



Finance Act 1963

1963 CHAPTER 25

PART II

INCOME TAX

CHAPTER II

ABOLITION OF CHARGE ON OWNER-OCCUPIERS, TAXATION OF RENTS AND CONNECTED PROVISIONS

Abolition of Schedule A tax, and taxation of rents, etc.

14 Abolition of charge on owner-occupiers

- (1) For the purpose of removing from the charge to income tax the occupier's beneficial interest in land in the United Kingdom.—
 - (a) Schedule A shall cease to have effect; and
 - (b) the provisions in that behalf of this Chapter shall have effect for charging under a new Case of Schedule D rents and certain other receipts from such land.
- (2) The foregoing subsection has effect, as respects the year 1963-64, subject to the transitional provisions hereinafter contained.

15 Charge to income tax of profits and gains arising from land

- (1) Without prejudice to any other provisions of the Income Tax Acts directing income tax to be charged under Schedule D, tax under that Schedule shall be charged, subject to and in accordance with the provisions of this Act, on the annual profits or gains arising in respect of any such rents or receipts as follow, that is to say—
 - (a) rents under leases of land in the United Kingdom;

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- (b) rentcharges, ground annuals and feu duties, and any other annual payments reserved in respect of, or charged on or issuing out of, such land;
- (c) other receipts arising to a person from, or by virtue of, his ownership of an estate or interest in or right over such land or any incorporeal hereditament or incorporeal heritable subject in the United Kingdom:

Provided that the said rents or receipts do not include yearly interest or any payment charged to tax under section 180 (mineral rents and royalties, etc.) of the Act of 1952.

- (2) Tax charged under Schedule D by virtue of this section shall be charged under a new Case VIII of that Schedule (hereinafter referred to as " Case VIII"), and shall be charged by reference to the rents or receipts to which a person becomes entitled in the year of assessment.
- (3) In computing for the purposes of Case VIII the profits or gains arising to a person in any year of assessment, such deductions shall be made from any rents or receipts to which he becomes entitled in the year as are provided for by Schedule 4 to this Act.
- (4) Notwithstanding anything in subsection (2) of this section, where rent is payable under a lease under which the tenant is entitled to the use of furniture, and tax in respect of the payment for its use is chargeable under Case VI of Schedule D, tax in respect of the rent shall be charged under Case VI of Schedule D unless the landlord, by notice in writing to the surveyor given within two years after the end of the year of assessment, requires that this provision shall not apply.

Where notice is given under this subsection any adjustment of the liability to tax of the person giving the notice which is required in consequence thereof may be made by an additional assessment or by repayment or otherwise, as the case may require.

16 Assessment and collection of tax under Case VIII

- (1) The profits or gains arising to a person for any year of assessment which are assessable to tax under Case VIII may either be assessed in one assessment—
 - (a) in a division in which they would be assessable apart from this subsection, or
 - (b) in a division in which are situated all or any of the premises from which profits or gains so assessable may arise to him for the year of assessment,
 or may be assessed in one or more separate assessments in any division in which there are such premises, or may be assessed partly in the one way and partly in the other.
- (2) Where an assessment to tax under Case VIII for any year of assessment is made in that year.—
 - (a) it shall be made on the basis that all sources of income and all amounts relevant in computing profits or gains are the same as for the last preceding year of assessment, and
 - (b) tax shall be leviable accordingly, but any necessary adjustments shall be made after the end of the year, whether by way of additional assessment, repayment of tax or otherwise, to secure that tax is charged by reference to the rents or receipts to which the person assessed becomes entitled in the year of assessment:

Provided that if before the 1st January in any year a person delivers a statement in writing to the surveyor—

