

New Clause 16: Commencement and transitional provision: sections *Corporation tax: territorial scope etc, Corporation tax: transactions in UK land, and Pre-trading expenses*

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 11, 12 and 15, together with an anti-avoidance rule that prevents 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 17.

Details of the clause

1. Subsection (1) states that the amendments made by new clauses 11, 12 and 15 apply to all disposals on or after 5 July 2016.
2. Subsection (2) provides that "arrangement" in section 5A(1) of CTA 2009, introduced by New Clause [1], does not include arrangements entered into before 16 March 2016
3. Subsection (3) provides that "arrangement" in section 356OK of CTA 2010, introduced by New Clause [2], 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 an associated person, the disposal is made on or after 16 March 2016 and before 5 July 2016, a company 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 chargeable by virtue of Section 5(2A) of CTA 2009 or Part 8ZB of CTA 2010.

9. Subsection (9) sets out that, for the purposes of this 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.