



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART XVII

#### TAX AVOIDANCE

### CHAPTER IV

#### MISCELLANEOUS

##### *Transactions between associated persons*

#### **485 Sales, etc., at undervalue or overvalue**

- (1) Subject to the provisions of this section, where any property is sold and—
- (a) the buyer is a body of persons over whom the seller has control or the seller is a body of persons over whom the buyer has control or both the seller and the buyer are bodies of persons and some other person has control over both of them ; and
  - (b) the property is sold at a price less than the price which it might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length,

then, in computing the income, profits or losses of the seller for tax purposes, the like consequences shall ensue as would have ensued if the property had been sold for the price which it would have fetched if the transaction had been a transaction between independent persons dealing as aforesaid:

Provided that this subsection shall not apply where the buyer is resident in the United Kingdom and is carrying on a trade therein, and the price of the property falls to be taken into account as a deduction in computing the profits or gains or losses of that trade for tax purposes.

- (2) Subject to the provisions of this section, where any property is sold and—

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- (a) the buyer is a body of persons over whom the seller has control or the seller is a body of persons over whom the buyer has control or both the seller and the buyer are bodies of persons and some other person has control over both of them ; and
- (b) the property is sold at a price greater than the price which it might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length,

then, in computing the income, profits or losses of the buyer for tax purposes, the like consequences shall ensue as would have ensued if the property had been sold for the price which it would have fetched if the transaction had been a transaction between independent persons dealing as aforesaid:

Provided that this subsection shall not apply where the seller is resident in the United Kingdom and is carrying on a trade therein, and the price of the property falls to be taken into account as a trading receipt in computing the profits or gains or losses of that trade for tax purposes.

- (3) The preceding provisions of this section shall not apply in relation to any sale unless the Board so direct, and where such a direction is given all such adjustments shall be made, whether by assessment, repayment of tax or otherwise, as are necessary to give effect to the direction.
- (4) Nothing in this section shall be construed as affecting the operation of any of the provisions of the Capital Allowances Act 1968.
- (5) In this section, " body of persons " includes a partnership and "control" has the meaning ascribed to it by section 534 of this Act, and, for the purposes of this section, a sale shall be deemed to take place at the time of completion or at the time when possession is given, whichever is the earlier.
- (6) The preceding provisions of this section shall, with the necessary adaptations, have effect in relation to lettings and hirings of property, grants and transfers of rights, interests or licences and the giving of business facilities of whatever kind as they have effect in relation to sales, and the references in the said preceding provisions to sales, sellers, buyers and prices shall be deemed to be extended accordingly.

#### **486 Transactions between dealing company and associated company**

- (1) Subject to the provisions of this section, where—
  - (a) a dealing company becomes entitled to a deduction, in computing the profits or gains of the company for tax purposes for any period, in respect of the depreciation in the value of any right subsisting against an associated company, not being a dealing company, or
  - (b) a dealing company makes any payment to such an associated company, being a payment in respect of which the dealing company is entitled to a deduction in computing its profits or gains for tax purposes for any period,
 and the depreciation or payment is not brought into account in computing the profits or gains of the company not being a dealing company, that company shall be deemed to have received on the last day of the period income of an amount equal to the amount of the deduction and shall be chargeable in respect thereof under Case VI of Schedule D.
- (2) Where the company not being a dealing company is carrying on a trade, the said income shall, if the company so elects, not be so chargeable but shall be deemed to

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have been a receipt of the trade, or, if the company is carrying on more than one trade, to have been a receipt of such one of the trades as the company may choose.

- (3) Where the said company is carrying on, or was formed to carry on, a trade, then if the said right subsisting against the company was a right to the repayment of moneys lent for meeting expenditure which has proved (in whole or in part) abortive, or the payment to the company was made for meeting such expenditure, and the expenditure is such that the company is not entitled in respect thereof to any allowance or deduction in computing losses or gains, subsection (1) above shall not apply in so far as the expenditure proved abortive.
- (4) For the purposes of this section—
- (a) " company " includes any body corporate,
  - (b) " dealing company " means a company dealing in securities, land or buildings and includes any company whose profits on the sale of securities, land or buildings are part of its trading profits,
  - (c) two or more companies shall be treated as associated companies if one has control of the other or others, or any person has control of both or all of them,
  - (d) references to a company having control of another company shall be construed as references to its having control thereof either by itself or in conjunction with any person having control over the first-mentioned company, and " control " has the meaning given by section 534 of this Act,
  - (e) " securities " includes shares and stock.
- (5) Where it appears to the Board that by reason of any transaction or transactions a person may by virtue of this section have incurred any liability to tax, the Board may by notice in writing served on him require him, within such time not less than twenty-eight days as may be specified in the notice, to furnish information in his possession with respect to the transaction or any of the transactions, being information as to matters, specified in the notice, which are relevant to the question whether he has incurred such a liability as aforesaid.