



Finance Act 1962

1962 CHAPTER 44

PART II

INCOME TAX AND PROFITS TAX

CHAPTER II

CHARGE ON GAINS FROM ACQUISITION AND DISPOSAL OF ASSETS

10 Charge to income tax and profits tax

- (1) Without prejudice to any other provision of the Income Tax Acts directing income tax to be charged under Schedule D, tax under that Schedule for the year 1962-63 or any subsequent year of assessment shall be charged, subject to and in accordance with the rules contained in this Chapter, in respect of all gains accruing to any person resident and ordinarily resident for the year in the United Kingdom from his acquisition and disposal of any chargeable assets, not being gains which accrue as profits of a trade, profession, vocation, office or employment:

Provided that tax shall not be chargeable by virtue of this section where the acquisition or the disposal occurred before the tenth day of April, nineteen hundred and sixty-two, except in so far as provision to the contrary is made by section fourteen of this Act.

- (2) Except for purposes of section fourteen of this Act, there shall be no acquisition and disposal within the meaning of this Chapter where the disposal occurs more than three years after the acquisition in the case of a disposal of land, or where the disposal occurs more than six months after the acquisition in any other case.
- (3) Tax charged under Schedule D by virtue of this section shall be charged under a new Case VII of that Schedule (in this Chapter referred to as " Case VII "), and—
- (a) the tax with which a person is chargeable under Case VII for any year of assessment shall be computed on the gains accruing to him in that year, after deducting any losses allowable under Case VII against those gains; and

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- (b) subject to subsection (6) below, a gain on the acquisition and disposal of an asset shall for purposes of Case VII be treated as accruing at the time of the disposal or, if that precedes the acquisition, the time of the acquisition ; and
 - (c) the amount or net amount on which tax is charged by this subsection shall be deemed for income tax purposes to be income for the year of assessment of the person chargeable.
- (4) Subject to the provisions of this Chapter the losses allowable under Case VII against gains accruing to a person in any year of assessment shall consist of any losses accruing to him in that or any previous year from any chargeable acquisition and disposal, that is to say, from his acquisition and disposal of assets in such circumstances that a gain accruing from it would have been chargeable under Case VII; and a loss shall be treated as accruing at the same time, and be computed in the same manner, as a gain would be.
- (5) The foregoing provisions of this section with respect to losses allowable under Case VII shall not prejudice any right to relief in respect of other losses from tax chargeable under that Case, or otherwise affect any other provision of the Income Tax Acts with respect to losses; but no deduction shall be made under Case VII of a loss or part of a loss in respect of which relief from tax has already been allowed by such a deduction or otherwise, and where such a deduction is made no relief from tax in respect of the loss or that part of it shall be allowed under any other provision of the Income Tax Acts.
- (6) In the case of individuals resident and ordinarily resident but not domiciled in the United Kingdom, tax under Case VII shall not be charged in respect of gains arising to them out of the United Kingdom except that tax shall be charged on the amounts (if any) received in the United Kingdom in respect of those gains, any such amounts being treated as gains accruing when they are received in the United Kingdom ; and accordingly losses arising out of the United Kingdom to any such individual shall not be allowable under Case VII.
- (7) In computing for the purposes of the profits tax the profits or losses arising from a trade or business, any such gains and losses as are to be included and allowed in computing a person's income for purposes of Case VII shall by virtue of this Chapter (but subject to the enactments adapting income tax principles to the computation) be respectively included as receipts and allowed by way of deduction from gains so included, in so far as they would not otherwise be brought into the computation; and for this purpose—
 - (a) subject to paragraph (c) below, the gains to be included and the losses to be allowed shall be those accruing from the acquisition and disposal of assets where income arising from the assets to the person making the disposal would be brought into account as a receipt in computing the profits including franked investment income of the trade or business, or would be so brought into account apart from subsection (5) of section forty-two of the Finance Act, 1938 (which relates to payments between associated companies);
 - (b) in the case of any chargeable accounting period, whether or not it is a period for which the accounts of the trade or business are made up, the gains to be included shall be those accruing during the period, and the losses to be allowed shall be determined accordingly, and subsection (3) of section (twenty) of the Finance Act, 1937, shall not apply in relation to those gains or losses ;
 - (c) where under section twenty-two of the Finance Act, 1937, the profits or losses of a subsidiary are to be treated as profits or losses of the principal company, the gains or losses to be brought into account by virtue of paragraph (a) above in the case of any company shall be the same as if no notice were in force under that section, but—

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- (i) where gains accrue in a chargeable accounting period of the subsidiary in excess of the losses allowable to the subsidiary under this Chapter against those gains, then in computing the profits arising in the corresponding chargeable accounting period of the principal company from its trade or business the excess shall, for the purpose of deducting losses allowable to the principal company under this Chapter and accruing in that period and for the purposes of subparagraph (ii) below, be regarded as if it were a gain to be included by virtue of this Chapter in the computation of those profits; and
- (ii) where losses accrue in a chargeable accounting period of the subsidiary so as to be allowable to the subsidiary under this Chapter against gains so accruing, but exceed the amount (if any) of those gains, the excess may be allowed as a deduction in computing the profits or losses generally of that period :

Provided that this sub-paragraph shall not apply unless in computing the profits arising in the corresponding chargeable accounting period of the principal company from its trade or business gains are to be included by virtue of this Chapter in excess of the losses allowable against those gains, nor shall a greater amount be allowed to any subsidiary or subsidiaries by reference to the period than the amount of that excess.