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- (i) showing that since the beginning of the last preceding year of assessment he has ceased to possess one or more sources of income chargeable under Case VIII; and
 - (ii) giving the aggregate of the rents and receipts relevant for purposes of Case VIII to which he has become or is likely to become entitled in the current year; and
 - (iii) showing that that aggregate is less than the aggregate of such rents and receipts to which he became entitled in the last preceding year, and that it would not have been less if he had not ceased to possess the said source or sources,
- then, if the surveyor is satisfied as to the correctness of the declaration, an assessment made on that person in the current year shall be made on an amount which bears to the amount arrived at under paragraph (a) of this subsection the same proportion as the said aggregate for the current year bears to the said aggregate for the last preceding year, and paragraph (b) of this subsection shall apply accordingly.
- (3) Any additional assessment under Case VIII may be made and signed by the surveyor.
 - (4) Where any tax under Case VIII is charged in respect of profits or gains arising from any land to a person who is not the occupier of the land, but the tax is not paid by that person (in this subsection referred to as " the person in default "), it may be recovered in accordance with the following provisions:—
 - (a) subject to the following paragraph, the collector may from time to time by notice in writing, in such form as may be prescribed by the Commissioners of Inland Revenue, require any lessee of the land or any part thereof whose interest is derived (directly or indirectly) from that held by the person in default (in this subsection referred to as " a derivative lessee ") to make to him payment, on the date or dates specified in the notice, of such sum or sums as may be required to satisfy the tax;
 - (b) the sum demanded from a derivative lessee to be paid during any period shall not exceed the amount of the rent or other payments arising out of the land which becomes due from him at the end of the period and payable to the person in default or to another derivative lessee;
 - (c) in default of payment by a derivative lessee of any amount duly demanded of him under this subsection, that amount may be recovered from him in like manner as if he had been charged with tax of that amount;
 - (d) where any sum on account of tax has been collected from a derivative lessee in pursuance of this subsection, he may deduct that sum from any subsequent payment arising as aforesaid and payable to the person in default or to another derivative lessee, and shall be acquitted and discharged of the amount so deducted;
 - (e) where under the foregoing paragraph, or under that paragraph as applied by this paragraph, a sum is deducted from an amount payable to another derivative lessee, that paragraph shall apply as if the sum had been collected from him under a demand made under this subsection by the collector, and where the amounts from which under that paragraph he is entitled to make deductions in respect of that sum during the following twelve months are less than that sum, he shall be entitled to recover from the Commissioners of Inland Revenue an amount equal to the difference, which shall be treated as reducing the tax recovered under this subsection.
 - (5) Where any person (hereinafter referred to as " the agent") is in receipt of rents or receipts from land on behalf of another person (hereinafter referred to as " the

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principal"), and any tax under Case VIII charged on the principal has not been paid, the collector may by notice in writing, in such form as may be prescribed by the Commissioners of Inland Revenue, require the agent to pay to the collector in or towards the satisfaction of the tax any sums from time to time received by the agent on behalf of the principal on account of rents or receipts from any land (including any sums so received which are in his hands when the notice is given) until the liability in respect of the tax has been satisfied; and the agent shall pay all such sums over to the collector accordingly and the payment shall acquit and discharge him as against the person on whose behalf he received them.

If the agent fails to comply with the requirements of a notice duly served on him, he shall be liable to a penalty not exceeding fifty pounds for each failure, non-compliance as respects sums in his hands when the notice is given, or as respects any one payment subsequently received by him, being treated as a separate failure.

- (6) Section 369 of the Act of 1952 (taxation of non-residents in name of agent) shall not apply to tax on profits or gains chargeable to tax under Case VIII, or on any of the profits or gains chargeable under Case VI of Schedule D—
- (a) in a case falling within subsection (4) of the foregoing section, or
 - (b) which arise under the terms of a lease, but to a person other than the landlord, or otherwise arise out of any disposition or contract such that if they arose to the person making it they would be chargeable under Case VIII,

where payment is made (whether in the United Kingdom or elsewhere) directly to a person whose usual place of abode is outside the United Kingdom, but section 170 of the Act of 1952 shall apply in relation to the payment as it applies to other payments being annual payments charged with tax under Schedule D and not payable out of profits or gains brought into charge to tax.

- (7) Where by virtue of the foregoing subsection the tax chargeable for any year of assessment on a person's profits or gains chargeable to tax under either or both of the Cases therein mentioned would apart from this subsection be greater than the tax which would be chargeable thereon apart from subsection (2) of this section, then on a claim in that behalf being made relief shall be given from the excess, whether by repayment or otherwise.

