

Bill 5

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PART 1

BASIC PROVISIONS

CHAPTER 1

COMPANY RESIDENCE

1 Companies incorporated in the United Kingdom [j3000]

- (1) A company which is incorporated in the United Kingdom is treated as UK resident for the purposes of the Corporation Tax Acts.

[Origin: FA 1988 s.66\(1\).](#)

- (2) Accordingly, even if a different place of residence is given by a rule of law, the company is not treated as resident in that place for the purposes of the Corporation Tax Acts.

[Origin: FA 1988 s.66\(1\).](#)

2 Companies not incorporated in the United Kingdom [j3001]

- (1) This section applies to a company which is not incorporated in the United Kingdom.

[Origin: Drafting.](#)

- (2) If the company –
- (a) is no longer carrying on a business, and
 - (b) was treated as UK resident for the purposes of the Corporation Tax Acts immediately before it ceased to carry on business,
- the company is treated as continuing to be UK resident for the purposes of the Corporation Tax Acts.

[Origin: FA 1988 s.66\(2\).](#)

- (3) If the company –
- (a) is being wound up outside the United Kingdom, and
 - (b) was treated as UK resident for the purposes of the Corporation Tax Acts immediately before any of its activities came under the control of a foreign liquidator,
- the company is treated as continuing to be UK resident for the purposes of the Corporation Tax Acts.

[Origin: FA 1988 s.66\(2\).](#)

- (4) In subsection (3) “foreign liquidator” means a person exercising functions which, in the United Kingdom, would be exercisable by a liquidator.

Origin: FA 1988 s.66(2).

3 SEs which transfer registered office to the United Kingdom [j3002]

- (1) This section applies to an SE which transfers its registered office to the United Kingdom in accordance with Article 8 of Council Regulation (EC) No 2157/2001 on the Statute for a European company (Societas Europaea).

Origin: FA 1988 s.66A(1).

- (2) On registration in the United Kingdom the SE is treated as UK resident for the purposes of the Corporation Tax Acts.

Origin: FA 1988 s.66A(2).

- (3) Accordingly, even if a different place of residence is given by a rule of law, the SE is not treated as resident in that place for the purposes of the Corporation Tax Acts.

Origin: FA 1988 s.66A(2).

- (4) The SE does not cease to be treated as UK resident just because the SE later transfers its registered office from the United Kingdom.

Origin: FA 1988 s.66A(3).

4 Companies treated as non-UK resident under double taxation arrangements [j3003]

- (1) This section applies to a company which is treated as –
(a) resident in a territory outside the United Kingdom, and
(b) non-UK resident,
for the purposes of any double taxation arrangements.

Origin: FA 1994 s.249(1).

- (2) The company is treated in the same way for the purposes of the Corporation Tax Acts.

Origin: FA 1994 s.249(1).

- (3) Subsection (2) applies even if the company would otherwise be treated as UK resident for the purposes of the Corporation Tax Acts under section 1, 2 or 3 or another rule of law.

Origin: FA 1994 s.249(3).

- (4) To decide whether a company is treated as mentioned in subsection (1)(a) and (b) for the purposes of any double taxation arrangements, assume that –
(a) the company has made a claim for relief under the arrangements, and
(b) in consequence of the claim it falls to be decided whether the company is to be treated as mentioned in subsection (1)(a) and (b) for the purposes of the arrangements.

Origin: FA 1994 s.249(2).

SCHEDULES

SCHEDULE 1

Section [ref]

MINOR AND CONSEQUENTIAL AMENDMENTS [CONSEQUENTIALS(RES)]

PART 1

INCOME AND CORPORATION TAXES ACT 1988

- 1 The Income and Corporation Taxes Act 1988 is amended as follows.
- 2 In section 747(1B) (controlled foreign companies: company residence for purposes of Chapter), for “section 249 of the Finance Act 1994” substitute “section 4 of [Bill 5]”.

PART 2

OTHER ENACTMENTS

Taxes Management Act 1970 (c. 9)

- 3 The Taxes Management Act 1970 is amended as follows.
- 4 After section 109 insert –

“109A Residence of companies

Chapter [company residence] of Part [basic provisions] of [Bill 5] (rules for determining residence of companies) applies for the purposes of this Act as it applies for the purposes of the Corporation Tax Acts.”

