



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XIX

SUPPLEMENTAL

Interpretation

526 Definitions for income tax and corporation tax

- (1) In this Act and in any other Act, except in so far as the context otherwise requires—
 - (a) " the Corporation Tax Acts " means—
 - (i) Parts X and XI of this Act (including provisions relating to income tax), and
 - (ii) all other provisions of this or any other Act relating to corporation tax or to any other matter dealt with in Part X or Part XI of this Act, and
 - (iii) all the provisions of Part IV of the Finance Act 1965 and of any other enactment which, at the passing of this Act, formed part of or was to be construed with the Corporation Tax Acts,
 - (b) " the Income Tax Acts " means all enactments relating to income tax, including any provisions of the Corporation Tax Acts which relate to income tax.
- (2) In this Act, and in any Act passed after this Act, " the Tax Acts ", except in so far as the context otherwise requires, means this Act and all other provisions of the Income Tax Acts and the Corporation Tax Acts.
- (3) Except in so far as the context otherwise requires, in this Act, and in any enactment passed after this Act which by any express provision is to be construed as one with the Tax Acts, " tax ", where neither income tax nor corporation tax is specified, means either of those taxes.
- (4) Subsection (3) above is without prejudice to the provisions of section 250 of this Act which apply income tax law for certain purposes of corporation tax, and accordingly the employment of " income tax " rather than " tax " in any provision of this Act is

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not a conclusive indication that that provision is not applied to corporation tax by the said section 250.

(5) In the Tax Acts, except in so far as the context otherwise requires—

" Act " includes an Act of Parliament of Northern Ireland and " enactment " shall be construed accordingly,

" the Board " means the Commissioners of Inland Revenue,

" body of persons " means any body politic, corporate or collegiate, and any company, fraternity, fellowship and society of persons whether corporate or not corporate,

" capital allowance " means any allowance under the Capital Allowances Act 1968, including, as being provisions to be construed as one with that Act, section 78, section 306 and Chapter I of Part XIV of this Act,

" chargeable gain " has the same meaning as in Part III of the Finance Act 1965,

" chargeable period " means an accounting period of a company or a year of assessment,

" close company " has the meaning given by sections 282 and 283 of this Act,

" collector " means any collector of taxes,

" company " means, subject to subsection (6) below, any body corporate or unincorporated association, but does not include a partnership, a local authority or a local authority association,

" farm land " means land in the United Kingdom wholly or mainly occupied for the purposes of husbandry, but excluding any dwelling or domestic offices, and excluding market garden land, and " farming " shall be construed accordingly,

" franked investment income " shall be construed in accordance with section 240 of this Act (but subject to section 256(1) of this Act), and any reference to a " surplus of franked investment income " is a reference to such a surplus as is referred to in section 240(1) of this Act,

" inspector " means any inspector of taxes, " interest " means both annual or yearly interest and interest other than annual or yearly interest,

" local authority " and " local authority association " have the meanings given by section 353 of this Act,

" market garden land " means land in the United Kingdom occupied as a nursery or garden for the sale of the produce (other than land used for the growth of hops), and " market gardening " shall be construed accordingly,

" ordinary share capital ", in relation to a company, means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate or a rate fluctuating in accordance with the standard rate of income tax, but have no other right to share in the profits of the company,

" preference dividend " means a dividend payable on a preferred share or preferred stock at a fixed gross rate per cent. or, where a dividend is payable on a preferred share or preferred stock partly at a fixed gross rate per cent. and partly at a variable rate, such part of that dividend as is payable at a fixed gross rate per cent., but it does not include any dividend or part of a dividend which is paid without deduction of income tax (and for this purpose a payment shall be treated as made without deduction of income tax unless either there is

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made from it the full deduction authorised by section 232(3) of this Act or the payment is, before the passing of an Act imposing income tax for the year of assessment, made subject to deduction of tax by reference to a standard rate less than that ultimately imposed),

" trade " includes every trade, manufacture, adventure or concern in the nature of trade,

" year of assessment " means, with reference to any income tax, the year for which such tax was granted by any Act granting income tax,

" the year 1970-71 " means the year of assessment beginning on 6th April 1970, and any corresponding expression in which two years are similarly mentioned means the year of assessment beginning on 6th April in the first mentioned of those two years.

- (6) The definition of " company " above is subject to section 354 of this Act (authorised unit trusts), and does not apply in the following provisions of this Act, that is—

Chapter I of Part XVII;

sections 486 to 489 ;

section 533; and

Schedule 12,

(and also does not apply where the context otherwise requires because some other definition of " company " applies).

