



# Finance Act 1970

## 1970 CHAPTER 24

### PART III

#### MISCELLANEOUS

##### *Capital gains*

#### **27 Mergers: exemption from charge on company ceasing to be a member of a group**

The following section shall be inserted after section 278 of the Taxes Act (charge to corporation tax on company ceasing to be a member of a group in respect of assets previously acquired by a transfer within the group)—

##### **“278A Exemption from charge under s. 278 in the case of certain mergers.**

- (1) Subject to the following provisions of this section, section 278 above shall not apply in a case where—
  - (a) as part of a merger, a company (in this section referred to as " company A ") ceases to be a member of a group of companies (in this section referred to as " the A group "); and
  - (b) it is shown that the merger was carried out for bona fide commercial reasons and that the avoidance of liability to tax was not the main or one of the main purposes of the merger.
- (2) In this section " merger " means an arrangement (which in this section includes a series of arrangements)—
  - (a) whereby one or more companies (in this section referred to as " the acquiring company " or, as the case may be, " the acquiring companies ") none of which is a member of the A group acquires or acquire, otherwise than with a view to their disposal, one or more interests in the whole or part of the business which, before the arrangement took effect, was carried on by company A; and

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- (b) whereby one or more members of the A group acquires or acquire, otherwise than with a view to their disposal, one or more interests in the whole or part of the business or each of the businesses which, before the arrangement took effect, was carried on either by the acquiring company or acquiring companies or by a company at least 90 per cent, of the ordinary share capital of which was then beneficially owned by two or more of the acquiring companies; and
  - (c) in respect of which the conditions in subsection (4) below are fulfilled.
- (3) For the purposes of subsection (2) above, a member of a group of companies shall be treated as carrying on as one business the activities of that group.
- (4) The conditions referred to in subsection (2)(c) above are—
- (a) that not less than 25 per cent, by value of each of the interests acquired as mentioned in paragraphs (a) and (b) of subsection (2) above consists of a holding of ordinary share capital, and the remainder of the interest, or as the case may be of each of the interests, acquired as mentioned in the said paragraph (b) consists of a holding of share capital (of any description) or debentures or both; and
  - (b) that the value or, as the case may be, the aggregate value of the interest or interests acquired as mentioned in subsection (2)(a) above is substantially the same as the value or, as the case may be, the aggregate value of the interest or interests acquired as mentioned in subsection (2) (b) above; and
  - (c) that the consideration for the acquisition of the interest or interests acquired by the acquiring company or acquiring companies as mentioned in subsection (2)(a) above, disregarding any part of that consideration which is small by comparison with the total, either consists of, or is applied in the acquisition of, or consists partly of and as to the balance is applied in the acquisition of, the interest or interests acquired by members of the A group as mentioned in subsection (2) (b) above ;
- and for the purposes of this subsection the value of an interest shall be determined as at the date of its acquisition.
- (5) Notwithstanding the provisions of section 272(1)(a) above, references in this section to a company include references to a company resident outside the United Kingdom.”

## **28 Extension of class of securities exempt from tax on capital gains**

- (1) For the purpose of section 41 of, and Schedule 18 to, the Finance Act 1969 and of section 270 of the Taxes Act (gilt-edged securities exempt from tax on capital gains: consequential charge on short-term disposals etc. by companies) in the expression "stocks and registered bonds ", in each place where it occurs in those provisions, the word "registered " shall be, and shall be deemed always to have been, omitted.
- (2) All such adjustments of tax shall be made, whether by way of discharge or repayment or by way of assessment, as may be required in consequence of this section.

