



Finance Act 1920

1920 CHAPTER 18

PART V

CORPORATION PROFITS TAX

52 Charge of corporation profits tax

- (1) Subject as provided in this Act, there shall be charged, levied, and paid on all profits being profits to which this Part of this Act applies and, which arise in an accounting period ending after the thirty-first day of December nineteen hundred and nineteen, a duty (in this Act referred to as " corporation profits tax ") of an amount equal to five per cent. of those profits :

Provided that—

- (a) where the profits are profits arising in an accounting period of twelve months, no tax shall be charged on the first five hundred pounds thereof, and where the profits are profits arising in some shorter accounting period, no tax shall be charged on such amount of the profits as bears to five hundred pounds the same proportion as the shorter accounting period bears to twelve months; and
 - (b) the amount of tax payable in respect of the profits of a British company for any accounting period shall in no case exceed the amount represented by ten per cent. of the balance of the profits of that period estimated in accordance with the provisions of this Part of this Act, after deducting from the amount of those profits any interest or dividends actually paid out of those profits at a fixed rate on any debentures, debenture stock, preference shares (so far as the dividend paid thereon is at a fixed rate), or permanent loan issued before the commencement of this Act, or on any debentures, debenture stock, or permanent loan issued after that date for the purpose of replacing an equal amount of any debentures, debenture stock, or permanent loan issued before that date.
- (2) The profits to which this Part of this Act applies are, subject as hereinafter provided, the following, that is to say :—

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- (a) the profits of a British company carrying on any trade or business, or any undertaking of a similar character, including the holding of investments :
- (b) the profits of a foreign company carrying on in the United Kingdom any trade or business, or any undertaking of a similar character, so far as those profits arise in the United Kingdom:

Provided that this Part of this Act shall not, during the period between the first day of January, nineteen hundred and twenty, and the thirty-first day of December, nineteen hundred and twenty-two, apply to the profits of—

- (i) a company which carries on wholly in the United Kingdom any gas, water, electricity, tramway, hydraulic power, dock, canal, or railway undertaking, and which by, or by virtue of, any Act is precluded either from charging any higher price, or from distributing any higher rate of dividend than that authorised by, or by virtue of, the Act; or
- (ii) any company being a building society.

(3) In this Part of this Act—

The expression " company " means any body corporate so constituted that the liability of its members is limited, but does not include a company formed before the commencement of this Act whose assets consist wholly of stock or other securities issued by any public authority and formerly held by the persons by whom the company was formed :

The expression " British company " means any company incorporated by or under the laws of the United Kingdom:

The expression " foreign company " means any company which is not a British company :

The expression " permanent loan " means a loan of a permanent character which is secured by mortgage or debentures or otherwise on the assets or income of a company and which, if subject to repayment, is subject to repayment at not less than three months' notice.

53 Determination of profits

- (1) For the purpose of this Part of this Act, profits shall be taken to be the actual profits arising in the accounting period, and shall not be computed by reference to the income tax year or on the average of any years.
- (2) Subject to the provisions of this Act, profits shall be the profits and gains determined on the same principles as those on which the profits and gains of a trade would be determined for the purposes of Schedule D. set out in the First Schedule to the Income Tax Act, 1918, as amended by any subsequent enactment, whether the profits are assessable to income tax under that schedule or not :

Provided that, for the purpose of this Part of this Act,—

- (a) profits shall include all profits and gains arising from any lands, tenements, or hereditaments forming part of the assets of a company, and all interest, dividends, and other income arising from investments or any other source and received in the accounting period, not being interest, dividends, or income received directly or indirectly from a company liable to be assessed to corporation profits tax in respect thereof, and no deduction shall be allowed on account of the annual value of any premises used for the purposes of the company :

