



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART XII

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

#### CHAPTER IV

##### SAVINGS BANKS, INDUSTRIAL AND PROVIDENT SOCIETIES, BUILDING SOCIETIES AND MUTUAL BUSINESS

#### **339 Savings banks**

- (1) Any trustee savings bank within the meaning of section 95(1) of the Trustees Saving Banks Act 1969 shall, on making a claim, be entitled to exemption from income tax and corporation tax in respect of its income arising from investments with the National Debt Commissioners.
- (2) Any savings bank, including any such trustee savings bank, shall, on making a claim, be entitled to exemption from income tax and corporation tax in respect of the income of its funds, to the extent that such income is applied in the payment or credit of interest to any depositor:

Provided that, subject to section 414 of this Act (relief for first £15 of deposits), any such interest shall be chargeable under Case III of Schedule D.

#### **340 Industrial and provident societies, etc.**

- (1) Notwithstanding anything in the Corporation Tax Acts, share interest or loan interest paid by a registered industrial and provident society shall not be treated as a distribution; and, subject to subsection (6) below, any share or loan interest paid in an accounting period of the society—
  - (a) shall be deductible in computing, for the purposes of corporation tax, the income of the society for that period from the trade carried on by the society, or

- (b) if the society is not carrying on a trade, shall be treated for the said purposes as a charge on the income of the society.
- (2) Notwithstanding anything in Part II of this Act, any share interest or loan interest paid by a registered industrial and provident society shall be paid without deduction of income tax:
- Provided that this subsection shall not apply to any share interest or loan interest payable to a person whose usual place of abode is not within the United Kingdom, and in any such case section 54 of this Act shall apply to the payment as it applies to a payment of yearly interest, and income tax shall be deducted accordingly.
- (3) Any share interest or loan interest paid by a registered industrial and provident society shall be chargeable under Case III of Schedule D.
- (4) Where at any time, by virtue of this section, the income of a person from any source, not having previously been chargeable by direct assessment on that person, becomes so chargeable, section 120(3) of this Act shall apply as if the source of that income were a new source of income acquired by that person at that time.
- (5) Every registered industrial and provident society shall, within three months after the end of any accounting period of the society, deliver to the inspector a return showing—
- (a) the name and place of residence of every person to whom the society has by virtue of this section paid without deduction of income tax sums amounting to more than £15 in that period, and
  - (b) the amount so paid in that period to each of those persons.
- (6) If for any accounting period a return under subsection (5) above is not duly made by a registered industrial and provident society, share and loan interest paid by the society in that period shall not be deductible in computing its income, or be treated as a charge on income.
- (7) If in the course of, or as part of, a union or amalgamation of two or more registered industrial and provident societies, or a transfer of engagements from one registered industrial and provident society to another, there is a disposal of an asset by one society to another, both shall be treated for the purposes of corporation tax in respect of chargeable gains as if the asset were acquired from the society making the disposal for a consideration of such amount as would secure that neither a gain nor a loss would accrue to that society on the disposal.
- (8) Subsections (1) and (7) of this section shall have effect as if references to a registered industrial and provident society included any co-operative association established and resident in the United Kingdom, and having as its object or primary object to assist its members in the carrying on of agricultural or horticultural businesses on land occupied by them in the United Kingdom or in the carrying on of businesses consisting in the catching or taking of fish or shellfish.
- (9) In this section—
- " co-operative association " means a body of persons having a written constitution from which the Minister is satisfied, having regard to the provision made as to the manner in which the income of the body is to be applied for the benefit of its members and all other relevant provisions, that the body is in substance a co-operative association,
- " the Minister " means—

the Minister of Agriculture, Fisheries and Food, as regards England or Wales,

the Secretary of State, as regards Scotland, and

the Ministry of Agriculture for Northern Ireland, as regards Northern Ireland,

" registered industrial and provident society " means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or under the Industrial and Provident Societies Act (Northern Ireland) 1969,

" share interest " means any interest, dividend, bonus or other sum payable to a shareholder of the society by reference to the amount of his holding in the share capital of the society,

" loan interest " means any interest payable by the society in respect of any mortgage, loan, loan stock or deposit, and

references to the payment of share interest or loan interest include references to the crediting of such interest.