### *Mineral royalties*

## **29 Taxation of mineral royalties**

- (1) Subject to the following provisions of this section, a person resident or ordinarily resident in the United Kingdom who in any year of assessment or accounting period is entitled to receive mineral royalties under a mineral lease or agreement shall be treated—

- (a) for purposes of income tax (including surtax), or as the case may be for purposes of corporation tax on profits exclusive of chargeable gains, as if the total of the mineral royalties receivable by him under that lease or agreement in that year or period and any management expenses available for set-off against those royalties in that year or period were each reduced by one half; and
- (b) for purposes of Part III of the Finance Act 1965, or as the case may be for purposes of corporation tax on chargeable gains, as if there accrued to him in that year or period a chargeable gain equal to the relevant fraction of the total of the mineral royalties receivable by him under that lease or agreement in that year or period;

and this section shall have effect notwithstanding any provision of section 156(1) of the Taxes Act (rent etc. payable in connection with mines, quarries and similar concerns) making the whole of certain kinds of mineral royalties chargeable to tax under Schedule D, but without prejudice to any provision of that section providing for any such royalties to be subject to deduction of income tax under Part II of the Taxes Act.

- (2) For the purposes of subsection (1)(a) above, " management expenses available for set-off " against royalties means—

- (a) where section 158 of the Taxes Act (expenses of owners of mineral rights) applies in respect of the royalties, any sums brought into account under subsection (1) of that section in determining the amount of the repayment of income tax in respect of those royalties or, as the case may be, deductible from those royalties under subsection (2) of that section in computing the income of a company for purposes of corporation tax ; and
- (b) if the royalties are chargeable to tax under Schedule A, any sums deductible under Part III of the Taxes Act as payments made in respect of management of the property concerned, including amounts of betterment levy treated as such payments under paragraph 6 of Schedule 4 to that Act;

and if neither paragraph (a) nor paragraph (b) above applies, the reference in subsection (1)(a) above to management expenses available for set-off shall be disregarded.

- (3) The relevant fraction referred to in subsection (1)(b) above in relation to the mineral royalties receivable under a mineral lease or agreement—

- (a) shall be one half if betterment levy was not chargeable in respect of the grant of that lease or agreement and has not subsequently become chargeable on any renewal, extension or variation of the mineral lease or agreement ;
- (b) shall be determined in accordance with Part I of Schedule 6 to this Act if, on the last disposition affecting the lease or agreement and giving rise to an assessment to betterment levy, betterment levy was chargeable under Case B within the meaning of Part III of the Land Commission Act 1967; and

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- (c) in any other case shall be determined in accordance with regulations made by the Board by statutory instrument, and any such regulations shall secure, so far as practicable, that account is taken of any betterment levy chargeable in respect of a disposition affecting the mineral lease or agreement on a basis comparable with that in the said Part I;

and notwithstanding anything in the enactments relating to the computation of chargeable gains, the amount of the chargeable gain treated as accruing to any person by virtue of subsection (1)(b) above shall be the whole amount calculated in accordance with that subsection, and accordingly no reduction shall be made on account of expenditure incurred by that person or of any other matter whatsoever.

- (4) Where subsection (1) above applies in relation to mineral royalties receivable under a mineral lease or agreement by a person not chargeable to corporation tax in respect of those royalties, then in so far as the amount of income tax paid, by deduction or otherwise, by him in respect of those mineral royalties in any year of assessment exceeds the amount of income tax, exclusive of surtax, for which he is liable in respect of those royalties by virtue of subsection (1)(a) above.—
  - (a) the amount of the excess shall in the first instance be set against the tax for which he is chargeable by virtue of subsection (1)(b) above ; and
  - (b) on the making of a claim in that behalf, he shall be entitled to repayment of tax in respect of the balance of that excess.
- (5) The provisions of Part II of Schedule 6 to this Act shall have effect in relation to capital losses which accrue during the currency of a mineral lease or agreement.
- (6) In this section and in Schedule 6 to this Act, references to mineral royalties refer only to royalties receivable on or after 6th April 1970, and the expression " mineral royalties" means so much of any rents, tolls, royalties and other periodical payments in the nature of rent payable under a mineral lease or agreement as relates to the winning and working of minerals; and the Board may by regulations made by statutory instrument—
  - (a) provide whether, and to what extent, payments made under a mineral lease or agreement and relating both to the winning and working of minerals and to other matters are to be treated as mineral royalties; and
  - (b) provide for treating the whole of such payments as mineral royalties in cases where the extent to which they relate to matters other than the winning and working of minerals is small.
- (7) In this section and in Schedule 6 to this Act—
  - " minerals " means all minerals and substances in or under land which are ordinarily worked for removal by underground or surface working, but excluding water, peat, top-soil and vegetation ; and
  - " mineral lease or agreement " means—
    - (a) a lease, profit a prendre, licence or other agreement conferring a right to win and work minerals in the United Kingdom ;
    - (b) a contract for the sale, or a conveyance, of minerals in or under land in the United Kingdom; and
    - (c) a grant of a right under section 1 of the Mines (Working Facilities and Support) Act 1966, other than an ancillary right within the meaning of that Act.

