



Finance Act 1962

1962 CHAPTER 44

PART II

INCOME TAX AND PROFITS TAX

CHAPTER III

MISCELLANEOUS AMENDMENTS

17 Bounties payable on voluntary extension of army service

Any sum which, in pursuance of the scheme introduced on the nineteenth day of July, nineteen hundred and sixty-one, becomes or has become payable out of moneys provided by Parliament by way of bounty to a man serving in Her Majesty's military forces on his voluntarily undertaking to serve for a further period shall not be regarded as being or having been income for any income tax purposes.

18 Modification of right to set capital allowances against general income

(1) Section twenty of the Finance Act, 1954 (which enables capital allowances to be taken into account on a claim to set a trading loss against income generally), shall in relation to any claim for a loss sustained in the year 1962-63 or a later year of assessment, have effect with the following modifications :—

- (a) the claim shall not be made by reference to the capital allowances for that year (" the relevant year of assessment "), but by reference to those for the year for which that year is the basis year ; and
- (b) the amount of the capital allowances to be taken into account in computing the loss shall not be limited by reference to the amount to which effect cannot be given in charging profits or gains of the trade, but the capital allowances for any year shall be so taken into account only if and in so far as they are not required to offset balancing charges for the year ; and

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- (c) where the allowances taken into account are the allowances for the year for which the claim is made or for the preceding year (the relevant year of assessment being the basis year for that year itself or the claim being made by way of carry-forward of the loss under subsection (3) of section fifteen of the Finance Act, 1953), relief shall not be given by reference to those allowances in respect of an amount greater than the amount non-effective in the year for which the claim is made or, in the case of allowances for the preceding year, the amount non-effective in both years.
- (2) For the purposes of the said section twenty, where the end of the basis period for a year of assessment (as defined in section three hundred and twenty-five of the Income Tax Act, 1952) falls in, or coincides with the end of, any year of assessment, that year is the basis year for the first-mentioned year of assessment, but so that if a year of assessment would under the foregoing provision be the basis year both for that year itself and for another year of assessment, it shall be the basis year for the year itself and not for the other year; and—
- (a) any reference to the capital allowances or balancing charges for a year of assessment shall be construed as a reference to those falling to be made in charging the profits or gains of the trade for that year (but not including in the case of allowances any part of the allowances for an earlier year carried forward under subsection (2) of section three hundred and twenty-three of the Income Tax Act, 1952); and
 - (b) any reference to an amount of capital allowances non-effective in a year shall be construed as referring to the amount to which by reason of an insufficiency of profits or gains effect cannot be given in charging the profits or gains of the trade for the year.
- (3) For the purposes of paragraph (b) of subsection (1) above the capital allowances for a year of assessment shall be treated as required to offset balancing charges for the year up to the amount on which the balancing charges fall to be made after deducting from that amount the amount (if any) of capital allowances for earlier years which is carried forward to that year and would, without the balancing charges, be non-effective in that year.
- (4) Accordingly (subject to paragraphs (b) and (c) of subsection (1) above) the said section twenty shall have effect with the following amendments:—
- (a) in subsection (1) for the words from " as if" to " deducted " there shall be substituted the words " as if an amount equal to the capital allowances for the year of assessment for which the relevant year of assessment is the basis year were to be deducted ",
and for the words " that year " in both places there shall be substituted the words " the relevant year of assessment "; and
 - (b) there shall be omitted the proviso to subsection (1), and in subsection (3) the words from " the capital allowances " to " but " ; and
 - (c) in subsection (4) after the words " that year " there shall be inserted the words " or, in the case of allowances for the following year, in charging the profits or gains of the trade for that following year ".
- (5) Relief from tax may be given by virtue of subsection (1) of the said section twenty by reference to capital allowances for a year of assessment before the passing of any Act granting income tax for that year, as if income tax had been granted for the year without alteration; but if relief given to a person by virtue of that subsection for any year of assessment is affected by a subsequent alteration of the law, or by any discontinuance

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of the trade or other event occurring after the end of the year, any necessary adjustment may be made, and so much of any repayment of tax as exceeded the amount repayable in the events that happened may, if not otherwise made good, be assessed under Case VI of Schedule D and recovered from that person accordingly.

