



Finance Act 1962

1962 CHAPTER 44

PART II

INCOME TAX AND PROFITS TAX

CHAPTER III

MISCELLANEOUS AMENDMENTS

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.