

New Clause 17: Commencement and transitional provision: sections *Income tax: transactions in UK land*, and *Income tax: territorial scope etc*

Summary

- This clause is part of new legislation that introduces a specific charge to tax on the profits of non-residents from a trade of dealing in or developing land in the UK.
- The clause inserts the commencement and transitional provisions which relate to the legislation in new clauses 13 and 14, together with an anti-avoidance rule that counteracts arrangements that aim to avoid the new rules.
- The new legislation has effect for disposals made on or after 5 July 2016. The anti-avoidance rule applies from 16 March 2016. Related changes are made by new clauses 11, 12, 13, 14, 15 and 16.

Details of the clause

1. Subsection (1) states that the amendments made by new clauses 13 and 14 apply to all disposals on or after 5 July 2016.
2. Subsection (3) provides that "arrangement" in new section 6A of ITTOIA 2005 does not include arrangements entered into before 16 March 2016.
3. Subsection (3) provides that "arrangement" in new section 517K of ITA 2007 does not include arrangements entered into before 16 March 2016.
4. Subsection (4) contains the conditions in which the anti-avoidance rules will apply. The rules apply if a person disposes of an asset to a related/ connected person, the disposal is made on or after 16 March 2016 and before 5 July 2016, a person obtains a relevant tax advantage as a result of the disposal and an officer of Revenue and Customs gives a notice specifying the tax advantage.
5. Subsection (5) provides that "obtaining a relevant tax advantage" also includes obtaining an advantage through exploiting a double taxation agreement, unless the advantage is intended by the terms of the treaty.
6. Subsection (6) provides that the tax advantage is to be counteracted by means of adjustments.
7. Subsection (7) sets out how the adjustments must be made. They can be made by assessment, modification of assessment, amendment or disallowance or otherwise.
8. Subsection (8) provides the definition of "relevant tax advantage" for the purposes of subsection (3)(c). It is a tax advantage in relation to the tax which would have been due by virtue of section 6(1A) of ITTOIA 2005 or Part 9A of ITA 2007.
9. Subsection (9) sets out that, for the purposes of the section, if disposals are made under a contract,

the time of the disposal is the time the contract is made, not the time the asset is transferred, if it is different.

10. Subsection (10) explains that "contract" includes conditional contracts.
11. Subsections (11) to (15) provide necessary definitions.

Background note

12. The UK's corporation tax system charges non-resident companies to corporation tax on their profits from a trade carried on through a permanent establishment in the UK, and only on the profits attributable to that permanent establishment. The equivalent rules for income tax operate on a broadly similar basis.
13. This change will bring non-resident developers of UK property fully into UK tax on their profits from dealing in or developing land in the UK. This will ensure a level playing field between UK developers and those based in offshore jurisdictions.