



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVII

TAX AVOIDANCE

CHAPTER IV

CONTROLLED FOREIGN COMPANIES

753 Notices and appeals

- (1) Where the Board have given a direction under section 747(1) with respect to an accounting period of a controlled foreign company, notice of the making of the direction shall be given to every company resident in the United Kingdom which appears to the Board to have had an interest in the controlled foreign company at any time during that period.
- (2) A notice under subsection (1) above shall—
 - (a) specify the date on which the direction was made and the controlled foreign company to which it relates;
 - (b) specify the accounting period to which the direction relates and the amount of the chargeable profits and creditable tax computed for that period;
 - (c) specify the reliefs (if any) which it has been assumed that the company has claimed by virtue of paragraph 4(1) of Schedule 24;
 - (d) specify, in a case where paragraph (d) of subsection (2) of section 749 applies, the territory which, by virtue of that paragraph, was specified in the direction and, in any other case, specify the territory (if any) in which, by virtue of that section, the Board consider that the company is to be regarded as resident for the purposes of this Chapter;
 - (e) inform the recipient of the notice of the right of appeal conferred on him by subsection (4) below and of the right to give notice under paragraph 4(2) of Schedule 24; and

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- (f) specify any declaration with respect to the accounting period concerned which was made prior to or at the same time as the notice by virtue of paragraph 11(3) of Schedule 24 or paragraph 3(2) of Schedule 25;
- and, in the case of a notice given after the direction concerned has been amended by virtue of section 751(5), the notice shall specify the date of the amendment and (so far as paragraphs (b) and (c) above are concerned) shall relate to the position resulting from the amendment.
- (3) Where, by virtue of section 751(5), the Board have amended a direction so as to specify a revised accounting period, notice of the making of the amendment shall be given to every company which was previously given notice of the making of the direction; and a notice under this subsection—
- (a) shall identify the direction which is amended and state the effect of the amendment, including the extent to which the matters specified in the notice of the making of the direction are superseded; and
 - (b) shall contain the provisions required, by virtue of paragraphs (b) to (f) of subsection (2) above, to be included in a notice under subsection (1) above.
- (4) Any company to which notice is given under subsection (1) or subsection (3) above may, by giving notice of appeal to the Board within 60 days of the date of the notice given to the company, appeal to the Special Commissioners against that notice on all or any of the following grounds—
- (a) that the direction should not have been given or, where the direction has been amended, that the amendment should not have been made;
 - (b) that the amount of chargeable profits or creditable tax specified in the notice is incorrect;
 - (c) that the company did not have an interest in the controlled foreign company concerned at any time during the accounting period in question;
 - (d) that, if the notice specifies a declaration made by virtue of sub-paragraph (3) of paragraph 11 of Schedule 24, the condition for the making of that declaration in sub-paragraph (5) of that paragraph was not fulfilled; and
 - (e) that, if the notice specifies a declaration made by virtue of paragraph 3(2) of Schedule 25, the condition for the making of that declaration was not fulfilled;
- and the notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Special Commissioners may allow the appellant to put forward any ground not specified in the notice and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (5) If, after the time at which notice is given under subsection (1) above with respect to an accounting period of a controlled foreign company, the Board make a declaration by virtue of—
- (a) paragraph 11(3) of Schedule 24; or
 - (b) paragraph 3(2) of Schedule 25,
- then, unless the effect of the declaration is such that a notice (which, among other matters, will specify the declaration) will be required to be given under subsection (3) above, the Board shall give notice specifying the declaration to every company which was previously given notice of the making of the direction; and subsection (4) above shall apply in relation to a notice under this subsection as it applies in relation to a notice under subsection (3) above but with the omission of paragraphs (a) to (c).
- (6) If it appears to the inspector that the amount of the chargeable profits or creditable tax specified in a notice under subsection (1) or subsection (3) above is incorrect, he

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shall give notice of the revised amount to every company to which notice was given under subsection (1) or subsection (3) above and, except where the revised amount results from—

- (a) an appeal under this section, or
- (b) a notice given to the Board under paragraph 4(2) of Schedule 24 or by virtue of paragraph 12 of that Schedule,

any company to which notice is given under this subsection may, by giving notice of appeal to the Board within 60 days of the date of the notice given to the company, appeal to the Special Commissioners against the revised amount specified in the notice.

- (7) The jurisdiction of the Special Commissioners on an appeal under this section shall include jurisdiction to review any decision of the Board or the inspector which is relevant to a ground of the appeal.
- (8) The Board may make regulations—
 - (a) as respects the conduct of appeals under this section;
 - (b) entitling any person who has received, or is connected or associated with a person who has received, a notice under subsection (1) above with respect to a particular accounting period of a controlled foreign company to appear on an appeal brought by another person who has received such a notice; and
 - (c) with respect to the joinder of appeals brought by different persons with respect to the same direction or the same amount of chargeable profits or creditable tax.