17 Relief for rent, etc. not paid

- (1) Where on a claim in that behalf a person proves—
- (a) that he has not received an amount which he was entitled to receive in respect of any rents or receipts on the profits or gains arising from which he would be chargeable under Case VIII, and
 - (b) if the non-receipt of the said amount was attributable to the default of the person by whom it was payable, that the claimant has taken any reasonable steps available to him to enforce payment,
 - (c) if the claimant waived payment of the said amount, that the waiver was made without consideration and was reasonably made in order to avoid hardship,

the claimant shall be treated for tax purposes for all relevant years of assessment as if he had not been entitled to the said amount, and such adjustment shall be made, by repayment or otherwise, as the case may require; but if all or any part of the said amount is subsequently received, the claimant or, if he is dead, his executors or administrators shall not later than six months thereafter give notice in writing of its receipt to the surveyor, and such re-adjustment of liability to tax (for all relevant years

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of assessment) shall be made as may be necessary and may be made at any time at which it could be made if it related only to tax for the year of assessment in which the amount, or the part of the amount, is received.

- (2) The foregoing subsection shall be deemed to be included in the third column of Schedule 6 to the Finance Act 1960 (relating to penalties on persons failing to furnish particulars or furnishing false particulars).

18 Returns, etc. for purposes of Case VIII

- (1) For the purpose of obtaining particulars of profits or gains chargeable to tax under Case VIII, the surveyor may by notice in writing require—
- (a) any lessee, occupier, or former lessee or occupier of land (including any person having, or having had, the use of land) to give such information as may be prescribed by the Commissioners of Inland Revenue as to the terms applying to the lease, occupation or use of the land, and where any of those terms are established by any written instrument, to produce the instrument to the surveyor ;
 - (b) any lessee or former lessee of land to give such information as may be so prescribed as to any consideration given for the grant or assignment to him of the tenancy;
 - (c) any person who as agent manages land or is in receipt of rent or other payments arising from land to furnish the surveyor with such particulars relating to payments arising therefrom as may be specified in the notice.
- (2) The foregoing subsection shall be deemed to be included in the second column of Schedule 6 to the Finance Act 1960 (relating to penalties on persons, other than the taxpayer, failing to furnish particulars or furnishing false particulars).

19 Provisions as to repayments

The provisions of Schedule 6 to the Act of 1952 shall apply to any claim for relief under the provisions of this Chapter:

Provided that—

- (a) any such claim shall be made in such form as the Commissioners of Inland Revenue may direct and shall be delivered to the surveyor ;
- (b) where the surveyor objects to a claim, it shall be heard and determined by the Commissioners concerned in like manner as in the case of an appeal against an assessment under Schedule D, and the provisions of the Act of 1952 relating to the statement of a case for the opinion of the High Court on a point of law shall apply;
- (c) any claim to which objection is made shall, if the claimant so elects when he makes the claim, be heard and determined by the Special Commissioners.

20 Transitional provisions for Schedule A tax for 1963-64

- (1) Section 15 of this Act shall not have effect as respects tax for the year 1963-64, and—
- (a) paragraph (a) of section 14(1) of this Act shall not have effect as respects tax for that year, but
 - (b) the occupier of a unit of assessment shall not be assessed to tax under Schedule A for that year unless he is liable in respect of the unit to pay rent under a

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short lease (within the meaning of section 173 of the Act of 1952) or to make any other payment, not being one specified in the proviso to section 15(1) of this Act, on which he may deduct tax, and if so assessed shall not be assessed on any amount such that as reduced for the purpose of collection it exceeds the amount on which tax may be deducted ;

- (c) the landlord shall not be so assessed (by virtue of section 109 or 110 of the Act of 1952) on any amount such that as reduced for the purpose of collection it exceeds the greater of the two following amounts, that is to say—
- (i) the rent to which he is entitled, less any rates or other charge or composition specified in section 86(1) of the Act of 1952 (deduction for tenant's rates etc.) paid by him,
 - (ii) the amount of any payment on which tax may be deducted by him as mentioned in paragraph (b) above.

(2) Subject to the provisions of this section.—

- (a) no claim under section 101 of the Act of 1952 (maintenance claims) shall be made as respects tax for the year 1963-64 by the occupier of the unit of assessment, and
- (b) a landlord shall not be entitled under the said section 101 to repayment of tax for 1963-64 on an amount greater than the excess (if any) of the amount specified in sub-paragraph (i) above over that specified in sub-paragraph (ii) above.

