the Income Tax Act 2007 and rewritten at section 29(2) of that Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order exercises powers conferred by the Income Tax Act 2007 to correct minor errors and make consequential amendments in the Income and Corporation Taxes Act 1988 (article 2) and the Income Tax Act 2007 itself (article 3).

Authority for the retrospective provision made by this Order is conferred by sections 1028(4) and 1029(4) of the Income Tax Act 2007.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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