- (6) This section shall apply in relation to a claim for the year 1961-62 as it applies in relation to claims for subsequent years of assessment, if the claim is expressed to be made on the basis that this section shall apply, and shall not apply to a claim for the year 1962-63 or for the year 1963-64, if the claim is expressed to be made on the basis that this section shall not apply; but
- (a) subject to paragraph (b) below, a claim made by a person for any of those years on either basis (including a claim for the year 1961-62 made before the passing of this Act) may be superseded by a further claim made by him on the other basis within the time allowed for claims for the year 1963-64; and
 - (b) a claim may not be made for the year 1961-62 or for the year 1962-63 on the basis that this section shall apply, if a claim (not since superseded) has been made in respect of the same trade for a later year on the basis that this section shall not apply, nor may a claim be made for the year 1962-63 or for the year 1963-64 on the basis that this section shall not apply, if a claim (not since superseded) has been made in respect of the same trade for a previous year on the basis that this section shall apply.
- (7) Where under paragraph (a) of subsection (6) above a claim made on one basis is, after effect has been given to it, superseded by a further claim made on the other basis, then (without prejudice to any other provision for adjusting tax) there may be made all such repayments of tax and assessments or alterations of assessments as may be necessary to give effect to the further claim in place of the claim superseded.
- (8) This section shall be construed as one with subsections (1) to (6) of the said section twenty.

19 Double taxation relief under Finance Act, 1961 (effect on dividends)

- (1) Notwithstanding the provision in subsection (1) of section three hundred and fifty of the Income Tax Act, 1952, that the tax deductible under section one hundred and eighty-four from dividends shall be determined without regard to double taxation relief, where—
- (a) a body of persons pays a dividend out of profits or gains in respect of which development relief is given; and
 - (b) credit cannot be given against profits tax for that relief or can be so given for part only of it (on the basis that credit is to be so given for development relief in priority to any other double taxation relief);
- the rate at which tax is authorised by section one hundred and eighty-four to be deducted from the dividend shall be the reduced rate provided for by this section, and any provision of the Income Tax Acts referring to deduction of tax under section one hundred and eighty-four (and in particular the provisions of sections one hundred and eighty-five, one hundred and eighty-six and four hundred and ninety-one to four hundred and ninety-three of the Income Tax Act, 1952, for determining the gross amount of the dividend) shall have effect accordingly.
- (2) In this section " development relief" means double taxation relief given by virtue of section seventeen of the Finance Act, 1961 (which provides for relief by reference to exemptions from foreign taxation given to promote development), but includes any

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indirect relief by the reduction under this section of the tax deducted or treated as deducted from any dividend.