- (8) A statutory instrument made in the exercise of any power conferred on the Board by this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (9) In the application of this section to Northern Ireland—
- (a) paragraphs (a) to (c) of subsection (3) above shall not apply but the relevant fraction referred to in subsection (1)(b) above shall be one half;
  - (b) references to mineral royalties include references—
    - (i) to periodical payments of compensation under section 29 or section 35 of the Mineral Development Act (Northern Ireland) 1969 or under section 4 of the Petroleum (Production) Act (Northern Ireland) 1964; and
    - (ii) to periodical payments made as mentioned in section 37 of the said Act of 1969 or under section 55(4)(b) of that Act or under section 11 of the said Act of 1964 (payments in respect of minerals to persons entitled to a share of royalties under section 13(3) of the Irish Land Act 1903); and
  - (c) in the application of this section to any such payments as are referred to in paragraph (b) above, subsection (5) above shall be omitted, and references in any other provision of this section to the mineral lease or agreement under which mineral royalties are payable shall be construed as references to the enactment under which the payments are made.

*Estate duty*

**30 Rate of interest on estate duty**

- (1) Subject to the provisions of this section, the rate of interest payable under the following enactments namely—
- (a) section 18 of the Finance Act 1896 (general provision for interest on death duties);
  - (b) subsection (3) of section 17 of the Law of Property Act 1925 and subsection (6) of section 73 of the Land Registration Act 1925 (interest on death duties becoming immediately payable on a conveyance or disposition of land which overrides the charge for duty),
- shall, as regards interest accruing after the passing of this Act, be three per cent., instead of two per cent., per annum.
- (2) The Treasury may by order from time to time increase or reduce the rate of interest payable under the enactments referred to in subsection (1) of this section; and any such order may correspondingly increase or reduce the rate of interest payable under any other enactments relating to estate duty.
- (3) The power of the Treasury to make orders under this section shall be exercisable by statutory instrument; and any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

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### **31 Minor amendments as to discretionary trusts**

- (1) For the purposes of head (iii) of the substituted section 2(1)(b) (that is, the paragraph substituted by section 36 of the Finance Act 1969 for paragraph (b) of section 2(1) of the Finance Act 1894)—
  - (a) the deceased shall be treated as having benefited as a result of the discretion therein referred to if any of the income with respect to which that discretion was exercisable was paid to him or applied for his benefit; and
  - (b) property shall not be treated as having ceased to be subject to the trust by reason of any payment or application of such income ;
 and paragraphs (b) to (e) of subsection (3) of section 37 of the Finance Act 1969 shall apply for the purpose of determining whether income was paid or applied as mentioned in paragraph (a) or (b) above as they apply for determining the part of the property to be treated as passing in a case where less than the whole of the income was paid or applied to or for the benefit of the deceased.
- (2) Any reference in paragraph (b) or (c) of the said subsection (3) to a sum paid to or applied for the benefit of a person shall include a reference to property transferred to him or applied for his benefit or, as the context requires, to the value (at the date of the transfer or application) of such property.
- (3) In paragraph 9 of Part II of Schedule 17 to the Finance Act 1969 (relief for charities under the substituted section 2(1)(M), after the words " seven years " there shall be inserted the words " except those occurring in the descriptions of the material period for the purposes of paragraphs (aa), (bb) and (cc) of head (iii) ".
- (4) In paragraph 7 of Part II of Schedule 17 to the Finance Act 1969 (quick succession relief under s. 30 of the Finance Act 1958 in respect of settled property passing under head (iii) or (iv) of the substituted section 2(1)(b)) the words " subsisting at the date of the earlier death " shall be omitted ; and so much of paragraph 3(4) of Schedule 8 to the Finance Act 1958 as excludes relief under the said section 30 by reference to a death after the end of the settlement shall not apply to a case falling within the said paragraph 7.
- (5) No relief shall be allowed under the said section 30 by virtue of the said paragraph 7 in a case where the property passes both on the earlier and on the later death under head (iii) of the substituted section 2(1)(b) and the relevant period (as defined by subsection (3) of section 37 of the Finance Act 1969) is the same in relation to each of those deaths.
- (6) This section applies (and except as regards any such earlier death as is referred to in the said paragraph 7 applies only) in relation to deaths occurring after 14th April 1970.

