



Finance Act 1963

1963 CHAPTER 25

PART II

INCOME TAX

CHAPTER II

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

Provisions as to premiums, etc.

22 Treatment of premiums, etc. as rent

- (1) Where the payment of any premium is required under a lease, or otherwise under the terms subject to which a lease is granted, and the duration of the lease does not exceed fifty years, the landlord shall be treated for the purposes of the Income Tax Acts as becoming entitled, when the lease is granted, to an amount by way of rent (in addition to any actual rent) equal to the amount of the premium reduced by one-fiftieth of that amount for each complete period of twelve months (other than the first) comprised in the duration of the lease.
- (2) Where the terms subject to which a lease is granted impose on the tenant an obligation to carry out any work on the premises, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the landlord (in addition to any other premium) of an amount equal to the amount by which the value of the landlord's estate or interest, immediately after the commencement of the lease, exceeds what its then value would have been if the said terms did not impose that obligation on the tenant:

Provided that this subsection shall not apply in so far as the obligation requires the carrying out of work payment for which would, if the landlord and not the tenant were obliged to carry it out, be deductible from the rent under Schedule 4 to this Act.

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- (3) Where, under the terms subject to which a lease is granted, a sum becomes payable by the tenant in lieu of the whole or a part of the rent for any period, or as consideration for the surrender of the lease, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum; but—
- (a) in computing tax chargeable by virtue of this subsection in respect of a sum payable in lieu of rent, the duration of the lease shall be treated as not including any period other than that in relation to which the sum is payable;
 - (b) notwithstanding anything in subsection (1) of this section, rent treated as arising by virtue of this subsection shall be deemed to become due when the sum in question becomes payable by the tenant.
- (4) Where, as consideration for the variation or waiver of any of the terms of a lease, a sum becomes payable by the tenant otherwise than by way of rent, the lease shall be deemed for the purposes of this section to have required the payment of a premium to the landlord (in addition to any other premium) of the amount of that sum; but in computing tax chargeable by virtue of this subsection the duration of the lease shall be treated as not including any period which precedes the time at which the variation or waiver takes effect or falls after the time at which the variation or waiver ceases to have effect, and notwithstanding anything in subsection (1) of this section rent treated as arising by virtue of this subsection shall be deemed to become due when the contract providing for the variation or waiver is entered into.
- (5) Where a payment falling within subsection (1), (3) or (4) of this section is due to a person other than the landlord, no charge to tax shall arise under that subsection, but any amount which would otherwise fall to be treated as rent shall be treated as profits or gains of that other person chargeable under Case VI of Schedule D:
- Provided that where the amount relates to a payment falling within the said subsection (4) it shall not be so treated unless the payment is due to a person connected with the landlord.
- (6) Where an amount by reference to which a person is chargeable to tax by virtue of this section is payable by instalments, he may, before the expiration of the year of assessment following that in which he becomes entitled to the first such instalment, by notice in writing to the surveyor claim that the tax chargeable by reference to that amount shall, instead of being computed in accordance with the foregoing provisions of this section, be computed as if each instalment were rent payable under the lease or, in the case of instalments payable to a person other than the landlord, or payable to a person after he has ceased to be the landlord, were an annual profit or gain chargeable to tax under Case VI of Schedule D, and where a claim is so made all such additional assessments, alterations of assessments and repayments of tax shall be made as may be necessary.
- (7) Section 16(2) of this Act shall not apply in relation to amounts which in computing profits or gains under Case VIII are relevant only by virtue of the foregoing provisions of this section.
- (8) Where by virtue of this section a person is treated as becoming entitled in the year 1963-64 to any rent in respect of a unit of assessment, the computation under section 175(1) (excess rents) of the Act of 1952 of the amount which would have been the amount of the assessment of the unit for the purposes of Schedule A, as reduced for the purpose of collection, if the annual value had been determined (having regard to that rent) as therein mentioned shall be made without increasing, on account of that

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rent, the amount by which the assessment would have been reduced for the purpose of collection.

23 Charge on assignment of lease granted at undervalue

- (1) Where the terms subject to which a lease of a duration not exceeding fifty years was granted are such that the grantor, having regard to values prevailing at the time it was granted, and on the assumption that the negotiations for the lease were at arm's length, could have required the payment of an additional sum (hereinafter referred to as " the amount foregone ") by way of premium, or additional premium, for the grant of the lease, then, on any assignment of the lease for a consideration—
- (a) where the lease has not previously been assigned, exceeding the premium (if any) for which it was granted, or
 - (b) where the lease has been previously assigned, exceeding the consideration for which it was last assigned,
- the amount of the excess, in so far as it is not greater than the amount foregone reduced by the amount of any such excess arising on a previous assignment of the lease, shall in the same proportion as the amount foregone would under section 22(1) of this Act have fallen to be treated as rent if it had been a premium under the lease, be treated as profits or gains of the assignor chargeable to tax under Case VI of Schedule D.
- (2) If there is submitted to the surveyor, by the grantor or any assignor or assignee of the lease, a statement showing whether or not a charge to tax arises or may arise under this section, and if so the amount on which the charge arises or may arise, then if the surveyor is satisfied as to the accuracy of the statement he shall certify the accuracy thereof.

