



# Finance Act 1921

## 1921 CHAPTER 32

### PART III

#### EXCESS PROFITS DUTY

#### 35 Termination of excess profits duty

- (1) Excess profits duty under the Finance (No. 2) Act, 1915 (in this Part of this Act referred to as " the principal Act "), shall be charged, levied, and paid in respect of the excess profits of every trade or business, and repayment and set-off of duty shall be allowed, for the period which is the final accounting period of that trade or business within the meaning of this section, in all respects as if that period were an accounting period within the meaning of Part III. of the principal Act, and no period subsequent to the final accounting period shall be deemed to be, or to be part of, an accounting period within the meaning of the said Part III.
- (2) For the purpose of the provisions of this Part of this Act, the final accounting period of a trade or business shall be taken to be the period which commences at the end of the accounting period of that trade or business last preceding the fixed date and ends on the fixed date, and the expression " the fixed date " means in the case of a trade or business which was commenced on or before the fourth day of August, nineteen hundred and fourteen, whether there has or has not been a change of ownership, the date of the expiration of eighty-four months from the date of the commencement of the first accounting period of that trade or business, and in the case of any other trade or business the thirty-first day of December, nineteen hundred and twenty :

Provided that in the case of a trade or business formed by the amalgamation, after the fourth day of August, nineteen hundred and fourteen, of two or more trades or businesses, the final accounting period of the amalgamated trade or business shall be the period ending on the mean date to be ascertained in accordance with the provisions of the First Schedule to this Act.

- (3) Where any trade or business is, after the termination of its final accounting period, amalgamated with any other trade or business, the provisions of the principal Act shall

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have effect as if the amalgamation had never taken place, and the profits or losses of that other trade or business shall be separately computed.

- (4) Where any period, which would if this Act had not passed have been an accounting period of any trade or business within the meaning of the principal Act, commences before and ends after the termination of the final accounting period of that trade or business, the total excess profits, and any deficiencies or losses, shall be ascertained as if the first-mentioned period were such an accounting period as aforesaid and shall be apportioned between the time ending on and the time subsequent to the date of the termination of the final accounting period in proportion to the number of months or fractions of months before and after that date respectively.
- (5) If, before the passing of this Act, any duty has been paid by, or repaid or allowed by way of set-off to, any person in respect of the excess profits or the deficiencies or losses, as the case may be, of any period, (being a period which if this Act had not passed would have been an accounting period,) comprising any period subsequent to the termination of the final accounting period, those excess profits, deficiencies, or losses shall be apportioned in accordance with the foregoing provisions of this section, and a proportionate part of the amount of duty paid, or repaid or allowed, as the case may be, shall be repaid or allowed by, or repaid to, the Commissioners of Inland Revenue, and any amount so repayable to the Commissioners shall be recoverable as a debt due to the Crown from the person to whom the repayment or allowance was made.
- (6) For the purposes of this section, trades or businesses carried on by companies shall not be deemed to have been amalgamated by reason that the profits of the companies are assessed together by virtue of the provisions of rule 6 of Part I. of the Fourth Schedule to the principal Act and the trade or business of each such company shall be treated as a separate trade or business.
- (7) The Commissioners of Inland Revenue may make such assessments as may be necessary to give effect to the provisions of this section.

### **36 Adjustment of excess profits duty over aggregate period of charge**

- (1) Where a person proves to the satisfaction of the Commissioners of Inland Revenue that the aggregate amount paid by way of excess profits duty in respect of his trade or business for all the accounting periods of that trade or business, less any amounts repaid in respect of that trade or business for those accounting periods, exceeds the aggregate amount for those periods of the excess profits on which duty was chargeable, less any deficiencies or losses in respect of which the person carrying on the trade or business was entitled to a repayment or set-off of duty, he shall, subject to the provisions of this section, be entitled to repayment of the amount by which the said aggregate amount of duty so paid, less any amount repaid as aforesaid, exceeds the said aggregate amount of excess profits, less any such deficiencies or losses as aforesaid.
- (2) Where there has been a change in the ownership of a trade or business, the foregoing provision of this section shall have effect as though the respective periods during which the several owners carried on the trade or business were substituted for the aggregate of the accounting periods.
- (3) For the purposes of this section, a sum paid in respect of munitions Exchequer payments shall be deemed to be a payment by way of excess profits duty, but, where the amount payable by way of munitions Exchequer payments exceeds the aggregate amount of excess profits duty at the appropriate rates on the excess profits for the whole period during which the trade or business was chargeable with munitions

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Exchequer payments, the amount of the munitions Exchequer payments shall, for the purposes aforesaid, be deemed to be reduced by the amount of the excess.

In calculating the excess profits of the period aforesaid regard shall be had to deficiencies arising in that period but not to any other deficiencies.

### **37 Amendment of s.40 (3) of 5 & 6 Geo.5 c.89**

- (1) For the purpose of determining the modifications to be allowed under subsection (3) of section forty of the principal Act by reason of exceptional depreciation or obsolescence of assets employed in a trade or business due to the present war or the necessity in connection with the present war of providing plant which would not be wanted for the purposes of the trade or business after the termination of the present war, regard shall be had to the conditions prevailing on the thirty-first day of December, nineteen hundred and twenty.
- (2) Where any modification has been provisionally made under the said subsection (3) and it is found on the final determination of the modification that the amount provisionally allowed is too small or too great, the deficiency or excess, as the case may be, shall be taken into account in computing the excess profits or the deficiencies or losses, as the case may be, for the final accounting period.

### **38 Valuation of stock**

- (1) Any person who is at the end of the final accounting period the owner of a trade or business subject to excess profits duty shall be entitled to claim in respect of that duty relief under Part I. of the Second Schedule to this Act and also relief either under Part II. or under Part III. of that Schedule.
- (2) No claim for relief under this section shall be allowed unless notice in writing of intention to claim the same, specifying under which Parts of the said Schedule the claim is to be made, is given to the Commissioners of Inland Revenue before the thirty-first day of March, nineteen hundred and twenty-two.
- (3) The provisions of Part IV. of the Second Schedule to this Act shall apply to any claim made under this section.

### **39 Power to make assessments and repayments**

Notwithstanding anything to the contrary in the principal Act, repayments and adjustments of excess profits duty may be obtained and made, and assessments and additional assessments to excess profits duty in respect of any accounting period may be made at any time, as the case may require, unless and until Parliament otherwise determines.

### **40 Determination of excess mineral rights duty**

Excess mineral rights duty shall not be charged in respect of any accounting year ending after the fourth day of August, nineteen hundred and twenty-one.

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**41 Repeal of s.55 of 6 & 7 Geo.5 c.24**

Section fifty-five of the Finance Act, 1916 (which provides that certain matters shall be referred to a referee or board of referees appointed or designated by the Minister of Munitions instead of to a board of referees appointed for the purposes of the principal Act), shall cease to have effect.

**42 Interpretation and saving**

- (1) In this Part of this Act references to the principal Act or to any provision of that Act shall be construed as references to that Act or those provisions as amended and extended by any subsequent enactment (including this Part of this Act), and the expression "accounting period" does not include any accounting period ending before the fifth day of August, nineteen hundred and fourteen,
- (2) Nothing in this Part of this Act shall affect the operation of the Coal Mines (Emergency) Acts, 1920 and 1921, or of any agreements made between the Food Controller and the owners of controlled flour mills, and those Acts and any such agreements shall have effect as if this Act had not passed.