



Finance Act 1995

1995 CHAPTER 4

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Taxation of income from land

40 Non-residents and their representatives

(1) The following section shall be inserted after section 42 of the Taxes Act 1988—

“42A Non-residents and their representatives

- (1) The Board may by regulations make provision for the charging, assessment, collection and recovery on or from prescribed persons falling within subsection (2) below of prescribed amounts in respect of the tax which is or may become chargeable under Schedule A on the income of any person who has his usual place of abode outside the United Kingdom (“the non-resident”).
- (2) A person falls within this subsection if he is—
 - (a) a person by whom any such sums are payable to the non-resident as fall, or would fall, to be treated as receipts of a Schedule A business carried on by the non-resident; or
 - (b) a person who acts on behalf of the non-resident in connection with the management or administration of any such business.
- (3) A person on whom any obligation to make payments to the Board is imposed by regulations under this section shall be entitled—
 - (a) to be indemnified by the non-resident for all such payments; and
 - (b) to retain, out of any sums otherwise due from him to the non-resident, or received by him on behalf of the non-resident, amounts sufficient for meeting any liabilities under the regulations to make payments to

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the Board which have been discharged by that person or to which he is subject.

- (4) Without prejudice to the generality of the preceding provisions of this section, regulations under this section may include any or all of the following provisions, that is to say—
- (a) provision for the amount of any payment to be made to the Board in respect of the tax on any income to be calculated by reference to such factors as may be prescribed;
 - (b) provision for the determination in accordance with any such regulations of the period for which, the circumstances in which and the times at which any payments are to be made to the Board;
 - (c) provision for requiring the payment of interest on amounts which are not paid to the Board at the times required under any such regulations;
 - (d) provision as to the certificates to be given in prescribed circumstances to the non-resident by a person falling within subsection (2) above, and as to the particulars to be included in any such certificate;
 - (e) provision for the making of repayments of tax to the non-resident and for such repayments to be made in prescribed cases to persons falling within subsection (2) above;
 - (f) provision for the payment of interest by the Board on sums repaid under any such regulations;
 - (g) provision for the rights and obligations arising under any such regulations to depend on the giving of such notices and the making of such claims and determinations as may be prescribed;
 - (h) provision for the making and determination of applications for requirements of any such regulations not to apply in certain cases, and for the variation or revocation, in prescribed cases, of the determinations made on such applications;
 - (i) provision for appeals with respect to questions arising under any such regulations;
 - (j) provision requiring prescribed persons falling within subsection (2) (b) above to register with the Board;
 - (k) provision requiring persons registered with the Board and other prescribed persons falling within subsection (2) above to make returns and supply prescribed information to the Board and to make available prescribed books, documents and other records for inspection on behalf of the Board;
 - (l) provision for the partnership, as such, to be treated as the person falling within subsection (2) above in a case where a liability to make any payment under the regulations arises from amounts payable or things done in the course of a business carried on by any persons in partnership;
 - (m) provision which, in relation to payments to be made by virtue of this section in respect of any tax or to any sums retained in respect of such payments, applies (with or without modifications) any enactment or subordinate legislation having effect apart from this section with respect to cases in which tax is or is treated as deducted from any income.

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- (5) Interest required to be paid by any regulations under this section shall be paid without deduction of tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.
- (6) Regulations under this section may—
- (a) make different provision for different cases; and
 - (b) contain such supplementary, incidental, consequential and transitional provision as appears to the Board to be appropriate;
- and the provision that may be made by virtue of paragraph (b) above may include provision which, in connection with any other provision made by any such regulations, modifies the operation in any case of section 59A of the Management Act or Schedule 21 to the Finance Act 1995 (payments on account of income tax).
- (7) In this section—
- “prescribed” means prescribed by, or determined by an officer of the Board in accordance with, regulations made by the Board under this section; and
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978.
- (8) This section shall have effect—
- (a) as if references in this section to a Schedule A business included references to any activities which would be comprised in a Schedule A business if they were carried on by an individual, rather than by a company; and
 - (b) in relation to companies that carry on such activities, as if the reference in subsection (1) above to tax which is or may become chargeable under Schedule A included a reference to tax which is or may become chargeable under Case VI of Schedule D.”
- (2) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions), after the entry in the first column relating to section 42 of the Taxes Act 1988 and after the entry in the second column relating to section 41(2) of the Taxes Act 1988, there shall, in each case, be inserted the following entry—
- “regulations under section 42A;”.
- (3) Section 43 of the Taxes Act 1988 (payments to non-residents of amounts chargeable under Schedule A) shall not have effect in relation to any payment made on or after 6th April 1996.