



Finance Act 1953

1953 CHAPTER 34

PART III

INCOME TAX, PROFITS TAX AND EXCESS PROFITS LEVY

Computation of profits, etc.

19 Changes in ownership of trade, etc.

- (1) Where in any year of assessment there is a change in the persons engaged in carrying on any trade, profession or vocation, then (subject to the provisions of this section) the amount of the profits or gains thereof on which tax is chargeable for any year of assessment, and the persons on whom it is chargeable, shall be determined as if the trade, profession or vocation had been permanently discontinued at the date of the change and a new trade, profession or vocation had been then set up and commenced.
- (2) Where there is in any year of assessment a change on which a trade, profession or vocation is treated under the foregoing provisions as permanently discontinued, and a person engaged in carrying on the trade, profession or vocation immediately before the change continues to be so engaged immediately after it, then—
 - (a) the trade, profession or vocation carried on by him immediately before and immediately after the change shall, notwithstanding the discontinuance, be treated as the same trade, profession or vocation for the purposes of subsection (3) of section fifteen of this Act and of sections three hundred and forty-two and three hundred and forty-three of the Income Tax Act, 1952 (which relate to the carry forward of losses), except as respects the computation of profits or gains and losses;
 - (b) in respect of a loss sustained by him in the trade, profession or vocation in the part of the said year before the change, relief shall be given under the said section three hundred and forty-two from the assessment relating to the part of the year after the change as if it were an assessment for a subsequent year;
 - (c) for the purposes of the said section three hundred and forty-two (but not of the said section three hundred and forty-three) there shall be treated as a loss

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so sustained in the part of the year before the change his share of the non-effective amount (if any) of any allowances falling by virtue of Part X or XI of the Income Tax Act, 1952, to be made in charging the profits or gains of the trade, profession or vocation for that part of the year.

For the purposes of paragraph (c) of this subsection, the persons engaged in carrying on the trade, profession or vocation immediately before the change shall be treated as entitled to any such allowances in the shares in which they are then entitled to the profits of the trade, profession or vocation, and "the non-effective amount" means, in relation to any allowances, the amount to which, because of an insufficiency of profits or gains, effect cannot be given in charging the profits or gains of the trade, profession or vocation.

- (3) Where there is such a change as is mentioned in subsection (1) of this section, and a person engaged in carrying on the trade, profession or vocation immediately before the change continues to be so engaged immediately after it, the persons so engaged immediately before and the persons so engaged immediately after the change may, by notice signed by them and sent to the surveyor at any time within twelve months after the date of the change, elect that the subsection shall not apply to treat the trade, profession or vocation as discontinued or a new trade, profession or vocation as set up and commenced.
- (4) Where there is in any year of assessment a change in the persons engaged in carrying on a trade, profession or vocation, and subsection (1) of this section does not apply by reason of a notice under the last foregoing subsection, then—
 - (a) tax in respect of the trade, profession or vocation for that year shall be assessed and charged separately on those so engaged before the change and on those so engaged after it, but the amount on which tax is chargeable shall be computed as if there had been no such change in that year and shall be apportioned as may be just, and subsection (1) of section three hundred and twenty-nine of the Income Tax Act, 1952 (which relates to procedure on apportionments under Part X of that Act), shall apply to an apportionment under this paragraph as it applies to an apportionment under the said Part X; and
 - (b) if, after the change but before the end of the following year of assessment, there is a permanent discontinuance of the trade, profession or vocation (including a change treated as such), then on that discontinuance section one hundred and thirty of the Income Tax Act, 1952, shall apply, as respects any period before the first-mentioned change, to the persons charged or chargeable for that period as it would apply if no such change had taken place and they had been charged to tax accordingly for the subsequent period up to the discontinuance.
- (5) There shall be made such additional assessments, reductions of assessments or repayments of tax as may in any case be required in order to give effect to this section.
- (6) In the case of the death of a person who, if he had not died, would, under the provisions of this section, have become chargeable to income tax for any year, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate; and where, under those provisions, an election may be made by any person, it may in the case of his death be made by his executors or administrators instead of him.
- (7) For the purposes of this section, a change in the personal representatives of any person or in the trustees of any trust shall not be treated as a change in the persons

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engaged in carrying on any trade, profession or vocation carried on by those personal representatives or trustees as such.