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- (b) deductions shall be allowed in respect of interest on money borrowed for the purposes of the company, and of rent or royalties or share of profits distributed to employees under a profit-sharing scheme, and of any other payment income tax on which is collected at the source, not being payments of dividends or payments for the distribution of profits, so, however, that no deduction shall be allowed in respect of royalties paid to or interest on money borrowed from, a person having a controlling interest in the company, whether directly or indirectly, or whether solely or jointly with other persons, or in respect of interest paid on permanent loans :
- (c) any deduction allowed in respect of the remuneration of any director, manager or other person concerned in the management of a company, who has a controlling interest in the company, whether directly or indirectly, and whether solely or jointly with any other persons, shall not exceed an amount calculated at the rate of one thousand pounds per annum :
- (d) no deduction shall be allowed in respect of any transaction or operation of any nature, which has artificially reduced the amount to be taken as the amount of the profits of the company for the purposes of this Part of this Act :
- (e) no deduction on account of wear and tear or renewals or obsolescence or any expenditure of a capital nature for the development of the company or otherwise in respect thereof shall be allowed other than such as may be allowed under the enactments relating to income tax or excess profits duty, whichever be the greater :
- (f) no deduction shall be allowed on account of the liability to pay, or the payment of, income tax or corporation profits tax :
- (g) a deduction shall be allowed on account of any excess profits duty, any mineral rights duty and excess mineral rights duty payable or paid in the United Kingdom and for any sum payable or paid on account of excess profits duty or similar duty imposed in any country outside the United Kingdom for the same accounting period, but in computing profits for the purposes of excess profits duty in the United Kingdom no deduction shall be allowed on account of the liability to pay or the payment of tax under this Part of this Act :
- (h) profits shall include in the case of mutual trading concerns the surplus arising from transactions with members, and in the case of a society registered under the Industrial and Provident Societies Act, 1893, any sums paid by way of bonus, discount or dividend on purchases, shall be treated as trade expenses, and a deduction shall accordingly be allowed in respect thereof :
- (i) in the case of a company carrying on the business of life assurance the part of the profits belonging or allocated to, reserved for or expended on behalf of policy holders or annuitants shall be apportioned between the profits of the company directly liable to assessment to corporation profits tax and the profits not so liable, and a deduction shall be allowed of the amount so apportioned to the profits so liable :

Where a company carries on, life assurance business in conjunction with assurance business of any other class the life assurance business of the company shall, for the purposes of apportionment under this paragraph but for no other purpose, be treated as if it. were a separate business carried on by a separate company :

- (j) any sum received by way of repayment of excess profits duty in respect of a previous accounting period under subsection (3) of section thirty-eight of the Finance (No. 2) Act, 1915, and subsequent amendments thereof shall be excluded from the profits taxable :

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- (k) in the case of any contract extending beyond one accounting period from the date of its commencement to the completion thereof, and only partially performed in any accounting period, there shall (unless the Commissioners of Inland Revenue owing to any special circumstances otherwise direct) be attributed to each of the accounting periods in which such contract was partially performed such proportion of the entire profits or loss, or estimated profits or loss, in respect of the complete performance of the contract as shall be properly attributable to such accounting periods respectively, having regard to the extent to which the contract was performed in such periods.
- (3) Where a company (hereinafter referred to as " the principal company ") holds either in its own name or in that of a nominee the whole of the ordinary capital of any other company (hereinafter referred to as "the subsidiary company ") or so much of that capital as Under the general law can lawfully be held by a single shareholder, the profits of the subsidiary company shall, if an application in that behalf is made by the principal company, be treated for the purposes of this Part of this Act as being the profits of the principal company as if the subsidiary company were a branch of the principal company, and the subsidiary company shall not be separately assessed to tax under this Part of this Act :

Provided that in ascertaining, under paragraph (b) of subsection (1) of the last preceding section, the maximum amount of tax payable" by the principal company, no deduction shall be allowed in respect of any payments made by the subsidiary company to the principal company, or any other company which in relation to the principal company is a subsidiary company within the meaning of this subsection.

54 Determination of accounting period

- (1) .For the purposes of the tax under this Part of this Act, the accounting period shall be a , period of twelve months ending on the date up to which the accounts of the ' . company are usually made up :

Provided that, where the accounts of a company have been made up for a period greater or less than twelve months, or where the accounts have not been made up or where the company has ceased to carry on business or has transferred its business or part of its business to some other person, the accounting period shall be such period not exceeding twelve months as the Commissioners of Inland Revenue may determine.

- (2) In the case of a company which was in existence before the beginning of the first day of January, nineteen hundred and twenty, the first accounting period for the purpose of this Part of this Act shall be the first accounting period of the .company which ends after that date :

Provided that, where part of an accounting period is after and part before the beginning of the first day of January, nineteen hundred and twenty, the total profits of the accounting period shall be apportioned between the period up to and the period beginning on that date in proportion to the respective lengths of those periods, and corporation profits tax shall be charged only on so much of the profits as are apportioned to the, period beginning on that date, and that period shall be deemed to be an accounting period for the purpose of this Part of this Act.

- (3) The Commissioners of Inland Revenue may, if they think fit, divide any periods for which accounts have been made up, and may make such apportionments or aggregations of profits and losses as may be necessary for the purpose of estimating

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the profits or losses for the yearly accounting period, or for any other purpose of this Part of this Act.

Any apportionment under this subsection shall be made in proportion to the number of months or fractions of months in the respective periods representing the divided periods.