### **341 Co-operative housing associations**

- (1) Where a housing association makes a claim in that behalf for any year or part of a year of assessment during which the association was approved for the purposes of this section.—
  - (a) rent to which the association was entitled from its members for the year or part shall be disregarded for tax purposes, and
  - (b) any yearly interest payable by the association for the year or part shall be treated for tax purposes as payable not by the association but severally by the members of the association who during the year or part were tenants of property of the association, in the proportion which the rents payable by those members for the year or part bear to the aggregate of the rents to which the association was entitled for the year or part from the properties to which the interest relates, and
  - (c) each member of the association shall be treated for the purposes of section 57 of this Act (relief for interest on loans for purchase or improvement of land) as if he were the owner of the association's estate or interest in the property of which he is the tenant.
- (2) Where the property, or any of the properties, to which any such interest as aforesaid relates is for any period not subject to a tenancy, subsection (1)(b) above shall not apply in relation to so much of the interest as is attributable to the property not subject to a tenancy, but for the purposes of the said subsection (1)(b) as it applies in relation to a tenant of any other property to which the interest relates the association shall be deemed to have received, in respect of the property not subject to a tenancy, rent at the rate payable therefor when it was last let by the association.
- (3) In computing the income of the association no payments shall be deductible under subsections (2), (3) or (4) of section 72 of this Act in so far as attributable to a period as respects which a claim under subsection (1) of this section had effect.
- (4) Where a claim under subsection (1) of this section has effect, any adjustment of the liability to tax of a member or of the association which is required in consequence of the claim may be made by an assessment or by repayment or otherwise, as the case may require.

- (5) Where a housing association makes a claim in that behalf for an accounting period or part of an accounting period during which it was approved for the purposes of this section, the housing association shall be exempt from corporation tax on chargeable gains accruing to it in the accounting period or part thereof on the disposal by way of sale of any property which has been or is being occupied by a tenant of the housing association.
- (6) References in this section to the approval of an association shall be construed as references to approval—
- (a) by the Minister of Housing and Local Government, in the case of an association in England (excluding Monmouthshire),
  - (b) by the Secretary of State in the case of an association in Scotland, Wales or Monmouthshire,
  - (c) by the Minister of Development for Northern Ireland, in the case of an association in Northern Ireland ;
- and an association shall not be approved unless the approving authority is satisfied—
- (i) that the association is, or is deemed to be, duly registered under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969, and is a housing association within the meaning of the Housing Act 1957, the Housing (Scotland) Act 1950 or section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946,
  - (ii) that the rules of the association restrict membership to persons who are tenants or prospective tenants of the association, and preclude the granting or assignment (or in Scotland the granting or assignation) of tenancies to persons other than members, and
  - (iii) that the association satisfies such other requirements as may be prescribed by the approving authority, and will comply with such conditions as may for the time being be so prescribed.
- (7) An approval given for the purposes of this section shall have effect as from such date (whether before or after the giving of the approval) as may be specified by the approving authority, and shall cease to have effect if revoked by him.
- (8) The Minister of Housing and Local Government and the Secretary of State as respects England and Wales and Scotland, or the Minister of Development for Northern Ireland as respects Northern Ireland, may make regulations for the purpose of carrying out the provisions of this section ; and from the coming into operation of regulations under this subsection prescribing requirements or conditions for the purposes of subsection (6) (iii) above, " prescribed " in the said subsection (6)(iii) shall mean prescribed by or under such regulations.

The power to make regulations conferred by this subsection on the Minister of Housing and Local Government and the Secretary of State shall be exercisable by statutory instrument.

- (9) A claim under this section shall be made to the inspector, and shall be made not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.

Section 42 of the Taxes Management Act 1970 shall not apply to a claim under this section.