527 Interpretation of Corporation Tax Acts

- (1) For the purposes of the Corporation Tax Acts, except in so far as the context otherwise requires—

" accounting date " means the date to which a company makes up its accounts and " period of account " means the period for which it does so,

" allowable loss " does not include, for the purposes of corporation tax in respect of chargeable gains, a loss accruing to a company in such circumstances that if a gain accrued the company would be exempt from corporation tax in respect of it,

" branch or agency " means any factorship, agency, receivership, branch or management,

" charges on income " has the meaning given by section 248 of this Act,

" distribution " has the meaning given by Part X of this Act with sections 284 and 285,

" the financial year 1970 " means the financial year beginning with April 1970, and similarly with references embodying other dates,

" group income " shall be construed in accordance with section 256 of this Act,

" group relief " has the meaning given by section 258 of this Act,

a source of income is " within the charge to " corporation tax or income tax if that tax is chargeable on the income arising from it, or would be so chargeable if there were any such income, and references to a person, or to income, being within the charge to tax, shall be similarly construed.

- (2) Section 238(4) of this Act (definition of "profits" and " trade " for purposes of Part XI of this Act) shall also apply for the purposes of the following provisions of this Act, that is to say—

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Chapter II of Part VII,
sections 304 and 305,
section 346,
sections 483 and 484,
and sections 73 and 74 of the Capital Allowances Act 1968.

- (3) For all purposes of the Corporation Tax Acts dividends shall be treated as paid on the date when they become due and payable, except in so far as section 354(1) of this Act (authorised unit trusts) makes other provision as to amounts treated under that section as dividends.
- (4) Except as otherwise provided by the Corporation Tax Acts, any apportionment to different periods which falls to be made under the Corporation Tax Acts shall be made on a time basis according to the respective lengths of those periods.

528 "Total income" in Income Tax Acts

- (1) In the Income Tax Acts "total income", in relation to any person, means the total income of that person from all sources estimated, as the case may be, either in accordance with the provisions of the Income Tax Acts as they apply to income tax chargeable at the standard rate or in accordance with those provisions as they apply to surtax.
- (2) Any person who, on his own behalf or on behalf of another person, delivers a statement of the amount of his or that other person's total income shall observe the rules and directions contained in Schedule 13 to this Act.
- (3) In estimating the total income of any person—
 - (a) any income which is chargeable with income tax by way of deduction at the standard rate in force for any year shall be deemed to be income of that year, and
 - (b) any deductions which are allowable on account of sums payable under deduction of income tax at the standard rate in force for any year out of the property or profits of that person shall be allowed as deductions in respect of that year,
 notwithstanding that the income or sums, as the case may be, accrued or will accrue in whole or in part before or after that year.
- (4) Where an assessment has become final and conclusive for the purposes of income tax at the standard rate for any year of assessment, that assessment shall also be final and conclusive in estimating total income, and no allowance or adjustment of liability, on the ground of diminution of income or loss, shall be taken into account in estimating total income unless that allowance or adjustment has previously been made on an application under the special provisions of the Income Tax Acts relating thereto.
- (5) The provisions of subsection (4) above shall, for the purpose of estimating total income for the purposes of surtax, apply in relation to—
 - (a) any relief under any of sections 57 to 60 and 62 of this Act (interest set off against income subject to income tax),
 - (b) any relief by reason of the operation of an election for the herd basis under Schedule 6 to this Act (farm animals), and
 - (c) any allowance under Part I of the Capital Allowances Act 1968 to be given by way of discharge or repayment of tax and to be available or available primarily

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against a specified class of income (that is to say any capital allowance to which section 71 of the Capital Allowances Act 1968 applies or, as provided by section 387(1), any capital allowance to which section 385(2) of this Act applies),

as they apply in relation to allowances or adjustments on the ground of diminution of income or loss.

529 "Highest part of income": effect of top-slicing relief

For the purposes of any provision of the Income Tax Acts (other than section 400 of, or Schedule 3 to, this Act) requiring income of any description to be treated as the highest part of a person's income, his income shall be calculated without regard to—

- (a) any payment chargeable to tax by virtue of section 187 of this Act (payments on retirement or removal from office or employment), or
- (b) any amount included in his total income by virtue of section 399(1)(a) of this Act (gains from insurance policies), or
- (c) any chargeable sum as defined in paragraph 2 of Schedule 3 to this Act (premiums under leases, etc.).

