

*These notes refer to the Scotland Act 1998 (c.46)
which received Royal Assent on 19th November 1998*

SCOTLAND ACT 1998

EXPLANATORY NOTES

COMMENTARY

Part IV: the Tax Varying Power

SECTION 75: Scottish taxpayers

Details of Provisions

Subsection (1) provides that, for any tax year, a Scottish taxpayer is a person who is resident in the UK for income tax purposes where Scotland is the part of the UK with which that person has the closest connection during the year.

Subsection (2) defines “closest connection with Scotland”. There are three tests, only one of which need be satisfied. Broadly, a person is a Scottish taxpayer if:

subsection (3) of this section applies to him;

the number of days he spends in Scotland in the tax year equals or exceeds the number of days spent elsewhere in the UK (“day spent” is defined in subsection (4));

he is a Scottish MP, MEP or a member of the Scottish Parliament for the whole or any part of that year.

Subsection (3) sets out the circumstances in which that subsection will apply to an individual for a tax year. These are that the individual spends a part of that tax year in Scotland and, for at least part of that time, his principal UK home is located in Scotland and he makes use of that home as a place of residence. In addition, his principal UK home must be located in Scotland for at least as much of that year as the location of his principal UK home is not in Scotland.

Subsection (4) makes provision as to when a person spends a day in Scotland or spends a day elsewhere in the United Kingdom for the purposes of this section. In particular, a person spends a day in Scotland if, but only if, he is in Scotland at the end of that day. A person spends a day elsewhere in the United Kingdom if, but only if, he is in a part of the United Kingdom which is not Scotland at the end of that day and he does not spend that day in Scotland (i.e. he is not in Scotland at the end of that day).

Subsection (5) explains the circumstances in which a person’s principal UK home will be in Scotland. These are that a person has a place of residence in Scotland which is his only or main place of residence in the UK.

Subsection (6) confirms that a “place” may include a place on a vessel or other means of transport.