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STATUTORY INSTRUMENTS

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**1994 No. 2809**

**The Ports (Northern Ireland) Order 1994**

*Levy on initial disposals of securities of successor companies*

**Levy on initial disposals of securities of successor companies**

**15.**—(1) A levy shall be chargeable on the disposal of securities of a company made in pursuance of any provision for such disposal made under Article 6(3) by a former relevant port authority.

(2) Levy shall be charged at the rate of 50 per cent. on the consideration given for the securities disposed of.

(3) There shall be allowed as a deduction from the amount on which levy would otherwise be chargeable any expenditure wholly and exclusively incurred for the purposes of the disposal by the former relevant port authority, being—

- (a) fees, commissions or remuneration paid for professional services;
- (b) costs incurred in pursuance of Article 22 in connection with any proposal for maximising participation by employees of the company whose securities are the subject of the disposal in ownership of its equity share capital (whether or not the disposal is made for the purposes of implementing any such proposal);
- (c) costs of transfer; or
- (d) costs of advertising.

(4) Where—

- (a) a scheme has been effected or arrangements have been made (whether before or after a disposal) whereby the value of securities disposed of has been materially reduced; and
- (b) the aim or one of the aims of the scheme or arrangements is decreasing liability to levy,

the amount on which levy would be chargeable apart from this paragraph shall be increased by such amount as appears to the Department to be appropriate.

(5) The Department, with the consent of the Department of Finance and Personnel, may by order substitute for the percentage for the time being specified in paragraph (2) such other percentage as may be specified in the order.

**Payment of levy**

**16.**—(1) Levy chargeable on a disposal shall be paid to the Department by the former relevant port authority by which the disposal was made.

(2) The amount of the levy shall be assessed by the Department which shall serve a notice of assessment on the former relevant port authority stating the date of issue of the notice of assessment and the effect of paragraph (3).

(3) The amount assessed shall be payable within the period of three months beginning with the day on which the disposal was made or within the period of 30 days beginning with the date of issue of the notice of assessment, if that period ends later.

(4) A person who is liable to make a payment of levy but does not make payment of the amount due during the period within which it is payable shall also pay to the Department interest on the unpaid levy at the rate applicable under paragraph (5) from the first day after the end of that period until payment of the levy is made; and the interest shall be paid without deduction of tax.

(5) The rate applicable under this paragraph shall be—

- (a) the rate from time to time prescribed under section 178 of the Finance Act 1989<sup>(1)</sup> for the purpose of any enactment (whether or not extending to Northern Ireland) specified in an order made under this paragraph by the Department of Finance and Personnel;
- (b) such other rate as may be so specified.

(6) A disposal made by a nominee of the former relevant port authority shall be regarded for the purposes of this Article as made by the authority.

### **Information for purposes of levy**

17.—(1) Where—

- (a) a former relevant port authority; or
- (b) a nominee of such an authority,

makes a disposal of securities on which levy is chargeable, the authority shall give to the Department not later than 30 days after the day on which the disposal is made, written notification that the disposal has been made.

(2) The Department may by notice in writing require—

- (a) a former relevant port authority;
- (b) any nominee of such an authority which has made a disposal of securities on which levy is chargeable;
- (c) a person to whom such a disposal has been made; or
- (d) a company whose securities have been the subject of such a disposal;

to deliver to the Department documents, or to furnish to it particulars, to which paragraph (3) applies within such time, not less than 30 days after the date of the notice, as may be specified in the notice.

(3) This paragraph applies to—

- (a) documents specified or described in the notice under paragraph (2) which are in the possession or power of the person to whom the notice is given and which (in the opinion of the Department) contain, or may contain, information relevant to a liability to levy or to the amount of such a liability; and
- (b) particulars specified or described in the notice which the Department may reasonably require as being relevant to, or to the amount of, such a liability.

(4) Where a former relevant port authority fails to give a notification in accordance with paragraph (1), or such an authority or any other person fails to comply with a notice under paragraph (2), the authority or that other person shall be liable—

- (a) to a penalty not exceeding £300; and
- (b) if the failure continues after a penalty is imposed under sub-paragraph (a), to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under sub-paragraph (a) was imposed (but excluding any day for which a penalty under this sub-paragraph has already been imposed).

(5) Where a person fraudulently or negligently furnishes any incorrect particulars in response to a notice under paragraph (2) he shall be liable to a penalty not exceeding £3,000.

(6) Proceedings for a penalty under this Article shall be instituted by the Department before the High Court and any penalty imposed by the court shall be paid to the Department.

(7) Proceedings within paragraph (6) may not be instituted later than six years after the date on which the penalty was incurred or began to be incurred.

(8) Any proceedings within paragraph (6) shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947(2).

### **Supplementary and consequential provisions relating to levy**

**18.**—(1) In Articles 15 to 17 and this Article “levy” means levy under Article 15(1).

(2) For the purposes of those Articles and this Article a disposal of rights to require the issue of securities of a company shall be treated as a disposal of the securities.

(3) A payment of levy by a former relevant port authority shall be allowable as a deduction from the consideration in the computation under the 1992 Act of the gain accruing to the authority on a disposal of securities on which levy is chargeable; but, subject to that, no payment of levy, interest on unpaid levy or penalty under Article 17 shall be allowed as a deduction in computing any income, profits or losses for any tax purposes.

(4) Section 17(1) of that Act (disposals and acquisitions treated as made at market value) shall not apply to a disposal of securities of a company on which levy is chargeable.