- (10) No claim under this section shall have effect unless it is proved that during the year or accounting period, or part thereof, to which the claim relates—
- (a) no property belonging to the association making the claim was let otherwise than to a member of the association;
  - (b) no property let by the association, and no part of such property, was occupied, whether solely or as joint occupier, by a person not being a member of the association;
  - (c) the association making the claim satisfies the conditions specified in subsection (6)(i) and (ii) above and has complied with the conditions prescribed under subsection (6)(iii) above for the time being in force; and
  - (d) any covenants required to be included in grants of tenancies by those conditions have been observed :

Provided that where the Board are satisfied that the requirements of paragraphs (a) to (d) of this subsection are substantially complied with they may direct that the claim shall have effect, but if subsequently information comes to the knowledge of the Board which satisfies them that the direction was not justified they may revoke the direction and thereupon the liability of all persons concerned to tax for all relevant years or accounting periods shall be adjusted by the making of assessments or otherwise.

For the purposes of paragraph (b) above occupation by any other person in accordance with the will, or the provisions applicable on the intestacy, of a deceased member, shall be treated during the first six months after the death as if it were occupation by a member.

- (11) A claim under this section shall be in such form and contain such particulars as may be prescribed by the Board, and, without prejudice to the generality of this provision, the required particulars may include an authority granted by all members of the association for any relevant information contained in any return made by a member under the provisions of the Income Tax Acts to be used by the Board in such manner as the Board may think fit for determining whether the claim ought to be allowed.

### **342 Disposals of land between the Housing Corporation and housing societies**

Where—

- (a) in accordance with a scheme approved under section 5 of the Housing Act 1964 the Housing Corporation acquires from a housing society the society's interest in all the land held by the society for carrying out its objects, or
- (b) after the Housing Corporation has so acquired from a housing society all the land so held by it the Corporation disposes to a single housing society of the whole of that land (except any part previously disposed of or agreed to be disposed of otherwise than to a housing society), together with all related assets,

then both parties to the disposal of the land to or, as the case may be, by the Housing Corporation shall be treated for the purposes of corporation tax in respect of chargeable gains as if the land and any related assets disposed of therewith (and each part of that land and those assets) were acquired from the party making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss accrued to that party.

In this section, " housing society " has the same meaning as in Part I of the Housing Act 1964, and " related assets " means, in relation to an acquisition of land by the

Housing Corporation, assets acquired by the Corporation in accordance with the same scheme as that land, and in relation to a disposal of land by the Housing Corporation, assets held by the Corporation for the purposes of the same scheme as that land.

### **343 Building societies**

- (1) The Board and any building society may, as respects any year of assessment, enter into arrangements whereby—
- (a) on such sums as may be determined in accordance with the arrangements the society is liable to account for and pay an amount representing income tax calculated in part at the standard rate and in part at a reduced rate which takes into account the operation of the subsequent provisions of this section ; and
  - (b) provision is made for any incidental or consequential matters,
- and any such arrangements shall have effect notwithstanding anything in this Act:

Provided that in exercising their powers of entering into arrangements under this section, the Board shall at all times aim at securing that (if the amount so payable by the society under the arrangements is regarded as income tax for the year of assessment) the total income tax becoming payable to, and not becoming repayable by, the Crown is, when regard is had to the operation of the subsequent provisions of this section, as nearly as may be the same in the aggregate as it would have been if those powers had never been exercised.

