



Finance Act 2016

2016 CHAPTER 24

PART 3

INCOME TAX AND CORPORATION TAX

Transactions in UK land

76 Corporation tax: territorial scope etc

- (1) Section 5 of CTA 2009 (territorial scope of charge) is amended in accordance with subsections (2) to (4).
- (2) For subsection (2) substitute—
 - “(2) A non-UK resident company is within the charge to corporation tax only if—
 - (a) it carries on a trade of dealing in or developing UK land (see section 5B), or
 - (b) it carries on a trade in the United Kingdom (other than a trade of dealing in or developing UK land) through a permanent establishment in the United Kingdom.”
- (3) After subsection (2) insert—
 - “(2A) A non-UK resident company which carries on a trade of dealing in or developing UK land is chargeable to corporation tax on all its profits wherever arising that are profits of that trade.”
- (4) In subsection (4), after “(1)” insert “, (2A) ”.
- (5) After section 5 of CTA 2009 insert—

Changes to legislation: Finance Act 2016, Section 76 is up to date with all changes known to be in force on or before 09 June 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“5A Arrangements for avoiding tax

- (1) Subsection (3) applies if a company has entered into an arrangement the main purpose or one of the main purposes of which is to obtain a relevant tax advantage for the company.
- (2) In subsection (1) the reference to obtaining a relevant tax advantage includes obtaining a relevant tax advantage by virtue of any provisions of double taxation arrangements, but only in a case where the relevant tax advantage is contrary to the object and purpose of the provisions of the double taxation arrangements (and subsection (3) has effect accordingly, regardless of section 6(1) of TIOPA 2010).
- (3) The relevant tax advantage is to be counteracted by means of adjustments.
- (4) For this purpose adjustments may be made (whether by an officer of Revenue and Customs or by the company) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (5) In this section “relevant tax advantage” means a tax advantage in relation to corporation tax to which the company is chargeable (or would without the tax advantage be chargeable) by virtue of section 5(2A).
- (6) In this section—
 - “arrangement” (except in the phrase “double taxation arrangements”) includes any agreement, understanding, scheme, transaction or series of transactions, whether or not legally enforceable;
 - “double taxation arrangements” means arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom);
 - “tax advantage” has the meaning given by section 1139 of CTA 2010.

5B Trade of dealing in or developing UK land

- (1) A non-UK resident company's “trade of dealing in or developing UK land” consists of —
 - (a) any activities falling within subsection (2) which it carries on, and
 - (b) any activities from which profits, gains or losses arise which are treated under Part 8ZB of CTA 2010 as profits or losses of the company's trade of dealing in or developing UK land.
- (2) The activities within this subsection are—
 - (a) dealing in UK land;
 - (b) developing UK land for the purpose of disposing of it.
- (3) In this section “land” includes—
 - (a) buildings and structures,
 - (b) any estate, interest or right in or over land, and
 - (c) land under the sea or otherwise covered by water.
- (4) In this section—

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“disposal” is to be interpreted in accordance with section 356OQ of CTA 2010;

“UK land” means land in the United Kingdom.”

(6) In section 3 of CTA 2009 (exclusion of charge to income tax), in subsection (1), for paragraph (b) substitute—

“(b) the company is not UK resident and—

(i) the income is profits of a trade of dealing in or developing UK land, or

(ii) the income is within its chargeable profits as defined by section 19.”

(7) In section 18A of CTA 2009 (exemption for profits or losses of foreign permanent establishments), after subsection (2) insert—

“(2A) But profits and losses are not to be left out of account as mentioned in subsection (2) so far as they are, or would if the company were non-UK resident be, profits of the company's trade of dealing in or developing UK land (as defined in section 5B).”

(8) In section 19 of CTA 2009 (chargeable profits)—

(a) in subsection (2) for “company's chargeable profits” substitute “ company's “chargeable profits” ”;

(b) after subsection (2) insert—

“(2A) But the company's “chargeable profits” do not include profits of a trade of dealing in or developing UK land (and accordingly such profits are not attributable to any permanent establishment of the company).”

(9) In section 189 of CTA 2009 (post-cessation receipts: extent of charge to tax), in subsection (4), at the end insert “ other than a company's trade of dealing in or developing UK land ”.

(10) In section 107 of CTA 2010 (restrictions on losses etc surrenderable by non-UK resident), in subsection (1), for the words from “non-UK resident” to the end substitute “non-UK resident company—

(a) carrying on a trade of dealing in or developing UK land, or

(b) carrying on a trade in the United Kingdom through a permanent establishment.”

(11) In section 1119 of CTA 2010 (definitions for purposes of Corporation Tax Acts), at the appropriate place insert—

““trade of dealing in or developing UK land”, in relation to a non-UK resident company, has the meaning given by section 5B of CTA 2009,”.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by 2017 c. 32 Sch. 14 para. 49(2)(c)
- Sch. 19 para. 12(5)(a) word inserted by 2017 c. 32 Sch. 14 para. 49(2)(b)
- Sch. 19 para. 51(8)(b) words inserted by 2017 c. 32 Sch. 14 para. 48(2)
- Sch. 19 para. 53(1) words inserted by 2017 c. 32 Sch. 14 para. 48(4)(a)
- Sch. 19 para. 53(1) words inserted by 2017 c. 32 Sch. 14 para. 48(4)(b)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by 2017 c. 32 Sch. 14 para. 49(2)(a)
- Sch. 19 para. 58(1) words substituted by 2017 c. 32 Sch. 14 para. 48(5)