



# Taxes Management Act 1970

## 1970 CHAPTER 9

### PART VIII

#### CHARGES ON NON-RESIDENTS

##### *Income tax*

#### **78 Method of charging non-residents**

Subject to section 89 of the principal Act (Schedule A etc.) a person not resident in the United Kingdom, whether a British subject or not, shall be assessable and chargeable to income tax in the name of any such trustee, guardian, tutor, curator or committee as is mentioned in section 72 of this Act, or of any branch or agent, whether the branch or agent has the receipt of the profits or gains or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in the United Kingdom and in the actual receipt of such profits or gains.

#### **79 Profits from branch or agency**

A non-resident person shall be assessable and chargeable to income tax in respect of any profits or gains arising, whether directly or indirectly, through or from any branch or agency, and shall be so assessable and chargeable in the name of the branch or agent.

#### **80 Charge on percentage of turnover**

- (1) Where it appears to the inspector or, on appeal, to the General or Special Commissioners, that the true amount of the profits or gains of any non-resident person chargeable with income tax in the name of a resident person cannot in any case be readily ascertained, the inspector or Commissioners may, if he or they think fit, assess and charge the non-resident person on a percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and the inspector may by notice require the resident person

to deliver a return of the business so done by the non-resident person through or with the resident person.

- (2) The amount of percentage under subsection (1) of this section shall in each case be determined, having regard to the nature of the business, by the inspector or Commissioners.
- (3) If either the resident person or the non-resident person is dissatisfied with the percentage as confirmed or determined by the General or Special Commissioners on appeal, he may within four months of the determination, require the Commissioners to refer the question of the percentage to a referee or board of referees to be appointed for the purpose by the Treasury and the decision of the referee or board shall be final and conclusive.

## **81 Taxation on basis of merchanting profit**

Where a non-resident person is chargeable to income tax in the name of any branch or agent in respect of any profits or gains arising from the sale of goods or produce manufactured or produced out of the United Kingdom by the non-resident person, the person in whose name the non-resident person is so chargeable may, by notice included in a return of income delivered within six years from the end of the year of assessment for which he is chargeable, elect to be assessed in respect of those profits or gains on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct.

## **82 Savings**

- (1) Nothing in this Part of this Act shall render a non-resident person chargeable in the name of a broker or in the name of an agent not being an authorised person carrying on the regular agency of the non-resident person, in respect of profits or gains arising from sales or transactions carried out through such a broker or agent:

Provided that where sales or transactions are carried out on behalf of a non-resident person through a broker in the ordinary course of his business as such and the broker—

- (a) is a person carrying on bona fide the business of a broker in the United Kingdom, and
- (b) receives in respect of the business of the non-resident person which is transacted through him remuneration at a rate not less than that customary in the class of business in question,

then, notwithstanding that the broker is a person who acts regularly for the non-resident person as such broker, the non-resident person shall not be chargeable in the name of that broker in respect of profits or gains arising from those sales or transactions.

In this subsection, " broker " includes a general commission agent.

- (2) The fact that a non-resident person executes sales or carries out transactions with other non-residents which would make him chargeable in pursuance of this Part of this Act in the name of a resident person shall not of itself make him chargeable in respect of profits arising from those sales or transactions.

**83 Responsibilities and indemnification of persons in whose name a non-resident person is chargeable**

- (1) A person in whose name a non-resident person is chargeable shall be answerable for all matters required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax.
- (2) A person who has been charged under the Income Tax Acts in respect of any non-resident person as aforesaid may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts.

*Capital gains tax*

**84 Gains from branch or agency**

- (1) A non-resident person shall be assessable and chargeable to capital gains tax in respect of any chargeable gains arising, whether directly or indirectly, through or from any branch or agency, and shall be so assessable and chargeable in the name of the branch or agent.
- (2) The person in whose name the non-resident person is chargeable shall be answerable for all matters required to be done under the enactments relating to capital gains tax for the purpose of assessment and payment of that tax.
- (3) A person who has been charged under this section in respect of any non-resident person may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the enactments relating to capital gains tax.

*Corporation tax*

**85 Application of Part VIII to corporation tax**

The provisions of this Part of this Act relating to income tax, so far as they are applicable to tax chargeable on a company, shall apply with any necessary adaptations in relation to corporation tax chargeable on companies not resident in the United Kingdom.