#### *Stamp duties*

### **32 Abolition of certain stamp duties, and amendments as to rates and other matters**

The provisions of Schedule 7 to this Act shall have effect, being—

- (a) in the case of those in Part I of that Schedule, provisions abolishing, or consequential on the abolition of, certain stamp duties,
- (b) in the case of those in Part II of that Schedule, provisions making general amendments of or in connection with the enactments relating to stamp duties, and

- (c) in the case of those in Part III of that Schedule, special provisions required for the purposes of those enactments in connection with the introduction of the new currency provided for by the Decimal Currency Act 1967.

### **33 Composition by stock exchanges in respect of transfer duty**

- (1) The Commissioners may enter into an agreement with, or with persons acting on behalf of, any recognised stock exchange for the composition, in accordance with the provisions of this section, of the stamp duty chargeable under or by reference to the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 on such instruments as may be specified in the agreement, being instruments executed for the purposes of stock exchange transactions as defined in section 4(1) of the Stock Transfer Act 1963.

In this subsection "recognised stock exchange" means the Stock Exchange, London, and any other stock exchange declared by an order in force under section 4 of the Stock Transfer Act 1963 to be a recognised stock exchange for the purposes of that Act.

- (2) An agreement under this section shall provide—
  - (a) for every instrument to which the agreement relates to bear on its face an indication of the amount of stamp duty chargeable thereon,
  - (b) for the issue in respect of every such instrument, by or on behalf of the stock exchange, of a certificate (which may relate to more than one such instrument) to the effect that stamp duty to the amount so indicated has been, or will be, accounted for to the Commissioners,
  - (c) for the delivery to the Commissioners, by or on behalf of the stock exchange, of periodical accounts in respect of instruments to which the agreement relates, giving such particulars with respect thereto as may be specified in the agreement, and
  - (d) for the payment to the Commissioners, by or on behalf of the stock exchange and on the delivery of any such account, of the aggregate amount of the stamp duty chargeable as mentioned in subsection (1) above on instruments to which the agreement relates during the period to which the account relates ;

and any such agreement may contain such other terms and conditions as the Commissioners think proper.

- (3) For the purposes of any agreement under this section, the form of brokers transfer provided for by section 1(2) of the Stock Transfer Act 1963 may be used in connection with any transaction notwithstanding that the particulars referred to in that provision could be inserted in the stock transfer there referred to.
- (4) An instrument to which an agreement under this section relates and in respect of which a certificate to the effect mentioned in subsection (2)(b) above has been issued by or on behalf of the stock exchange in question shall be treated for the purposes of the Stamp Act 1891 as stamped with the amount of duty indicated on the face of the instrument.
- (5) A stock exchange or person making default in delivering any account required by an agreement under this section, or in paying any amount in accordance with such an agreement, shall be liable to a fine not exceeding £50 for any day during which the default continues; and, in addition, every amount payable under such an agreement shall bear interest at the rate of 5 per cent, per annum, recoverable by Her Majesty, from the due date for delivery of the account by reference to which it is payable until the actual date of payment.