24 Charge on sale of land with right to reconveyance

- (1) Where the terms subject to which an estate or interest in land is sold provide that it shall be, or may be required to be, reconveyed at a future date to the vendor or a person connected with him, the vendor shall be chargeable to tax under Case VI of Schedule D on any amount by which the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed or, if the earliest date at which, in accordance with those terms, it would fall to be reconveyed is a date two years or more after the sale, on that excess reduced by one-fiftieth thereof for each complete year (other than the first) in the period between the sale and that date.
- (2) Where under the terms of the sale the date of the reconveyance is not fixed, then—
- (a) if the price on reconveyance varies with the date, the price shall be taken for the purposes of this section to be the lowest possible under the terms of the sale;
 - (b) the vendor may, before the expiration of six years after the date on which the reconveyance takes place, claim repayment of any amount by which tax assessed on him by virtue of this section exceeded the amount which would have been so assessed if that date had been treated for the purposes of this section as the date fixed by the terms of the sale.
- (3) Where the terms of the sale provide for the grant of a lease directly or indirectly out of the estate or interest to the vendor or a person connected with him, this section shall apply as if the grant of the lease were a reconveyance of the estate or interest at a price equal to the sum of the amount of the premium (if any) for the lease and the value at

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the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run :

Provided that this subsection shall not apply if the lease is granted, and begins to run, within one month after the sale.

25 Provisions supplemental to ss. 22 to 24

- (1) Paragraph 8 of Schedule 4 to this Act, and the provisions of paragraph 10 of that Schedule modifying the application of the said paragraph 8 in certain cases, shall have effect for reducing or removing a charge to tax imposed otherwise than under Case VIII by virtue of any of the three foregoing sections (excluding section 22(6)) as they have effect in relation to a charge to tax imposed under Case VIII; and the provisions of Schedule 6 to this Act shall have effect for giving relief, on a claim being made by him in that behalf, from any increase in an individual's liability to tax which is attributable to amounts being treated by virtue of any of the three foregoing sections (excluding section 22(6)) as receipts for a single year of assessment rather than as receipts for the period in relation to which they are chargeable.
- (2) Sections 16(6), 17 and 18 of this Act shall apply in relation to sums chargeable to tax under Case VI of Schedule D by virtue of any provision of the three foregoing sections as they apply to profits or gains chargeable to tax under Case VIII.
- (3) In relation to amounts which by virtue of any provision of the three foregoing sections would, in the case of a person resident in the Republic of Ireland and not resident in the United Kingdom, be included in his income if he were not resident in the Republic of Ireland, Chapter IV (prevention of tax avoidance by means of transactions resulting in the transfer of income to persons abroad) of Part (VIII) of the Act of 1952 shall apply as if his income included those amounts and as if references to an individual included references to any person, but shall so apply as if subsection (3) of section 412 (which provides relief for certain transactions) were omitted.
- (4) For the purposes of section 346 (loss relief under Case VI of Schedule D) of the Act of 1952, a loss sustained in a transaction falling within any of the three foregoing sections shall be disregarded.
- (5) In ascertaining for the purposes of the three foregoing sections the duration of a lease, the following provisions shall have effect:—
 - (a) where the terms of the lease include provision for the determination thereof by notice given either by the landlord or by the tenant, the lease shall not be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice;
 - (b) where any of the terms of the lease (whether relating to forfeiture or to any other matter) or any other circumstances render it unlikely that the lease will continue beyond a date falling before the expiration of the term of the lease, the lease shall not be treated as having been granted for a term longer than one ending on that date:

Provided that where the duration of a lease falls to be ascertained after a date on which the lease has for any reason come to an end, the duration shall be taken to have extended from its commencement to that date, and where the duration falls to be ascertained at a time when the lease is subsisting the provisions of the foregoing paragraphs shall be applied in accordance with circumstances prevailing at that time.

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- (6) Nothing in the three foregoing sections shall apply in relation to a lease granted or an estate or interest in land sold before the beginning of the year 1963-64 or in pursuance of a contract entered into before the 4th April 1963:

Provided that section 22(4) of this Act shall apply to the variation or waiver of any terms of a lease (not being a variation or waiver made in pursuance of a contract entered into before the 4th April 1963) notwithstanding that the lease was granted before the beginning of the year 1963-64.

- (7) In relation to Scotland the expression " term" in this section, where referring to the duration of a lease, means " period ".