55 Returns for purpose of Part V and penalty for fictitious transactions

- (1) The Commissioners of Inland Revenue may, for the purposes of this Part of this Act, require the secretary of a company or other officer (by whatever name called) performing the duties of secretary of the company, or, in the case of a foreign company, any person being an agent, manager, factor, or representative (by whatsoever name called) of the company, to furnish them within two months after the requirement for the return is made with returns of the profits of the company during any accounting period and such other particulars in connection therewith as the Commissioners may require.
- (2) Where the profits of any company are chargeable to corporation profits tax under this Part of this Act, it shall be the duty of every person who may be required to make a return under this section to give notice that the profits are so chargeable to the Commissioners of Inland Revenue within six months of the end of the period for which the accounts of the company are made up, unless he has been previously required by the Commissioners to make a return under this section, and it shall be the duty of the liquidator of every company which is being wound up at the time of the commencement of this Act or is wound up after the commencement of this Act, and is chargeable to corporation profits tax, to give notice of the fact to the Commissioners of Inland Revenue.
- (3) If any person fails to furnish a proper return in accordance with the foregoing provisions of this section or to comply with any requirement of the Commissioners under this section, or to give any notice required by this section, he shall be liable on summary conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding ten pounds a day for every day during which the offence continues after conviction therefor.
- (4) A company shall not, for the purpose of avoiding the payment of corporation profits tax, enter into or carry out any fictitious or artificial

If any company acts in contravention of this provision, the company, and in the case of a foreign company the agent, manager, factor, or other representative of the company, shall be liable on summary conviction to a fine not exceeding five hundred pounds.

56 Supplementary provisions as to corporation profits tax

- (1) Corporation profits tax shall be assessed by the Commissioners of Inland Revenue and shall be payable on the expiration of two months from the date on which it is assessed.
- (2) Where a company on whose profits the tax is to be assessed is a British company, the tax shall be assessed on the company, and where the company on whose profits the tax is to be assessed is a foreign company the tax shall be assessed on the company in the name of any agent, manager, factor or other representative of the company.
- (3) Where a company is in the course of being wound up, the liquidator, receiver or other person having the control of the assets of the company shall not distribute the

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same until provision has been made to the satisfaction of the Commissioners of Inland Revenue for the payment of any corporation profits tax for which the company may be liable. Any liquidator, receiver or such other person as aforesaid who distributes the assets of the company without making such provision as aforesaid shall be liable to a fine not exceeding three times the amount of any corporation profits tax which may be payable.

- (4) An assessment (including an additional assessment) may be made by the Commissioners of Inland Revenue at any time within three years after the end of the accounting period in respect of the profits of which the assessment is made, and in the absence of a satisfactory return or other information on which to make an assessment the Commissioners may make an assessment according to the best of their judgment.
- (5) The amount of corporation profits tax payable shall be recoverable as a debt due to His Majesty from the company on which it is assessed, or in the case of a foreign company from the person in whose name the company is chargeable, and where the amount of tax payable is less than fifty pounds the tax shall, without prejudice to any other remedy, be recoverable summarily as a civil debt.
- (6) Any company which is dissatisfied with the amount of any assessment made upon it by the Commissioners of Inland Revenue under this Part of this Act may appeal to the Commissioners for the general purposes of income tax acting for the division in which the company is assessed for income tax or to the Commissioners for the special purposes of the Income Tax Acts, and those Commissioners shall have power on any appeal, if they think fit, to summon witnesses and examine them upon oath.

The power under section one hundred and ninety-six of the Income Tax Act, 1918, to require an appeal in Ireland to the Special Commissioners to be reheard by the county court judge, or chairman of quarter sessions, or recorder, shall apply to an appeal in Ireland under this provision.

Section one hundred and forty-nine of the Income Tax Act, 1918 (which relates to the statement of a case on a point of law), shall apply with the necessary modifications in the case of any appeal to the General or Special Commissioners under this section, or of the rehearing of any such appeal in Ireland, as it applies in the case of appeals to the General or Special Commissioners under the Income Tax Acts.

- (7) The Commissioners of Inland Revenue may make regulations with respect to the assessment and collection of the corporation profits tax and the hearing of appeals under this section and may by those regulations apply and adapt any enactments relating to the assessment and collection of income tax, or the hearing of appeals as to income tax by the General or Special Commissioners, which do not otherwise apply.
- (8) All Commissioners and other persons employed for any purpose in connection with the assessment or collection of corporation profits tax shall be subject to the same obligations as to secrecy with respect to corporation profits tax as those persons are subject to with respect to income tax, and any oath taken by any such person as to secrecy with respect to income tax shall be deemed to extend also to secrecy with respect to corporation profits tax.