530 "Earned income" in Income Tax Acts

(1) Subject to subsections (2) and (3) below, in the Income Tax Acts, "earned income" means, in relation to any individual—

- (a) any income arising in respect of any remuneration from any office or employment held by the individual, or in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office, given in respect of the past services of the individual or of the husband or parent of the individual in any office or employment or given to the individual in respect of the past services of any deceased person, whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation allowance or deferred pay or not, and
- (b) any income from any property which is attached to or forms part of the emoluments of any office or employment held by the individual, and
- (c) any income which is charged under Schedule A, Schedule B or Schedule D and is immediately derived by the individual from the carrying on or exercise by him of his trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting therein.

In cases where the income of a wife is deemed to be income of the husband, any reference in this subsection to the individual includes either the husband or the wife.

(2) Without prejudice to the generality of the provisions of subsection (1) above, in the Income Tax Acts, except so far as is otherwise expressly provided, "earned income" also includes, in relation to any individual—

- (a) any income arising in respect of Civil List pensions granted under the Civil List Act 1837 as amended by any subsequent enactment, and
- (b) any annuity, pension or annual payment to which section 113(2) or section 182 of this Act (voluntary pensions) applies, and
- (c) any payments chargeable to income tax under Schedule E by virtue of section 219(1) of this Act (family allowances and other social security benefits), and

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- (d) any sum payable by way of annuity to an individual by virtue of a scheme under section 27 of the Agriculture Act 1967 (grants for relinquishing occupation of uncommercial agricultural units), unless the annuity was granted to the individual by reason of his having relinquished occupation before attaining the age of fifty-five.
- (3) The provisions of this section are without prejudice to any other provision of the Income Tax Acts directing income to be treated as earned income.

531 "Annual value" of land

- (1) For the purposes of, and subject to, the provisions of the Tax Acts which apply this section, the annual value of land shall be taken to be the rent which might reasonably be expected to be obtained on a letting from year to year if the tenant undertook to pay all usual tenant's rates and taxes, and if the landlord undertook to bear the costs of the repairs and insurance, and the other expenses, if any, necessary for maintaining the subject of the valuation in a state to command that rent.
- (2) Section 23 of the General Rate Act 1967 (adjustment of gross value by reference to provision of or payment for services, etc.) shall apply for the purpose of subsection (1) above, and in relation to land in Scotland or Northern Ireland shall apply as if it extended to the whole of the United Kingdom.
- (3) Where any question arises as to the annual value of land it shall be determined by the General Commissioners, and those Commissioners shall hear and determine the question in like manner as an appeal.

532 Subsidiaries

- (1) For the purposes of the Tax Acts a body corporate shall be deemed to be—
 - (a) a "51 per cent. subsidiary" of another body corporate if and so long as more than 50 per cent. of its ordinary share capital is owned directly or indirectly by that other body corporate,
 - (b) a "75 per cent. subsidiary" of another body corporate if and so long as not less than 75 per cent. of its ordinary share capital is owned directly or indirectly by that other body corporate,
 - (c) a "90 per cent. subsidiary" of another body corporate if and so long as not less than 90 per cent. of its ordinary share capital is directly owned by that other body corporate.
- (2) In subsection (1)(a) and (b) above "owned directly or indirectly" by a body corporate means owned, whether directly or through another body corporate or other bodies corporate or partly directly and partly through another body corporate or other bodies corporate.
- (3) In this section references to ownership shall be construed as references to beneficial ownership.
- (4) For the purposes of this section the amount of ordinary share capital of one body corporate owned by a second body corporate through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate, shall be determined in accordance with the following provisions of this section.