- (3) The reduced rate referred to in subsection (1) above shall be, in relation to any dividend, the standard rate reduced by the amount of any reduction in the net United Kingdom rate for the dividend (within the meaning of subsection (1) of the said section three hundred and fifty) which is due to so much of the development relief as cannot be given by way of credit against profits tax as mentioned in paragraph (b) of subsection (1) above; and for the purposes of this section there shall be treated as paid out of profits or gains in respect of which development relief has been given any dividend for which the net United Kingdom rate is reduced by development relief.
- (4) The power of the Commissioners of Inland Revenue under section three hundred and fifty-one of the Income Tax Act, 1952, to make regulations for carrying out the provisions of sections three hundred and forty-seven and three hundred and fifty of that Act shall include power to make regulations for carrying out this section.
- (5) Where a dividend is payable wholly or partly at a fixed gross rate per cent., and the rate at which tax is deductible is affected by this section, the net amount to be paid shall be determined according to the reduced rate provided for by this section, and not according to the standard rate; and tax payable in respect of a dividend shall be treated as satisfied by a deduction made in accordance with this section to the same extent as if the deduction had been of tax at the standard rate.
- (6) Where a company is or has been an overseas trade corporation and is or has been entitled to development relief, the rate at which tax is authorised to be deducted from a dividend shall be determined, if there is a different net United Kingdom rate for different parts of the dividend, by treating each such part as a separate dividend, and Part IV of the Finance Act, 1957, shall have effect subject to the following modifications:—
 - (a) so much of any relevant distribution or part of a relevant distribution (within the meaning of the Fifth Schedule to that Act) as is to be regarded under that Schedule as made out of the exempt trading income of the period to which the distribution or part is finally related shall, for any of the following purposes, be grossed up at the reduced rate applying to a dividend regarded as paid out of that income (instead of at the standard rate for the year of assessment in which the date of distribution falls), that is to say:—
 - (i) for the purpose of determining under paragraph 9 of that Schedule the amount of that income which is to be regarded as applied in making the distribution or that part of it; and
 - (ii) for the purpose of determining, in the case of a dividend, the amount on which the company is chargeable to tax by reference to it under section twenty-six of that Act; and
 - (iii) for the purpose of determining, in the case of a grant or loan to which paragraph 1 or 2 of the Sixth Schedule to that Act applies, the amount of income which is under that paragraph to be deemed to have been received by the person to whom the grant or loan is made; and
 - (b) in determining under the Fifth Schedule to that Act—
 - (i) how far a relevant distribution is to be finally related to any period; or
 - (ii) in what proportions a relevant distribution or part of a relevant distribution is to be regarded as made out of the exempt trading income and the other income respectively of the period to which it is finally related;

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any part of the income of the period in respect of which development relief is given (or, in the case of exempt trading income, would fall to be given if it were chargeable to tax) shall be treated as being of an amount which, after deduction of tax thereon at the standard rate for the year of assessment in which the date of distribution falls, is equal to the actual amount of the income after deduction of an amount equal to tax thereon at that rate as that tax is or would be reduced by reason of the development relief given or falling to be given in respect of the income.

20 Extension of double taxation relief in respect. of certain dividends

- (1) Paragraph 10 of the Sixteenth Schedule (to the Income Tax Act, 1952, and paragraph 3 of the Seventeenth Schedule to that Act (which relate to the allowance of double taxation relief on certain dividends paid to a company resident in the United Kingdom and controlling, directly or indirectly, not less than one half of the voting power in the company paying the dividend, and provide for taking account of the foreign tax paid by the last-mentioned company in respect of its profits) shall each be amended as follows:—

- (a) after the words " in the company paying the dividend " there shall be inserted the words " or which controls, directly or indirectly, a proportion of that voting power greater than one quarter and is subject to a local limitation preventing it from controlling a larger proportion "; and
- (b) at the end of the paragraph there shall be added the words—

“In this paragraph ' local limitation' means a limitation imposed by the law in force in the territory where the company paying the dividend is resident, or by executive action of the Government of that territory.”

- (2) Where a company resident in the United Kingdom either—

- (a) controls, directly or indirectly, not less than one half of the voting power in a company resident in a territory outside the United Kingdom ; or
- (b) controls, directly or indirectly, a proportion of that voting power greater than one quarter and is subject to a local limitation preventing it from controlling a larger proportion;

then, for the purposes of any credit to be allowed to the first-mentioned company in accordance with the Sixteenth or Seventeenth Schedule to the Income Tax Act, 1952, in respect of a dividend paid to it by the other company, tax payable by the other company in respect of its profits under the law of any territory outside the United Kingdom shall be taken into account as if it were payable under the law of the first-mentioned territory, and paragraphs 7 and 8 of the said Sixteenth Schedule (which relate to the computation of the amount of income in certain cases where double taxation relief is allowed) shall apply accordingly.

