



Ports Act 1991

1991 CHAPTER 52

PART I

TRANSFER OF STATUTORY PORT UNDERTAKINGS

Levy on disposals of land, etc.

17 Levy on disposals of land, etc.

(1) Where property, rights, liabilities and functions of a relevant port authority are transferred under section 2 above to a company (“the chargeable company”), a levy under this section shall be chargeable in respect of any gain accruing to the company on a chargeable disposal of—

- (a) relevant land; or
- (b) a relevant interest in land;

made within the period of ten years beginning with the date on which the company ceases to be a wholly-owned subsidiary of the body which immediately before the transfer was the relevant port authority in question (“the levy period”).

(2) For the purposes of subsection (1) above—

- (a) land is relevant land if—
 - (i) it is transferred by the transfer; or
 - (ii) it belongs both immediately before and immediately after the transfer to a transferred 51 per cent. subsidiary; and
- (b) an interest in land is a relevant interest if—
 - (i) it is transferred by the transfer;
 - (ii) it belongs both immediately before and immediately after the transfer to a transferred 51 per cent. subsidiary; or
 - (iii) it is an interest of any specified description in land which is relevant land or in land in which a relevant interest within sub-paragraph (i) or (ii) above subsists at the time of the transfer.

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- (3) The levy shall be charged—
- (a) at the rate of twenty-five per cent. on the amount of the gain, in the case of a disposal made within the first five years of the levy period;
 - (b) at the rate of twenty per cent. on the amount of the gain, in the case of a disposal made within the sixth or seventh year of that period; and
 - (c) at the rate of ten per cent. on the amount of the gain, in the case of a disposal made during the remainder of that period.
- (4) The levy shall be paid by the chargeable company to the appropriate Minister.
- (5) There is a disposal of land or an interest in land for the purposes of this section and section 18 below if there would be such a disposal for the purposes of the [F¹1992] Act.
- (6) In addition, there is such a disposal for the purposes of this section in any case where—
- (a) there would be such a disposal for the purposes of the [F¹1992] Act by virtue of section [F²178(3) or (5) or 179(3) or (6) of the 1992 Act] (deemed disposal of assets by company leaving a group) if the relevant six-year limit were disregarded; and
 - (b) the operative time falls within the levy period.
- (7) For the purposes of subsection (6) above—
- [F³(a) “the relevant six-year limit” means in relation to section 178(3) or 179(3) the six year period mentioned in section 178(1) or 179(1) and in relation to section 178(5) or 179(6) the six year period mentioned in 178(5)(a) or 179(6) (a); and]
 - (b) “the operative time” means—
 - (i) in relation to section [F⁴178(3) or 179(3)], the time when the company in question ceases for the purposes of that section to be a member of the group referred to in subsection (1) of that section; and
 - (ii) in relation to section [F⁴178(5) or 179(6)], the time when the company in question ceases to satisfy the conditions specified in [F⁴section 178(6) or 179(7)].
- (8) The Secretary of State may by order make provision—
- (a) for determining when and by whom any disposal of land or an interest in land is to be regarded for the purposes of this section as being made;
 - (b) specifying the descriptions of disposal which are to be chargeable disposals for the purposes of this section;
 - (c) for determining in what circumstances a gain is to be regarded for the purposes of this section as accruing to the chargeable company on such a disposal and the amount of any gain so accruing; and
 - (d) for the administration, assessment, collection and recovery of levy under this section;
- and the order may contain such supplementary, incidental or consequential provisions as appear to the Secretary of State to be appropriate.
- (9) Without prejudice to the generality of subsection (8) above, the provision authorised by that subsection includes in particular provision—
- (a) for treating a disposal of land or an interest in land as being made at any specified time notwithstanding that it is not the time at which the disposal takes place, or is to be regarded as taking place, for the purposes of the [F¹1992] Act (including that Act as it applies by virtue of subsection (6) above);

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- (b) for treating a gain as accruing to the chargeable company in specified circumstances on a disposal of land or an interest in land notwithstanding that no actual benefit accrues to that company on the disposal (including in particular circumstances where the disposal is made by a person other than that company);
 - (c) for treating a disposal made in specified circumstances as having been made for consideration of any specified description;
 - (d) with respect to the principles, assumptions and methods to be applied in making any valuation of land or an interest in land for the purpose of determining the amount of any gain accruing on a disposal;
 - (e) with respect to the payment of interest at such rate as may be specified, or as may be determined by or under the order, in respect of any amount of levy not paid within the period during which it is payable in accordance with the order;
 - (f) imposing penalties (including continuing penalties) in respect of contraventions of provisions of any order under this section; and
 - (g) applying for any purposes of the order any statutory provisions relating to corporation tax on chargeable gains with such modifications as may be specified.
- (10) The provision referred to in subsection (9)(a) above includes provision for treating a disposal as being made at a time falling within the levy period notwithstanding that for the purposes there mentioned it takes place, or is to be regarded as taking place, before the beginning of that period.
- (11) An order under this section may make different provision for different cases to which it applies (and in particular for different descriptions of disposals).
- (12) In this section—
- (a) “specified” means specified in an order under this section; and
 - (b) “transferred 51 per cent. subsidiary” means, in relation to a transfer under section 2 above, a company which—
 - (i) immediately before the transfer is an effective 51 per cent. subsidiary of the relevant port authority in question; and
 - (ii) by virtue of the transfer becomes such a subsidiary of the chargeable company.
- (13) In subsection (12)(b) above “effective 51 per cent. subsidiary” has the meaning that it would have for the purposes of sections [F5 170 to 181 of the 1992 Act] by virtue of subsections [F5(7) and (8) of section 170] if the word “ or ” were substituted for the word “and” between paragraphs (a) and (b) of subsection [F5(7)] (by virtue of which, for a company to be an effective 51 per cent. subsidiary of another company, that other company must meet conditions both as to entitlement to profits and as to entitlement to assets on a winding up).

Textual Amendments

- F1** Words in s. 17 substituted (6.3.1992 with effect as mentioned in s. 289 of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch. 10 para. 24\(2\)\(a\)](#) (with ss. 60, 201(3), Sch. 11 paras. 22, 26(2), 27).
- F2** Words in s. 17(6) substituted (6.3.1992 with effect as mentioned in s. 289 of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch. 10 para. 24\(2\)\(b\)](#) (with ss. 60, 201(3), Sch. 11 paras. 22, 26(2), 27).

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- F3** S. 17(7)(a) substituted (6.3.1992 with effect as mentioned in s. 289 of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch. 10 para. 24\(2\)\(c\)\(i\)](#) (with ss. 60, 201(3), Sch. 11 paras. 22, 26(2), 27).
- F4** Words in s. 17(7)(b) substituted (6.3.1992 with effect as mentioned in s. 289 of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch. 10 para. 24\(2\)\(c\)\(ii\)](#) (with ss. 60, 201(3), Sch. 11 paras. 22, 26(2), 27).
- F5** Words in s. 17(13) substituted (6.3.1992 with effect as mentioned in s. 289 of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch. 10 para. 24\(2\)\(d\)](#) (with ss. 60, 201(3), Sch. 11 paras. 22, 26(2), 27).

Modifications etc. (not altering text)

- C1** S. 17 modified (16.1.1992) by [S.I. 1992/58, art. 34](#).

Changes to legislation:

There are currently no known outstanding effects for the Ports Act 1991, Section 17.