- (8) In this section, " trade, profession or vocation " means a trade, profession or vocation chargeable under Case I or II of Schedule D.
- (9) As respects changes occurring in the year 1953-54 or any subsequent year of assessment the foregoing subsections shall have effect in substitution for sections one hundred and forty-five and one hundred and forty-six of the Income Tax Act, 1952, and references to section one hundred and forty-five shall be construed as referring to this section.

20 Payments between associated companies in respect of losses

- (1) Subject to the provisions of this section, where a company has a deficit for tax purposes during any accounting period of the company, and receives a subvention payment in respect of that period from an associated company having a surplus for tax purposes in the corresponding period, then in computing for the purposes of income tax the profits or gains or losses of those companies the payment shall be treated as a trading receipt receivable by the one company on the last day of the accounting period during which it has the deficit, and shall be allowed as a deduction to the other company as if it were a trading expense incurred on that day.
- (2) Subject to the next following subsection, a payment made by one company to another shall be treated as a subvention payment within the meaning of this section if, but only if, it is made under an agreement providing for the paying company to bear or share in losses or a particular loss of the payee company, and is not a payment which (apart from this section) would be taken into account in computing profits or gains or losses of either company or on which (apart from this section and from any relief from tax) the payee company would be liable to bear tax by deduction or otherwise:

Provided that a payment in respect of any accounting period of the payee company shall not be treated as a subvention payment unless made in or before the year of assessment following that in which the period ends.

- (3) If a company receives subvention payments from one or more associated companies in respect of the same accounting period to an aggregate amount exceeding its deficit for tax purposes during that period, or if a company makes subvention payments to one or more associated companies to an aggregate amount exceeding its surplus for tax purposes in the period which is the corresponding period in relation to those payments, the excess shall be disregarded for the purposes of this section ; and, where payments to or from more than one company are in question, the payments shall be treated as abating in such manner as may be agreed between all the companies concerned or, in default of agreement, determined by the Commissioners of Inland, Revenue:

Provided that where the period which is the corresponding period in relation to any subvention payment made by a company includes the whole or part of the period which is the corresponding period in relation to another subvention payment made by it, this subsection shall apply to those payments as if the whole period comprised in the said periods were the corresponding period in relation to those payments.

- (4) Where a subvention payment is made to a company in respect of more than one accounting period of the company, or is made to or by a company carrying on more than one trade, the payment shall be apportioned in such manner as appears to the

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Commissioners concerned to be just in order to determine the part to be attributed for the purposes of this section to any period or trade.

- (5) For the purposes of this section the question, as respects any period, whether a company has a deficit or surplus for tax purposes, or what is the amount of that deficit or surplus, shall be determined by deducting from—
- (a) the aggregate amount—
 - (i) of any profits or gains arising in that period from a trade carried on by it wholly or partly in the United Kingdom (computed in accordance with the provisions, other than this, section, applicable to Case I of Schedule D); and
 - (ii) of any income for the year of assessment in which that period ends (computed in accordance with the provisions of the Income Tax Acts) other than profits or gains arising from any such trade ;
 - (b) the aggregate amount—
 - (i) of any loss sustained by it in the period in any such trade (computed in the same manner as profits or gains under the provisions, other than this section, applicable to Case I of Schedule D); and
 - (ii) of any allowances in respect of any such trade under Part X or XI of the Income Tax Act, 1952, for the said year of assessment, other than those given by way of deduction in computing profits or gains or losses; and
 - (iii) of any payments made by it in the said year of assessment to which section one hundred and sixty-nine or one hundred and seventy of the said Act applies, other than payments to which the said section one hundred and seventy applies by virtue of section three hundred and eighteen of (he said Act or which are deductible in computing the profits or gains or losses of a trade carried on by it:

Provided that, where the period is longer or shorter than a year, the amounts referred to in sub-paragraph (ii) of paragraph (a) and sub-paragraphs (ii) and (iii) of paragraph (b) of this subsection shall be proportionately increased or reduced.