In this subsection " local limitation " has the same meaning as it has (by virtue of subsection (1) above) in paragraph 10 of the said Sixteenth Schedule and paragraph 3 of the said Seventeenth Schedule.

- (3) This section shall have effect only in relation to dividends by reference to which income tax is chargeable for the year 1962-63 or a subsequent year of assessment and (for the purposes of the profits tax) in relation to any other dividends which are received after the end of March, nineteen hundred and sixty-two, and by reference to which income tax is not chargeable for any year of assessment.

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21 Power to direct interest on Northern Ireland securities to be payable without deduction of tax

- (1) The Treasury on the application of the Ministry of Finance for Northern Ireland may, as respects any securities to which (this section applies, direct that the securities specified in the direction shall be issued, or shall be deemed to have been issued, subject to the condition that the interest thereon shall be paid without deduction of income tax; and in relation to any securities so specified and the interest thereon section one hundred and ninety-six of the Income Tax Act, 1952 (which made provision for paying interest on certain government securities without deduction of tax), shall have effect as if—
 - (a) the securities were securities in respect of which a direction had been given by the Treasury under subsection (1) of that section; and
 - (b) references in that section to " the Bank" were (notwithstanding subsection (6) thereof) references to the bank in the books of which the securities are registered or inscribed; and
 - (c) the references in subsections (3) and (4) of that section to the Treasury were references to the said Ministry of Finance.
- (2) The securities to which this section applies are securities issued under paragraph (c) of subsection (1) of section eleven of the Exchequer and Financial Provisions Act (Northern Ireland), 1950, for money borrowed by the said Ministry of Finance for the purposes of making issues from the Consolidated Fund of Northern Ireland.

22 Taxation of Gas Council and Area Boards

- (1) Subject to the provisions of this section, for the purposes of income tax and for the purposes of the profits tax the Gas Council shall be treated as carrying on a trade or business from the beginning of April, nineteen hundred and sixty-two, and from the beginning of that month—
 - (a) any trade or business carried on by an Area Board within the meaning of the Gas Act, 1948, shall be treated as part of the trade or business carried on by the Gas Council;
 - (b) subject to paragraph (c) below, any property, rights or liabilities of any such Board shall be treated as property, rights or liabilities of the Gas Council, and any thing done by or to any such Board shall be deemed to have been done by or to the Gas Council;
 - (c) any rights, liabilities or things done—
 - (i) of, by or to the Gas Council against, to or by any such Board ; or
 - (ii) of, by or to any such Board against, to or by the Gas Council or any other such Board, shall be left out of account;
 and income tax and the profits tax shall be charged accordingly.
- (2) Subsection (1) above shall not affect income tax for any year of assessment earlier than the year 1962-63 or the profits tax for any chargeable accounting period ending with or before the end of March, nineteen hundred and sixty-two, or the computation of the profits and gains or losses of the trade or business of an Area Board for any such year of assessment or chargeable accounting period; and any such losses may be carried forward and set off against the profits or gains of the trade or business of the Gas Council as if incurred by the Gas Council in carrying on that trade or business.
- (3) The trade or business of the Gas Council shall not be treated as a new trade or business set up and commenced at the beginning of April, nineteen hundred and sixty-two; but,

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subject to subsection (2) above, the Income Tax Acts and the enactments relating to the profits tax shall apply in relation to that trade or business as if before the beginning of that month it had consisted of the trades or businesses of the Area Boards, and (without prejudice to the generality of the foregoing) allowances and balancing charges shall be made to or on the Gas Council accordingly by reference to the capital expenditure of Area Boards and to the allowances made to Area Boards in respect of that expenditure.

- (4) The expenses of the Gas Council to which Area Boards may be required to contribute under subsection (1) of section forty-eight of the Gas Act, 1948, shall be taken to include the satisfaction of any obligations of the Gas Council in respect of income tax or the profits tax.

