



# 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—

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*Status: This is the original version (as it was originally enacted).*

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- (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.”

## **79 Transfer of assets abroad**

Schedule 7 (which makes amendments of, or relating to, Chapter 3 of Part 17 of ICTA (transfer of assets abroad)) has effect.