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- (5) Where, in the case of a number of bodies corporate, the first directly owns ordinary share capital of the second and the second directly owns ordinary share capital of the third, then, for the purposes of this section, the first shall be deemed to own ordinary share capital of the third through the second, and, if the third directly owns ordinary share capital of a fourth, the first shall be deemed to own ordinary share capital of the fourth through the second and third, and the second shall be deemed to own ordinary share capital of the fourth through the third, and so on.
- (6) In this section—
- (a) any number of bodies corporate of which the first directly owns ordinary share capital of the next and the next directly owns ordinary share capital of the next but one and so on, and, if they are more than three, any three or more of them, are referred to as " a series " ;
 - (b) in any series—
 - (i) that body corporate which owns ordinary share capital of another through the remainder is referred to as " the first owner " ;
 - (ii) that other body corporate the ordinary share capital of which is so owned is referred to as " the last owned body corporate " ;
 - (iii) the remainder, if one only, is referred to as an " intermediary" and, if more than one, are referred to as "a chain of intermediaries";
 - (c) a body corporate in a series which directly owns ordinary share capital of another body corporate in the series is referred to as an " owner " ;
 - (d) any two bodies corporate in a series of which one owns ordinary share capital of the other directly, and not through one or more of the other bodies corporate in the series, are referred to as being directly related to one another.
- (7) Where every owner in a series owns the whole of the ordinary share capital of the body corporate to which it is directly related, the first owner shall be deemed to own through the intermediary or chain of intermediaries the whole of the ordinary share capital of the last owned body corporate.
- (8) Where one of the owners in a series owns a fraction of the ordinary share capital of the body corporate to which it is directly related, and every other owner in the series owns the whole of the ordinary share capital of the body corporate to which it is directly related, the first owner shall be deemed to own that fraction of the ordinary share capital of the last owned body corporate through the intermediary or chain of intermediaries.
- (9) Where—
- (a) each of two or more of the owners in a series owns a fraction, and every other owner in the series owns the whole, of the ordinary share capital of the body corporate to which it is directly related; or
 - (b) every owner in a series owns a fraction of the ordinary share capital of the body corporate to which it is directly related;
- the first owner shall be deemed to own through the intermediary or chain of intermediaries such fraction of the ordinary share capital of the last owned body corporate as results from the multiplication of those fractions.
- (10) Where the first owner in any series owns a fraction of the ordinary share capital of the last owned body corporate in that series through the intermediary or chain of intermediaries in that series, and also owns another fraction or other fractions of the ordinary share capital of the last owned body corporate, either—

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- (a) directly, or
- (b) through an intermediary or intermediaries which is not a member or are not members of that series, or
- (c) through a chain or chains of intermediaries of which one or some or all are not members of that series, or
- (d) in a case where the series consists of more than three bodies corporate, through an intermediary or intermediaries which is a member or are members of the series, or through a chain or chains of intermediaries consisting of some but not all of the bodies corporate of which the chain of intermediaries in the series consists,

then, for the purpose of ascertaining the amount of the ordinary share capital of the last owned body corporate owned by the first owner, all those fractions shall be aggregated and the first owner shall be deemed to own the sum of those fractions.

533 Connected persons

- (1) For the purposes of, and subject to, the provisions of the Tax Acts which apply this section, any question whether a person is connected with another shall be determined in accordance with the following provisions of this section (any provision that one person is connected with another being taken to mean that they are connected with one another).
- (2) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.
- (3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor, with any person who is connected with such an individual and with a body corporate which, under section 454 of this Act is deemed to be connected with that settlement ("settlement" and "settlor" having for the purposes of this subsection the meanings assigned to them by subsection (3) of that section).
- (4) Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements, a person is connected with any person with whom he is in partnership, and with the husband or wife or a relative of any individual with whom he is in partnership.
- (5) A company is connected with another company—
 - (a) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other, or
 - (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.
- (6) A company is connected with another person, if that person has control of it or if that person and persons connected with him together have control of it.
- (7) Any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with

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any person acting on the directions of any of them to secure or exercise control of the company.

(8) In this section—

" company " includes any body corporate or unincorporated association, but does not include a partnership, and this section shall apply in relation to any unit trust scheme (as defined in section 26(1) of the Prevention of Fraud (Investments) Act 1958 or section 22 of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940) as if the scheme were a company and as if the rights of the unit holders were shares in the company,

" control " shall be construed in accordance with section 302 of this Act,

" relative " means brother, sister, ancestor or lineal descendant.

534 Meaning of "control" in certain contexts

For the purposes of, and subject to, the provisions of the Tax Acts which apply this section, " control", in relation to a body corporate, means the power of a person to secure—

- (a) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or
- (b) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income, of the partnership

535 "Recognised stock exchange"

(1) In the Corporation Tax Acts "recognised stock exchange " has the same meaning as in the Prevention of Fraud (Investments) Act 1958, except that it includes—

- (a) the Belfast Stock Exchange, and
- (b) any such stock exchange outside the United Kingdom as is for the time being designated for the purposes of this section as a recognised stock exchange by order made by the Board.

(2) An order made by the Board under this section—

- (a) may designate a stock exchange by name, or by reference to any class or description of stock exchanges, including a class or description framed by reference to any authority or approval given in a country outside the United Kingdom,
- (b) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient, and
- (c) may be varied or revoked by a subsequent order so made.