23 Sales of building land by persons associated with builder

- (1) Where a person contracts with a builder for the erection of a building on land acquired or to be acquired in connection with the contract from a third person associated with the builder, then, unless that third person is carrying on a trade of dealing in or developing land and disposes of the land in the course of that trade, he shall be treated as receiving as income on his disposing of the land a sum equal to the amount (if any) by which the consideration receivable by him for the land together with the market value of any interest retained by him in the land exceeds the cost to him of the land, and shall be chargeable to tax in respect thereof under Case VI of Schedule D accordingly:

Provided that where the third person acquired the land at a time when he was neither a builder nor associated with a builder, the cost to him of the land shall be determined as if he had acquired it at market value on his thereafter becoming (or first becoming) a builder or associated with a builder.

- (2) For the purposes of this section land shall be deemed to be acquired in connection with a contract for the erection of a building if that contract is entered into before or on the same day as the contract for the acquisition of the land, or if the contract for the acquisition of the land is subject to any condition or stipulation, or is made in pursuance of any arrangement, for the building to be erected on terms provided for by the condition, stipulation or arrangement; and this subsection shall apply notwithstanding that the person contracting with the builder and the person acquiring the land are not the same, if the land is acquired with a view to or in connection with the erection of the building.
- (3) Where a person contracts to dispose of land to another person acquiring it in connection with a contract for the erection of a building, the reference in subsection (1) above to any interest retained by the first-mentioned person shall include the whole of the interest which he then has in the land in so far as he does not dispose of it to that other person.
- (4) For the purposes of this section " builder " means a person carrying on a trade which consists of or includes the erection or securing the erection of buildings, and (subject to subsection (5) below) the following persons shall be deemed to be associated with one another, that is to say.—
- (a) any individual and that individual's husband or wife and any relative, or husband or wife of a relative, of that individual or of that individual's husband or wife (" relative " meaning for this purpose brother, sister, ancestor or lineal descendant);
 - (b) any person in his capacity as trustee of a settlement and any individual who in relation to that settlement is a settlor, and any person associated with that

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individual ("settlement" and "settlor" having for this purpose the meanings assigned to them by section four hundred and three of the Income Tax Act, 1952);

- (c) any person and a body of persons of which that person, or persons associated with him, or that person and persons associated with him, has or have control;
- (d) any two or more bodies of persons associated with the same person by virtue of paragraph (c) above ;
- (e) in relation to a disposal by joint owners, the joint owners and any person associated with any of them.

In this subsection "body of persons" includes a partnership, and "control" has the meaning assigned to it by section three hundred and thirty-three of the Income Tax Act, 1952.

- (5) For the purposes of this section a person from whom land is acquired in connection with a contract with a builder shall be deemed in relation to that contract to be associated with the builder, if the contract is entered into by the builder in pursuance of any reciprocal arrangement between that person and a person with whom the builder is associated or between them and other persons.
- (6) This section shall not apply in relation to land acquired in connection with a contract for the erection of a building if that contract or the contract for the acquisition of the land was entered into before the tenth day of April, nineteen hundred and sixty-two.
- (7) Where this section applies to a disposal of land by a person carrying on a trade or business in respect of which the profits tax is chargeable, it shall have effect for the computation of the profits or losses arising from the trade or business for the purposes of the profits tax in like manner as it has effect for the computation of that person's income for purposes of income tax.