- (2) Where for any year of assessment a building society enters into arrangements under this section, dividends or interest payable in respect of shares in, or deposits with or loans to, the society shall be dealt with for the purposes of corporation tax as follows:—
- (a) in computing for any accounting period ending in the year of assessment the total profits of the society there shall be allowed as a deduction the actual amount paid or credited in the accounting period of any such dividends or interest, together with the amount accounted for and paid by the society in respect thereof as representing income tax,
  - (b) in computing the income of a company which is paid or credited in the year of assessment with any such dividends or interest, the company shall be treated as having received an amount which, after deduction of income tax at the standard rate for the year of assessment, is equal to the amount paid or credited, and shall be entitled to a set off or repayment of income tax accordingly, except that the dividends or interest shall not be brought into account under Schedule 9 to this Act (method by which companies are to account for income tax due from them),
  - (c) no part of any such dividends or interest paid or credited in the year of assessment shall be treated as a distribution of the society or as franked investment income of any company resident in the United Kingdom.
- (3) Where any arrangements under this section are in force in the case of any society as respects any year of assessment—
- (a) notwithstanding anything in Part II of this Act, income tax shall not be deducted from any dividends or interest payable in that year in respect of shares in or deposits with or loans to that society,
  - (b) no assessment to income tax or (subject to subsection (2)(b) above) repayment of income tax shall be made in respect of any such dividends or interest on or to the person receiving or entitled to the dividends or interest,

- (c) subject to subsection (2)(b) above, the amounts actually paid or credited in respect of any such dividends or interest (and no more) shall be treated as income for that year of the person entitled thereto, and
- (d) subject to section 240(4) of this Act (payments by companies not to be treated as paid out of profits or gains brought into charge to income tax), the said amounts (and no more) shall, in applying section 52 and section 53 of this Act to other payments, be treated as profits or gains which have been brought into charge to income tax:

Provided that—

- (i) any such dividends or interest shall be taken into account for the purposes of assessment to surtax; and
  - (ii) the amount actually paid or credited in respect of any such dividends or interest shall be deemed for surtax purposes to be a net amount corresponding to a gross amount from which tax at the standard rate for that year has been duly deducted, and the amount on which surtax is to be charged in the case of any person shall be calculated accordingly ; and
  - (iii) the provisions of this subsection shall not apply in relation to interest on any bank loan; and
  - (iv) the provisions of this subsection shall not apply in relation to any interest which is payable in respect of a loan to the society under a contract made before the beginning of the first year of assessment as respects which the society enters into arrangements under subsection (1) of this section, if and to the extent that, both at the time of the making of the contract and at the time when the interest becomes payable, it is contemplated by the parties that tax shall be deducted on payment of the interest.
- (4) Where any arrangements under this section are in force in the case of any society as respects any year of assessment then, notwithstanding anything in Part II of this Act, income tax shall not be deducted upon payment to the society of any interest on advances, being interest payable in that year.
  - (5) If in the course of, or as part of, a union or amalgamation of two or more building societies, or a transfer of engagements from one building society to another, there is a disposal of an asset by one society to another, both shall be treated for purposes of corporation tax in respect of chargeable gains as if the asset were acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.
  - (6) Any arrangements made under this section as respects any year of assessment shall, if made after the beginning of that year, be deemed to have come into force at the beginning thereof, and any necessary adjustments shall be made in relation to any sums paid or credited before the date of the making of the arrangements.
  - (7) In this section "dividend" includes any distribution as defined for the purposes of the Corporation Tax Acts, whether described as a dividend or otherwise.
  - (8) In this section "building society" means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967.
  - (9) This section shall apply in relation to a company within the meaning of the Companies Act 1948, or the corresponding enactments in force in Northern Ireland, which carries on a business which in the opinion of the Board is similar to that carried on by a

building society as it applies in relation to a building society, except that in subsections (2) and (3) the references to dividends and shares shall be deemed to be omitted.