- (6) In relation to a subvention payment made to a company in respect of any of its accounting periods, the corresponding period of the paying company shall be—
- (a) if any of its accounting periods coincides with that accounting period of the payee company, that period ; and
 - (b) in any other case, such period as the Commissioners of Inland Revenue may determine, being a period of the same length as that accounting period of the payee company.
- (7) Where a company makes a subvention payment to another, and the whole or part of its profits or gains arising in the period in which the expense is treated as incurred under subsection (1) of this section are, in computing tax, either—
- (a) treated as profits or gains of each of two or more years of assessment; or
 - (b) not treated as profits or gains of any year of assessment;

then such adjustment (if any) shall be made, in a case to which paragraph (a) of this subsection applies, of the assessment for any year mentioned in that paragraph other than the first or, in a case to which paragraph (b) applies, of the assessment for the year next following the end of the said period, as may be necessary to secure that (so far as may be) the aggregate amount of the assessments made on the company is reduced by an amount neither more nor less than the subvention payment.

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- (8) There shall be made such additional assessments, reductions of assessments or repayments of tax as may in any case be required in order to give effect to this section; and where the operation of this section in relation to any subvention payment affects a loss in respect of which a company has received a repayment of tax under section three hundred and forty-one of the Income Tax Act, 1952, so much of the repayment as would not have been made if account had been taken of the operation of this section in relation to the subvention payment may, if not otherwise made good, be assessed under Case VI of Schedule D and recovered from the company accordingly.
- (9) For the purposes of this section, "company " includes any body corporate, but references to a company shall be taken to apply only to a company resident in the United Kingdom and carrying on a trade wholly or partly in the United Kingdom:
- Provided that this section shall apply in relation to a company whose business consists mainly in the making of investments and the principal part of whose income is derived therefrom, as if that business were the carrying on of a trade, and in the case of such a company, any payment which is directed by this section to be treated as a trading receipt or a trading expense shall be treated as a payment chargeable under Case VI of Schedule D or as an expense of management, as the case may be.
- (10) For the purposes of this section, a company making a subvention payment to another shall be treated as the other's associated company if, but only if, at all times between the beginning of the payee company's accounting period in respect of which the payment is made and the making of the payment one of them is the subsidiary of the other, or both are subsidiaries of a third company, and for this purpose " subsidiary " has the meaning assigned to it for certain purposes of the profits tax by section forty-two of the Finance Act, 1938.
- (11) Sub-paragraph (ii) of paragraph (b) of subsection (5) of this section shall not be taken to apply to any part of the allowances for a year of assessment earlier than the year referred to in the sub-paragraph, notwithstanding that it is carried forward to the year so referred to under subsection (2) of section three hundred and twenty-three or subsection (1) of section three hundred and twenty-four of the Income Tax Act, 1952.
- (12) In relation to subvention payments falling to be included in computing the profits or gains or losses of the payee company for the year 1953-54 or any subsequent year of assessment this section shall apply, in the case of the paying company, to a past year of assessment and, in the case of either company, for the purposes of the profits tax to a past chargeable accounting period.
- (13) This section shall not apply for the purposes of the excess profits levy.

21 Unremittable overseas profits

- (1) Where a person is chargeable to income tax, the profits tax or the excess profits levy by reference to the amount of any profits or income arising in a territory outside the United Kingdom (hereafter in this section referred to as " overseas income "), then for the purposes of those taxes this section shall apply to the overseas income in so far as—
- (a) he is prevented from transferring the amount of the overseas income to the United Kingdom, either by the laws of that territory or any executive action of its Government or by the impossibility of obtaining foreign currency in that territory ; and

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- (b) he has not realised the overseas income outside that territory for a consideration in sterling or a consideration in some other currency which he is not prevented from transferring to the United Kingdom.

Overseas income to which this section applies is hereafter in this section referred to as unremittable.

- (2) Where a person chargeable as aforesaid gives written notice of his desire to be assessed in accordance with this subsection, then, in the first instance, account shall not be taken of the overseas income to the extent to which he shows to the satisfaction of the Commissioners of Inland Revenue that the following conditions are satisfied with respect to it, that is to say—

- (a) that it is unremittable; and
 (b) that paragraph (a) of the foregoing subsection would continue to apply notwithstanding any reasonable endeavours on his part,

and tax shall be assessed and charged on all persons concerned and for all periods accordingly; but, on the Commissioners of Inland Revenue ceasing, as respects any part of the income, to be satisfied that the said conditions are satisfied, such additional assessments, reductions of assessments and repayments of tax shall be made as may be necessary to take account of it, and of any tax payable in respect of it under the law of the territory where it arises, according to their value at the date when, in the opinion of those Commissioners, the said conditions cease to be satisfied with respect to it, and may be so made at any time not later than six years after that date.