24 Sales of land by land-owning companies

- (1) Any profit arising to a land-owning company on the disposal of any of its land shall be deemed to be income of the company, and shall be chargeable to tax under Case VI of Schedule D accordingly, if—
 - (a) a person who carried on the activities of that company together with any related activities would be regarded as carrying on a trade of dealing in or developing land; and
 - (b) the consideration for his disposal of the land in question would be regarded as a trading receipt of that trade.
- (2) Subject to the provisions of this section, the activities to be taken into account under subsection (1) above as related activities in relation to a company's disposal of land are—
 - (a) the activities with respect to land of any person with whom the company is connected at the time of the disposal; and
 - (b) the activities with respect to land of any company not within paragraph (a) above, being activities of that company at a time when it was under such control as would have brought it within paragraph (a) above if it had not ceased to be under that control, or ceased to exist, or both.
- (3) The activities to be taken into account under paragraph (a) of subsection (1) above in relation to a company's disposal of land—

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- (a) shall not include the activities of any person while carry on a trade of dealing in or developing land; and
 - (b) shall not by virtue of paragraph (a) of subsection (2) above include the activities of any person while not connected with the company making the disposal or with a company within paragraph (a) or (b) of that subsection;but subject to subsection (4) below shall include transactions between persons whose activities are so taken into account (any such transaction being as regards either of them treated as if the activities of the other were not to be taken into account).
- (4) There shall not be taken into account under paragraph (a) of subsection (1) above any transaction whereby one company disposes of land to another at a time when—
 - (a) either company is a subsidiary of the other or both are subsidiaries of a third company (" subsidiary " having for this purpose the meaning assigned to it for certain purposes of the profits tax by section forty-two of the Finance Act, 1938); or
 - (b) the members of both companies are the same, and hold equivalent interests in each.
- (5) Anything done with respect to a company's land in the course of the winding up of the company shall be treated for the purposes of this section as if the company were not being wound up and were carrying on the same trade or business as before the commencement of the winding up; and where land of a land-owning company is disposed of by way of distribution to its members (whether or not in a winding up) or is in any other case disposed of otherwise than by way of bargain at arm's length, the land shall be treated as disposed of for a consideration equal to its market value.
- (6) Subject to the provisions of this section, section thirteen of this Act and paragraph 17 of the Ninth Schedule thereto shall apply to the computation for purposes of this section of the profit arising from a disposal of land as they apply to the computation of gains for purposes of Case VII of Schedule D, but without regard to subsection (2) of section ten of this Act or to any other provision limiting the acquisitions or disposals to be taken into account in computing gains for purposes of Case VII.
- (7) A company shall not be chargeable to tax by virtue of this section by reference to any acquisition of land" made before the tenth day of April, nineteen hundred and sixty-two, nor by reference to any such letting of land as is excepted from Case VII of Schedule D by subsection (11) of section twelve of this Act except in so far as account is to be taken of such a letting on a subsequent disposal by virtue of subsection (6) of section thirteen of this Act.
- (8) All assessments to income tax chargeable by virtue of this section shall be made by the Special Commissioners, and the provisions of the Income Tax Acts shall apply as if the company had required the assessment to be so made.
- (9) No obligation as to secrecy imposed by statute or otherwise on the Special Commissioners or on persons employed in relation to Inland Revenue shall prevent the disclosure, in connection with any question as to the liability of a company to tax by virtue of this section, of information as to the affairs of any such person or company as is referred to in paragraph (a) or (b) of subsection (2) above; and the first-mentioned company may by notice in writing to the surveyor require any such information relevant for the determination of the question to be disclosed to it.
- (10) Where it appears to the Commissioners of Inland Revenue that a company is or may be chargeable to tax by virtue of this section in respect of a disposal of land, they

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may, by notice in writing served on that company, or any person or company whose activities the Commissioners have reason to suppose may be taken into account as related activities in connection with that disposal, or any past or present member or officer of any company above-mentioned or person for whom such a member is or was nominee, require the person on whom the notice is served to furnish, within such time not less than twenty-eight days as may be specified in the notice, information in his possession with respect to any matters specified in the notice, being matters which are relevant to the question whether the first-mentioned company is chargeable to tax as aforesaid in respect of the disposal, or are relevant to the computation of the profit arising to it from the disposal; and Part III of the Finance Act, 1960 (which relates to penalties), shall have effect as if this subsection were among the provisions specified in the second column of the Sixth Schedule to that Act.