#### **344 Building societies: time for payment of corporation tax**

- (1) Where a building society which had for the year 1965-66 entered into arrangements under section 445 of the Income Tax Act 1952 (which is re-enacted in section 343 above) would but for the arrangements have been assessed for that year by reference to a period ending before that year, but under the arrangements (and without any election thereunder by the society) was so assessed by reference to a period ending in that year, then this section shall apply to the society in place of the provisions of Chapter I of Part XI of this Act as to the time for payment of corporation tax.
- (2) Where this section applies to a building society, then—
  - (a) corporation tax assessed on the society for any accounting period shall be paid within one month from the making of the assessment, except that if the society's basis period for the year 1965-66 did not extend into the year 1966, the tax shall not be payable before the like time after the last day of the accounting period as 1st January 1966 is after the last day of that basis period; but
  - (b) if corporation tax has not become payable by the society for an accounting period by the like time from the beginning of that period as there is between the beginning of the said basis period and 1st January 1966, the society shall at that time from the beginning of the accounting period make a provisional payment of tax computed on the amount on which the society is chargeable to corporation tax for the accounting period last ended with such adjustments, if any, as may be required for periods of different length or as may be agreed between the society and the inspector.

References in this subsection to a society's basis period for the year 1965-66 are references to the period by reference to which the society was assessed to income tax for that year under the arrangements referred to in subsection (1) above.

#### **345 Companies trading with their members, and certain industrial and provident societies**

- (1) In the application to any company of any provision of the Tax Acts relating to profits or gains chargeable under Case I of Schedule D, any reference to profits or gains shall be deemed to include a reference to a profit or surplus arising from transactions of the company with its members which would be included in profits or gains for the purposes of that provision if those transactions were transactions with non-members, and the profit or surplus aforesaid shall be determined for the purposes of that provision on the same principles as those on which profits or gains arising from transactions with non-members would be so determined.
- (2) It is hereby declared that, in computing, for the purposes of any provision of the Tax Acts relating to profits or gains chargeable under Case I of Schedule D, any profits or gains of—
  - (a) any registered industrial and provident society which does not sell to persons not members thereof; or
  - (b) any registered industrial and provident society the number of the shares whereof is not limited by its rules or practice ; or



- (c) any other company, being a company the profits or gains whereof include any income which is chargeable to tax by virtue of subsection (1) of this section, there are to be deducted as expenses any sums which—
- (i) represent a discount, rebate, dividend or bonus granted by the company to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the company, being transactions which are taken into account in the said computation ; and
  - (ii) are calculated by reference to the said amounts or to the magnitude of the said transactions and not by reference to the amount of any share or interest in the capital of the company.
- (3) No dividends or bonus deductible in computing income as mentioned in subsection (2) above shall be regarded as a distribution.
- (4) In this section " registered industrial and provident society " means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or under the Industrial and Provident Societies Act (Northern Ireland) 1969.

#### **346 Companies carrying on mutual business, or not carrying on a business**

- (1) Subject to subsection (2) below, where a company carries on any business of mutual trading or mutual insurance or other mutual business the provisions of the Corporation Tax Acts relating to distributions shall apply to distributions made by the company notwithstanding that they are made to persons participating in the mutual activities of that business and derive from those activities, but shall so apply only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income (including group income).
- (2) In the case of a company carrying on any mutual life assurance business, the provisions of the Corporation Tax Acts relating to distributions shall not apply to distributions made to persons participating in the mutual activities of that business and derived from those activities ; but if the business includes annuity business, the annuities payable in the course of that business shall not be treated as charges on the income of the company to any greater extent than if the business were not mutual but were being carried on by the company with a view to the realisation of profits for the company.
- (3) Subject to the preceding subsections, the fact that a distribution made by a company carrying on any such business is derived from the mutual activities of that business and the recipient is a person participating in those activities shall not affect the character which the payment or other receipt has for purposes of corporation tax or income tax in the hands of the recipient.
- (4) Where a company does not carry on, and never has carried on, a trade or a business of holding investments, and is not established for purposes which include the carrying on of a trade or of such a business, the provisions of the Corporation Tax Acts relating to distributions shall apply to distributions made by the company only to the extent to which the distributions are made out of profits of the company which are brought into charge to corporation tax or out of franked investment income.