Origin: FA 1988 s.66(1), (2), (3), s.66A(2), (4); FA 1994 s.249(1), (3), (4).

Taxation of Chargeable Gains Act 1992 (c. 12)

- 5 The Taxation of Chargeable Gains Act 1992 is amended as follows.
- 6 After section 286 insert –

“286A Residence of companies

Chapter [company residence] of Part [basic provisions] of [Bill 5] (rules for determining residence of companies) applies for the purposes of –

- (a) this Act (so far as relating to capital gains tax), and
- (b) any other enactment relating to capital gains tax,
as it applies for the purposes of the Corporation Tax Acts.”

Origin: FA 1988 s.66(1), (2), (3), s.66A(2), (4); FA 1994 s.249(1), (3), (4).

Income Tax Act 2007

- 7 The Income Tax Act 2007 is amended as follows.
- 8 (1) Amend section [835] (residence rules for trustees and companies) as follows.
- (2) Omit subsection (2).
- (3) In the sidenote omit “and companies”.
- 9 After section 835 insert –

“835A Residence of companies

Chapter [company residence] of Part [basic provisions] of [Bill 5] (rules for determining residence of companies) applies for the purposes of the Income Tax Acts as it applies for the purposes of the Corporation Tax Acts.”

Origin: FA 1988 s.66(1), (2), (3), s.66A(2), (4); FA 1994 s.249(1), (3), (4).

SCHEDULE 2

Section [ref]

TRANSITIONALS AND SAVINGS [SAVINGS(RES)]

PART 1

COMPANY RESIDENCE: EXCEPTIONS TO SECTION 1

- 1 (1) Subject to sub-paragraph (2), section 1 does not apply to a company if –
- (a) immediately before 15 March 1988 the company was non-UK resident, having ceased to be UK resident under a Treasury consent, and
- (b) immediately before the passing of this Act section 66(1) of FA 1988 did not apply to the company because of paragraph 1(1) of Schedule 7 to that Act (certain companies which ceased to be UK resident before 15 March 1988 in pursuance of a Treasury consent).

Origin: FA 1988 Sch.7 para.1(1).

- (2) If at any time a company falling within sub-paragraph (1) –
- (a) ceases to carry on business,
- (b) becomes UK resident, or
- (c) if the Treasury consent was a general consent, ceases to be taxable in a territory outside the United Kingdom,
- section 1 applies in relation to the company after that time.

Origin: FA 1988 Sch.7 para.1(2), (3).

- 2 (1) Subject to sub-paragraph (2), section 1 does not apply to a company if immediately before the passing of this Act section 66(1) of FA 1988 did not apply to the company because of paragraph 2(1) of Schedule 7 to that Act (certain companies which ceased to be UK resident on or after 15 March 1988 in pursuance of a Treasury consent).

Origin: FA 1988 Sch.7 para.2(1).

- (2) If at any time a company falling within sub-paragraph (1) –
- (a) ceases to carry on business, or
 - (b) becomes UK resident,
- section 1 applies in relation to the company after that time.

Origin: FA 1988 Sch.7 para.2(2), (3).

- 3 (1) In paragraph 1 –
- “general consent” means a consent under a section to which sub-paragraph (2) applies which is given generally within the meaning of subsection (4) of the section in question,
 - “taxable” means liable to tax on income by reason of domicile, residence or place of management,
 - “Treasury consent” means a consent under a section to which sub-paragraph (2) applies which is given for the purposes of subsection (1)(a) of the section in question.

Origin: FA 1988 Sch.7 para.5(1).

- (2) This sub-paragraph applies to the following sections (restrictions on the migration etc of companies) –
- section 765 of ICTA,
 - section 482 of ICTA 1970,
 - section 468 of ITA 1952, and
 - section 36 of FA 1951.

Origin: FA 1988 Sch.7 para.5(2).

Section [\[ref\]](#)

SCHEDULE 3

REPEALS AND REVOCATIONS

REPEALS (RES)

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Finance Act 1988 (c.39)	Sections 66 and 66A. Schedule 7.
Finance Act 1994 (c. 9)	Sections 249 and 250.
Finance (No.2) Act 2005 (c.22)	Section 60.
Income Tax Act 2007 (c.)	Section [835(2).]