- (11) Any profit on which a land-owning company is chargeable to tax by virtue of this section shall, if the company is one to which section two hundred and forty-five (surtax on undistributed income of certain companies) of the Income Tax Act, 1952, applies, be deemed to be investment income; and where this section applies to a disposal of land by a company, it shall have effect for the computation of the profits or losses arising from the company's trade or business for the purposes of the profits tax in like manner as it has effect for the computation of the company's income for purposes of income tax.

- (12) Where—

- (a) a land-owning company commences a trade of dealing in or developing land, and then or afterwards appropriates as trading stock of the trade land held by it at its commencement of the trade ; and
- (b) if the company had disposed of the land at market value immediately before its commencement of the trade, it would have been chargeable to tax by virtue of this section in respect of a profit arising on the disposal;

then in computing the profits of the trade for purposes of tax the cost of the land to the company shall be substituted for its market value at the time of the appropriation.

- (13) For the purposes of this section any person who, or group of persons which.—

- (a) can determine the manner in which one half of the votes which could be cast at a general meeting of a company are to be cast on matters not of such a description as to bring into play any special voting rights or restrictions on voting rights; or
- (b) is entitled to one half of any profits of a company distributed by way of dividend, or would be entitled in the winding up of a company to one half of the net assets;

shall be treated as having control of the company and of any other company of which it has (or is to be treated as having) control.

- (14) In this section—

- (a) " company " includes any body corporate;
- (b) subject to subsection (13) above, " control" has the meaning assigned to it by section three hundred and thirty-three of the Income Tax Act, 1952;
- (c) " land-owning company " has the meaning assigned to it by subsection (6) of section fourteen of this Act, except that the words " being chargeable assets " in that subsection shall not apply ;

and the persons to be treated for purposes of this section as connected with one another are those specified in paragraph 20 of the Ninth Schedule to this Act, but so that for

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purposes of this section "control" in that paragraph shall have the same meaning as in this section and, where two companies are connected with one another, they shall each be treated as connected with any person whose control (alone or with others) of that or the other company is relevant to establish their connection.

25 Amendments of Finance Act, 1960, ss. 21 to 28

- (1) For the purposes of sections twenty-one to twenty-three of the Finance Act, 1960—
- (a) the expression "share" shall be construed in relation to a company not limited by shares (whether or not it has a share capital) as including references to the interest of a member of the company as such, whatever the form of that interest; and
 - (b) any sale of rights attached to or forming part of a share shall be treated as a sale of a share, as if the rights included in the sale and those not included had been separate shares;
- and the expression "securities" in Part II of that Act shall for the purposes of section twenty-eight include any share in a company within the meaning of paragraph (a) above.
- (2) Where by virtue of section twenty-one of the Finance Act, 1960 (which provides for charging tax in respect of certain sales of shares in a company by reference to a supposed sale of the company's trading stock), the consideration for a sale of shares in a company is deemed to be income of the seller, and any securities of the company other than shares in the company are included in the sale or in an associated sale at a price in excess of the company's liability on the securities, the excess shall for purposes of that section be treated as part of the consideration for the sale of the shares, in so far as it has not by virtue of this provision been treated as part of the consideration for any other sale of shares; and in this subsection—
- (a) any reference to section twenty-one of the Finance Act, 1960, shall include a reference to that section as extended by section twenty-two or twenty-three of that Act; and
 - (b) "associated sale" means, in relation to any sale of shares, a sale of securities made to the same person as the sale of the shares (or which would be treated under subsection (4) or (5) of section twenty-four of that Act as made to that person), being a sale such that if both sales were of shares they would be sales of associated parcels of shares within the meaning of section twenty-four of that Act.
- (3) In section twenty-eight of the Finance Act, 1960 (which provides for the cancellation of tax advantages from certain transactions in securities where the tax advantage is obtained or obtainable in the circumstances set out in subsection (2) of the section).—
- (a) the reference in paragraph (a) of subsection (2) to a person being entitled by reason of any exemption from tax to recover tax in respect of dividends received by him shall include a reference to his being by reason of section twenty (subvention payments) of the Finance Act, 1953, so entitled; and
 - (b) the reference in paragraph (b) of subsection (2) to a person becoming entitled in respect of securities held or sold by him to a deduction in computing profits or gains by reason of a fall in the value of securities shall include a reference to his becoming in respect of any securities formerly held by him (whether sold by him or not) so entitled;
- and where a company in the circumstances mentioned in the said paragraph (b) becomes entitled to a deduction as there mentioned, the section shall apply in relation