- (3) Any notice under the last foregoing subsection shall relate to all tax (whether income tax, profits tax or excess profits levy) with which the person giving the notice is or may become chargeable by reference to the overseas income to which the notice relates, and shall be delivered to the surveyor before an assessment made by reference to that income otherwise than in accordance with that subsection (or, in the case of a person chargeable to more than one tax by reference to it, an assessment to each of those taxes) has become final and conclusive ; and there shall be made all such additional assessments, reductions of assessments or repayments of tax as may be required by reason of any such notice.
- (4) In the case of the death of a person who, if he had not died, would, under subsection (2) of this section, have become chargeable to any income tax, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators, and shall be a debt due from and payable out of his estate.
- (5) Subject to subsection (2) of this section, the amount of any unremittable overseas income shall be determined by reference to the generally recognised market value in the United Kingdom (if any) or, in the absence of any such value, according to the official rate of exchange of the territory where the income arises.
- (6) Any appeal against an assessment which involves a question as to the operation of this section shall be made to the Special Commissioners, and not to the General Commissioners.
- (7) In relation to any profits tax or excess profits levy chargeable by reference to the profits of a body corporate, that body corporate shall be deemed to be the person chargeable for the purposes of this section, notwithstanding that the tax is chargeable on another body corporate under the provisions relating to subsidiary companies.
- (8) This section shall, in the case of any person, apply to overseas income by reference to which he is chargeable to income tax for any year of assessment not earlier than the

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year 1952-53 (but not so as to affect tax chargeable by reference thereto for any earlier year) and, for the purposes of the profits tax and excess profits levy, also to profits arising in any chargeable accounting period in or before which any such income arises; and, where the time mentioned in subsection (3) of this section for delivering a notice under subsection (2) in relation to any overseas income has come to an end or comes to an end within three months of the commencement of this Act, the notice may be delivered at any time within those three months and, if the person entitled to give the notice has died, may be given by his executors or administrators.

22 Relief for copyright royalties, etc.

- (1) Subject to the provisions of this section, section four hundred and seventy-one of the Income Tax Act, 1952 (which enables a person in certain circumstances to treat for tax purposes a lump sum payable to him in respect of the copyright in a work of his in such a way as to spread the charge to tax over more than one year), shall apply to any payment of or on account of royalties or sums payable periodically as it applies to a lump sum payment, except that it shall not by virtue of this section apply to payments in respect of the copyright in any work which only become receivable more than two years after its first publication.
- (2) A claim under the said section four hundred and seventy-one with respect to any payment to which it applies by virtue only of this section shall have effect as a claim with respect to all such payments in respect of the copyright in the same work which are receivable by the claimant, whether before or after the claim; and, notwithstanding anything in subsection (4) of that section, such a claim may be made at any time not later than the fifth day of April next following the expiration of three years after the work's first publication.
- (3) Any reference in this section to a work's first publication is a reference to the first occasion on which the work or a reproduction of it is published, performed or exhibited.
- (4) This section shall apply to payments falling to be included in computing profits or gains for the year 1953-54 or any subsequent year of assessment, and in relation to such payments shall authorise the making of additional assessments for years of assessment earlier than the year 1953-54.

23 Compulsory slaughter of farm animals (election for " the herd basis ")

- (1) Where the whole or a substantial part of a production herd kept by a farmer for the purposes of his farming is slaughtered by the order of any Ministry, Government department or local or public authority under the law relating to diseases of animals in such circumstances that compensation is payable in respect of it, then subject to the provisions of this section an election for the herd basis thereupon made by the farmer in relation to that herd and any other production herds of the same class so kept by him shall be valid, notwithstanding that it is not made within the time required by subparagraph (3) of paragraph 2 of the Twentieth Schedule to the Income Tax Act, 1952.
- (2) Subject to subsection (6) of this section, an election for the herd basis made by virtue of this section shall only be valid if made not later than twelve months after the end of the first year of assessment for which the tax chargeable on the farmer in respect of the profits or gains of his farming finally falls to be computed by reference to the facts of a period in which the compensation is relevant:

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Provided that where that year is the second year of assessment within the meaning of section one hundred and twenty-nine of the Income Tax Act, 1952 (which relates to the assessment of new businesses), and notice is given under subsection (2) of that section, the election shall be valid if made not later than the giving of that notice.

