

## CHAPTER 2 Provisions where companies cease to be resident in the State

Deemed disposal of assets. FA97 s42 627.—(1) (a) In this section and in section 628—

“designated area”, “exploration or exploitation activities” and “exploration or exploitation rights” have the same meanings respectively as in section 13;

“exploration or exploitation assets” means assets used or intended for use in connection with exploration or exploitation activities carried on in the State or in a designated area;

“market value” shall be construed in accordance with section 548;

“the new assets” and “the old assets” have the meanings respectively assigned to them by section 597.

(b) For the purposes of this section and section 628, a company shall not be regarded as ceasing to be resident in the State by reason only that it ceases to exist.

(2) (a) In this subsection—

“control” shall be construed in accordance with subsections (2) to (6) of section 432 as if in subsection (6) of that section for “5 or fewer participators” there were substituted “persons resident in a relevant territory”;

“excluded company” means a company of which not less than 90 per cent of its issued share capital is held by a foreign company or foreign companies, or by a person or persons directly or indirectly controlled by a foreign company or foreign companies;

“foreign company” means a company which—

(i) is not resident in the State,

(ii) is under the control of a person or persons resident in a relevant territory, and

(iii) is not under the control of a person or persons resident in the State;

“relevant territory” means—

(i) the United States of America, or

(ii) a territory with the government of which arrangements having the force of law by virtue of section 826 have been made.

(b) Subject to paragraph (c), this section and section 628 shall apply to a company (in this section

referred to as a “relevant company”) if at any time referred to as “the relevant time”) on or after the 21st day of April, 1997, the company ceases to be resident in the State.

(c) This section and section 628 shall not apply to a company which is an excluded company.

(3) A relevant company shall be deemed for the purposes of the Capital Gains Tax Acts—

(a) to have disposed of all its assets, other than assets excepted from this subsection by subsection (5), immediately before the relevant time, and

(b) to have immediately reacquired them,

at the market value of the assets at that time.

(4) Section 597 shall not apply where a relevant company—

(a) has disposed of the old assets, or of its interest in those assets, before the relevant time, and

(b) acquires the new assets, or its interest in those assets, after the relevant time,

unless the new assets are excepted from this subsection by subsection (5).

(5) Where at any time after the relevant time a relevant company carries on a trade in the State through a branch or agency—

(a) any assets which, immediately after the relevant time, are situated in the State and are used in or for the purposes of the trade, or are used or held for the purposes of the branch or agency, shall be excepted from subsection (3), and

(b) any new assets which, after that time, are so situated and are so used or so held shall be excepted from subsection (4),

and references in this subsection to assets situated in the State include references to exploration or exploitation assets and to exploration or exploitation rights.