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to any tax advantage obtained or obtainable in consequence of that deduction by another company by virtue of section twenty of the Finance Act, 1953, in respect of a subvention payment to the first-mentioned company, as if obtained or obtainable by the other company in circumstances falling within that paragraph.

- (4) In the case of a man and his wife living with him (whether or not she is separately assessed to tax), the said section twenty-eight shall be treated as applying to him in respect of any transaction or transactions as it would apply if any property, rights or liabilities of the wife were his property, rights or liabilities in relation to which she had acted only as nominee for him, and shall be treated as applying to the wife in respect of any transaction or transactions as it would apply if any property, rights or liabilities of the man were her property, rights or liabilities in relation to which he had acted only as nominee for her:

Provided that no adjustment made under subsection (3) of that section by reference to any transaction or transactions to counteract any tax advantage shall by virtue of this subsection be so made that a person bears more tax than if the transaction or transactions had not had as a consequence that any relief or increased relief from, or repayment or increased repayment of, income tax, or any deduction in computing profits or gains, was obtained or obtainable, or that the way in which receipts accrued was such that the recipient did not pay or bear tax on them.

- (5) For the purposes of the said section twenty-eight a tax advantage obtained or obtainable by a person shall be deemed to be obtained or obtainable by him in consequence of a transaction in securities or of the combined effect of two or more such transactions, if it is obtained or obtainable in consequence of the combined effect of the transaction or transactions and of the liquidation of a company.
- (6) This section shall be construed as one with Part II of the Finance Act, 1960.
- (7) This section—
- (a) in so far as it affects sections twenty-one to twenty three of the Finance Act, 1960, shall not apply in relation to any sale of shares made (or treated for purposes of those sections as made) before the tenth day of April, nineteen hundred and sixty-two ; and
 - (b) in so far as it affects section twenty-eight of that Act, shall not apply to a person in respect of any transaction or transactions in securities if they were carried out before that day, and if any change in the nature of any activities carried on by any person, being a change necessary in order that the tax advantage should be obtainable in consequence of the transaction or transactions, was also effected before that day;

but nothing in this section shall be taken to prejudice the operation of any of those enactments in any such case.

26 Penalties and assessments

- (1) Part III of the Finance Act, 1960 (which relates to income tax and profits tax penalties and assessments), shall be construed as having, from the commencement of that Act, the like effect in relation to happenings before that commencement as it has in relation to happenings after that commencement, except as specifically provided by any enactment contained in the said Part III (including the Seventh Schedule to the Act); and where any enactment so contained makes use of words in the present tense or in a past tense, that use shall not be taken to have any reference to the commencement

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of the Act or to import any distinction between happenings before and happenings after that commencement.

In this subsection " happening " includes any act or omission.

- (2) In subsection (2) of section forty-four of the Finance Act, 1960 (which contains savings by reference to proceedings commenced before the commencement of that Act), " proceedings " shall be construed as referring only to proceedings for the recovery of a penalty under the Income Tax Acts or the enactments relating to the profits tax.
- (3) This section shall be deemed to have had effect as from the commencement of the Finance Act, 1960, but not so as to make interest payable under section fifty-eight of that Act on any tax as respects which a certificate under subsection (5) of that section was refused before the passing of this Act.