



# Finance Act 2016

## 2016 CHAPTER 24

### PART 3

#### INCOME TAX AND CORPORATION TAX

##### *Transactions in UK land*

#### **78 Income tax: territorial scope etc**

(1) In section 6 of ITTOIA 2005 (territorial scope of charge to tax)—

(a) after subsection (1) insert—

“(1A) Profits of a trade of dealing in or developing UK land arising to a non-UK resident are chargeable to tax under this Chapter wherever the trade is carried on.”;

(b) in subsection (2), after “Profits of a trade” insert “ other than a trade of dealing in or developing UK land ”.

(2) After section 6 of ITTOIA 2005 insert—

#### **“6A Arrangements for avoiding tax**

(1) Subsection (3) applies if a person 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 person.

(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 anything in section 6(1) of TIOPA 2010).

(3) The relevant tax advantage is to be counteracted by means of adjustments.

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*Changes to legislation: Finance Act 2016, Section 78 is up to date with all changes known to be in force on or before 15 August 2023. 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) View outstanding changes*

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- (4) For this purpose adjustments may be made (whether by an officer of Revenue and Customs or by the person) 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 income tax to which the person is chargeable (or would without the tax advantage be chargeable) by virtue of section 6(1A).
- (6) In this section “tax advantage” includes—
  - (a) a relief or increased relief from tax,
  - (b) repayment or increased repayment of tax,
  - (c) avoidance or reduction of a charge to tax or an assessment to tax,
  - (d) avoidance of a possible assessment to tax,
  - (e) deferral of a payment of tax or advancement of a repayment of tax, and
  - (f) avoidance of an obligation to deduct or account for tax.
- (7) 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).

## **6B Trade of dealing in or developing UK land**

- (1) A non-UK resident person's “trade of dealing in or developing UK land” consists of—
  - (a) any activities falling within subsection (2) which the person carries on, and
  - (b) any activities from which profits arise which are treated under Part 9A of ITA 2007 as profits of the person'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—
  - “disposal” is to be interpreted in accordance with section 517R of ITA 2007;
  - “UK land” means land in the United Kingdom.”
- (3) In section 3 of ITTOIA 2005 (overview of Part 2), in subsection (4) for “6(2)” substitute “ 6(1A), (2) ”.

**Changes to legislation:** Finance Act 2016, Section 78 is up to date with all changes known to be in force on or before 15 August 2023. 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) [View outstanding changes](#)

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- (4) In section 243 of ITTOIA 2005 (post-cessation receipts: extent of charge to tax), in subsection (4), at the end insert “ , other than a person's trade of dealing in or developing UK land ”.
- (5) In section 989 of ITA 2007 (definitions for purposes of Income Tax Acts), at the appropriate place insert—
  - ““trade of dealing in or developing UK land”, in relation to a non-UK resident person, has the meaning given by section 6B of ITTOIA 2005,”.

**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\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)