- (3) An election for the herd basis made by virtue of this section shall, notwithstanding anything in sub-paragraph (4) of paragraph 2 of the said Twentieth Schedule, have effect for the purposes of income tax only for the year of assessment mentioned in the last foregoing subsection and subsequent years of assessment, and for the purposes of the profits tax and excess profits levy only for chargeable accounting periods not falling wholly before the period by reference to the facts of which the profits or gains are computed for the purposes of income tax for the year of assessment so mentioned:

Provided that for the purposes of income tax the election shall have effect also for earlier years of assessment for the purposes of any claim under section three hundred and forty-one of the Income Tax Act, 1952 (which enables trading losses to be set off against general income), which is made by the farmer for relief in respect of his farming, if the relief falls to be computed wholly or partly by reference to the facts of a period in which the compensation is relevant.

- (4) For the purposes of this section compensation shall be deemed to be relevant in any period if, but only if, it falls (or would but for an election under this section fall) to be taken into account as a trading receipt in computing the profits or gains or losses of that or an earlier period.
- (5) The Twentieth Schedule to the Income Tax Act, 1952, shall have effect, and the foregoing provisions of this section shall be construed, as if those provisions were contained in that Schedule, and paragraph 8 of that Schedule shall apply in relation to those provisions as it applies in relation to paragraphs 1 to 7 of that Schedule.
- (6) This section shall have effect (with the necessary adaptations of references to provisions of the Income Tax Act, 1952) as respects past years of assessment and past chargeable accounting periods in any case where an election for the herd basis made by virtue thereof will not have effect for purposes of income tax (otherwise than under the proviso to subsection (3) of this section) for a year of assessment earlier than the year 1951-52; and an election for the herd basis or claim for relief under section three hundred and forty-one of the Income Tax Act, 1952, if made by virtue of this subsection may, notwithstanding anything in the Income Tax Acts, be made at any time not later than the end of the year 1953-54.

24 Charge of tax on sums applied outside U.K. in repaying certain loans

- (1) For the purposes of subsection (3) of section one hundred and thirty-two of the Income Tax Act, 1952 (which provides that in certain cases tax chargeable under Case IV or V of Schedule D on the income arising from securities or possessions out of the United Kingdom shall be computed by reference to the sums received in the United Kingdom), any such income which is applied outside the United Kingdom by a person ordinarily resident in the United Kingdom in or towards satisfaction—
- (a) of a debt for money lent to him in the United Kingdom or for interest on money so lent; or
 - (b) of a debt for money lent to him outside the United Kingdom and received in or brought to the United Kingdom; or

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- (c) of a debt incurred for satisfying in whole or in part a debt falling within paragraph (a) or (b) of this subsection ;
- shall be treated as received by him in the United Kingdom (and for the purposes of paragraph (b) of the said subsection (3) as so received from remittances payable in the United Kingdom).
- (2) Where a person ordinarily resident in the United Kingdom receives in or brings to the United Kingdom money lent to him outside the United Kingdom, but the debt for that money is wholly or partly satisfied before he does so, the foregoing subsection shall apply as if the money had been received in or brought to the United Kingdom before the debt was so satisfied, except that any sums treated by virtue of that subsection as received in the United Kingdom shall be treated as so received at the time when the money so lent is actually received in or brought to the United Kingdom.
- (3) Where a person is indebted for money lent to him, income applied by him in such a way that the money or property representing it is held by the lender on behalf of or to the account of the said person in such circumstances as to be available to the lender for the purpose of satisfying or reducing the debt by set-off or otherwise shall be treated as applied by the said person in or towards its satisfaction, if under any arrangement between the said person and the lender the amount for the time being of the said person's indebtedness to the lender or the time at which it is to be repaid in whole or in part depends in any respect directly or indirectly on the amount or value held by the lender as aforesaid.
- (4) For the purposes of this section—
- (a) a debt for money lent shall, to the extent to which that money is applied in or towards satisfying another debt, be deemed to be a debt incurred for satisfying that other debt, and a debt incurred for satisfying in whole or in part a debt falling within paragraph (c) of subsection (1) of this section shall itself be treated as falling within that paragraph ; and
- (b) " lender " includes, in relation to any money lent, any person for the time being entitled to repayment.
- (5) This section shall not have effect in relation to income applied in or towards satisfaction of a debt for money lent before the fifteenth day of April, nineteen hundred and fifty-three, or of a debt incurred for satisfying in whole or in part any such debt, unless it is so applied after the end of the year 1953-54.