- (6) Except in so far as the context otherwise requires, any reference to a stamp in section 9 or 10 of the Stamp Duties Management Act 1891 (allowances for spoiled stamps) shall include a reference to any indication of an amount of stamp duty on the face of any instrument to which an agreement under this section relates.

*Other provisions*

### **34 Savings banks interest rates**

- (1) The Treasury may by order made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, increase—
- (a) the rate specified in section 5 of the Post Office Savings Bank Act 1954 of the interest payable to depositors in the National Savings Bank in respect of ordinary deposits;
  - (b) the maximum rate specified in section 15 of the Trustee Savings Banks Act 1969 of the interest payable to depositors by the trustees of a trustee savings bank in respect of ordinary deposits ;
  - (c) the maximum rate specified in section 414(3)(a) of the Income and Corporation Taxes Act 1970 for the interest payable on deposits in a savings bank maintained under a local Act for the Treasury to certify a bank or department for the purposes of that section;
- and any order made under this section may be varied or revoked by a subsequent order so made (but not so as to reduce any rate specified in any of the said enactments below the figure at which it stood when this Act was passed).
- (2) An order under subsection (1)(a) above, so far as it relates to interest for a period before 1st January 1972, may be made so as to apply only as respects deposits in accounts not closed before that date, or so as to make different provision for such deposits, and other deposits.
- (3) In section 34(2) of the Trustee Savings Bank Act 1969 the words " and not exceeding £3 13s. Od. per cent, per annum " (limit on rate of interest payable by Fund for the Banks for Savings) shall cease to have effect.
- (4) This section, and the repeal made by this Act in the said section 34(2), shall extend to the Isle of Man and the Channel Islands.

### **35 Loans to Government of Northern Ireland**

- (1) For the purposes of any expenditure which in the opinion of the Treasury is of a capital nature the Treasury may issue out of the National Loans Fund and advance to the Exchequer of Northern Ireland by way of loan any sum or sums not exceeding in the aggregate the limit specified in subsection (2) below.
- (2) Until an order is made under this subsection the limit referred to in subsection (1) above is £50 million, but the Treasury may, on not more than three occasions, by order made by statutory instrument increase or further increase that limit by such sum, not exceeding £50 million, as may be specified in the order.
- (3) The Treasury shall not make an order under subsection (2) above unless a draft of the order has been approved by a resolution of the Commons House of Parliament.



- (4) Loans made under subsection (1) above shall be repaid at such times and by such methods, and interest thereon shall be paid at such rates and at such times, as may from time to time be determined by the Treasury ; and all sums paid in or towards the discharge of the principal of or interest on any such loans shall be paid into the National Loans Fund.
- (5) After the commencement of this Act no further advances shall be made under section 2 of the Miscellaneous Financial Provisions Act 1950 (which, as amended by section 57 of the Finance Act 1969, provides for loans to the Government of Northern Ireland subject to a limit of £170 million on the total amount outstanding by way of principal).

### **36 Citation, interpretation, construction, extent and repeals**

- (1) This Act may be cited as the Finance Act 1970.
- (2) In this Act—
  - (a) except where the context otherwise requires, " the Board " means the Commissioners of Inland Revenue,
  - (b) " the Taxes Act" means the Income and Corporation Taxes Act 1970,
  - (c) " the Management Act " means the Taxes Management Act 1970.
- (3) Part I of this Act (except section 9) shall be construed as one with the Customs and Excise Act 1952.
- (4) Part II of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts and, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts.
- (5) Part III of this Act, so far as it relates to stamp duties, shall be construed as one with the Stamp Act 1891.
- (6) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or applied by or under any other enactment, including this Act.
- (7) Except as otherwise expressly provided such of the provisions of this Act as relate to matters in respect of which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.
- (8) The enactments mentioned in Schedule 8 to this Act (which include enactments which are spent or otherwise unnecessary) are hereby repealed to the extent mentioned in the third column of that Schedule, but subject to any provision in relation thereto made at the end of any Part of that Schedule.