(3) References in the foregoing provisions of this section to the occupier shall be construed, where different parts of a unit of assessment are the subject of separate occupations, and an immediate lessor (within the meaning of Chapter II of Part VII of the Act of 1952) is in occupation of a part, as references to the immediate lessor, but in such a case—

- (a) subsection (1)(b) of this section shall apply only (and with any necessary apportionment) as respects so much of the unit as is in the occupation of the immediate lessor, and
- (b) subsection (2)(a) of this section shall not prevent a claim by the immediate lessor in respect of so much of the cost of maintenance, repairs, insurance and management as is attributable to any part of the unit of assessment not in his occupation.

(4) Where any of the circumstances relevant to the existence or amount of liability to tax under Schedule A for the year 1963-64 are not the same at the time as at which that liability falls to be determined as at another time (whether earlier or later) in the year, the relief (if any) from such tax to be given under the foregoing provisions of this section shall be such as is appropriate having regard to the different circumstances and the proportion of the year for which they obtained ; and for the purpose of securing that any amount of tax to be levied shall be borne by the right person and in the right proportions such assessments or additional assessments, or repayments of tax, shall be made as may be just, regard being had to any arrangements made between the persons concerned.

(5) Paragraph 7 of Schedule 4 to this Act shall apply in relation to the year 1963-64 as it applies in relation to subsequent years, but with the substitution for sub-paragraph (1) of the following sub-paragraph:—

- “(1) Where this paragraph applies to an estate for the year 1963-64 the owner shall be treated for the purposes of tax under Schedule A or under Chapter

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II of Part VII of the Act of 1952 (excess rents) as if he were not the occupier of any part of the estate occupied by him, and as if—

- (a) in relation to a part of the estate which for any period in the year is not comprised in a lease under which he is the landlord, he were entitled under a lease of that part to rent for the said period, becoming due from day to day, at a rate per annum equal to the annual value of that part ascertained in accordance with Schedule 5 to this Act; and
- (b) in relation to a part of the estate which for any period in the year is comprised in a lease under which he is the landlord, the rent, so far as it relates to that part, were at a rate per annum not less than the annual value of that part ascertained in accordance with the said Schedule 5.”,

but as respects any period during which the sub-paragraph (1) hereinbefore contained does not exclude the operation of subsection (2)(a) of this section, the cost of the maintenance, repairs, insurance and management of any part of the land referred to in that sub-paragraph as the estate, being a part in the occupation of the owner, shall be disregarded in the application of section 101(4) of the Act of 1952 to the land.

- (6) Paragraph 9 of Schedule 4 to this Act, and the provisions of paragraph 10 of that Schedule modifying the application of the said paragraph 9 in certain cases, shall apply for the purpose of computing rent payable by a person in determining his liability to tax for the year 1963-64 under section 175 or 176 (excess rents) of the Act of 1952 as they apply for the purpose of computing amounts deductible for purposes of Case VIII in subsequent years.
- (7) The amounts of tax deductible or repayable under section 157 (pay as you earn) of the Act of 1952 before the 6th July 1963 shall not be deemed to have been affected by the foregoing provisions of this Chapter, but any necessary adjustment of a person's liability to tax shall be made by adjusting subsequent deductions or repayments or, if need be, by an assessment.

21 Cost of maintenance, repairs, insurance and management for 1963-64

- (1) In the case of any person who became the owner of a unit of assessment during the year 1963-64, an allowance under section 101 of the Act of 1952 in respect of the unit of assessment for that year shall be computed as if that section required the cost of maintenance, repairs, insurance and management to be ascertained on the basis of the actual cost in the year instead of according to the average of the preceding five years, and as if subsection (2) of that section (by virtue of which " maintenance" includes the replacement of farm buildings, etc.) were omitted.
- (2) The foregoing provisions of this section shall apply in relation to section 176(1) (g) of the Act of 1952 (deduction for maintenance etc. in taxing excess rents under certain short leases) as they apply in relation to section 101 of that Act, but with the substitution—
 - (a) for references to a unit of assessment of references to land in respect of the excess rents for which the person in question is chargeable to tax under the said section 176, and
 - (b) for the reference to an owner of a reference to a lessor.