#### **347 Distribution of assets of body corporate carrying on mutual business**

- (1) Where any person receives any money or money's worth—

- (a) forming part of the assets of a body corporate, other than assets representing capital, or
- (b) forming part of the consideration for the transfer of the assets of a body corporate, other than assets representing capital, as part of a scheme of amalgamation or reconstruction which involves the winding up of the body corporate, or
- (c) consisting of the consideration for a transfer or surrender of a right to receive anything falling under paragraph (a) or (b) above, being a receipt not giving rise to any charge to tax on the recipient apart from this section,

and the body corporate has at any time carried on a trade which consists of or includes the conducting of any mutual business (whether confined to members of the body corporate or not), and is being or has been wound up or dissolved, the provisions of this section shall apply to the receipt.

- (2) If a transfer or surrender of a right under subsection (1)(c) of this section is not at arm's length, the person making the transfer or surrender shall, for the purposes of this section, be deemed then to have received consideration equal to the value of the right.
- (3) If in respect of a payment of any amount made to the body corporate for the purposes of its mutual business any deduction has been allowed for the purposes of tax in computing the profits or gains or losses of a trade, then—
  - (a) if at the time of the receipt the recipient is the person, or one of the persons, carrying on that trade, the amount or value of the receipt shall be treated for the purposes of tax as a trading receipt of that trade, and
  - (b) if at the time of the receipt the recipient is not the person, or one of the persons, carrying on that trade, but was the person, or one of the persons carrying on that trade when any payment was made to the body corporate for the purposes of its mutual business in respect of which a deduction was allowed for the purposes of tax in computing the profits or gains or losses of the trade, the recipient shall, subject to the provisions of subsection (5) of this section, be charged under Case VI of Schedule D for the chargeable period in which the receipt falls on an amount equal to the amount or value of the receipt.

Paragraph (a) of this subsection applies notwithstanding that, as a result of a change in the persons carrying on the trade, the profits or gains are under section 154 or section 251(1) of this Act (income tax and corporation tax rules for commencement or discontinuance of trade), determined as if it had been permanently discontinued and a new trade set up and commenced.

- (4) Where an individual is chargeable to tax by virtue of subsection (3)(b) of this section and the profits or gains of the trade there mentioned fell to be treated as earned income for the purposes of the Income Tax Acts, the sums in respect of which he is so chargeable shall also be treated for those purposes as earned income.
- (5) If the trade mentioned in subsection (3)(b) of this section was permanently discontinued before the time of the receipt, then in computing the charge to tax under the said subsection (3)(b) there shall be deducted from the amount or value of the receipt—
  - (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade had not been discontinued, would have been deducted in computing for tax purposes the profits or gains or losses of the person by whom it was carried on before the

discontinuance, or would have been deducted from or set off against those profits as so computed, and

- (b) any capital allowance to which the person who carried on the trade was entitled immediately before the discontinuance and to which effect has not been given by way of relief before discontinuance.

Relief shall not be given under this subsection or under section 145(1) of this Act (post-cessation receipts: allowable deductions) in respect of any loss, expense, debit or allowance if and so far as it has been so given by reference to another charge to tax under this section or under section 143 of this Act (post-cessation receipts).

- (6) For the purposes of subsection (1) of this section assets representing capital consist of—
  - (a) assets representing any loan or other capital subscribed, including income derived from any investment of any part of that capital, but not including profits from the employment of that capital for the purposes of the mutual business of the body corporate,
  - (b) assets representing any profits or gains charged to tax as being profits or gains of any part of the trade carried on by the body corporate which does not consist of the conducting of any mutual business,
  - (c) (so far as not comprised in the paragraphs above) assets representing taxed income from any investments.
- (7) In this section " mutual business " includes any business of mutual insurance or mutual trading.
- (8) Subsections (3), (4) and (5) of this section shall apply with any necessary modifications—
  - (a) to a profession or vocation, and
  - (b) to the occupation of woodlands the profits or gains of which are assessable under Schedule D,as they apply to a trade.
- (9) It is hereby declared that the description of trades in subsection (1) of this section does not include any trade all the profits or gains of which are chargeable to tax and, in particular, does not include such a trade carried on by any registered industrial and provident society.