



Finance Act 1917

1917 CHAPTER 31

PART III

EXCESS PROFITS DUTY

20 Continuation and increase of rate of excess profits duty

- (1) The Finance (No. 2) Act, 1915 (in this Part of this Act referred to as the principal Act), shall, so far as it relates to excess profits duty, apply, unless Parliament otherwise determines, to any accounting period ending on or after the first day of August nineteen hundred and seventeen and before the first day of August nineteen hundred and eighteen, as it applies to accounting periods ended after the fourth day of August nineteen hundred and fourteen and before the first day of August nineteen hundred and seventeen.
- (2) Section thirty-eight of the principal Act shall, as respects excess profits arising in any accounting period commencing on or after the first day of January nineteen hundred and seventeen, have effect as if eighty per cent. of the excess were substituted as the rate of duty for sixty per cent. of the excess, or, in the case of an accounting period which commenced before that date but ends after that date, as if eighty per cent. were substituted for sixty per cent. as respects so much of the excess as may be apportioned under this Act to the part commencing on that date.

In calculating any repayment or set off under subsection (3) of section thirty-eight of the principal Act any amount to be repaid or set off on account of a deficiency or loss arising in any accounting period commencing on or after the first day of January nineteen hundred and seventeen, or, in the case of an accounting period which has commenced before that date but ends after that date, on account of so much of the deficiency or loss as may be apportioned under this Act to the part commencing on that date, shall be calculated by reference to duty at the rate of eighty per cent.

Any additional duty payable by virtue of this section in respect of a past accounting period may be assessed and recovered notwithstanding that duty has already been assessed in respect of that period.

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- (3) It shall be the duty of every person chargeable to excess profits duty, if he has not previously given notice of his liability to be charged with excess profits duty in respect of any accounting period, to give notice to the Commissioners within two months after the termination of any accounting period in respect of which he is chargeable, or, if the accounting period terminated before the passing of this Act, within one month after the passing of this Act.

If any person fails to give the notice required by this provision 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,

21 Increase of rate of excess mineral rights duty

Section forty-three of the principal Act (which relates to excess mineral rights duty) shall have effect as if eighty per cent. of the excess were substituted as the rate of duty for sixty per cent. for any accounting year commencing on or after the first day of January nineteen hundred and seventeen, or, in the case of an accounting year which commenced before that date but ends after that date, as if eighty per cent. were substituted for sixty per cent. as respects so much of the excess as may be apportioned under this Act to the part commencing on that date, and any additional duty may be recovered accordingly :

Provided that where it is shown to the satisfaction of the Commissioners that the amount payable as rent under any lease or agreement for a lease for any accounting year in respect of which or any part of which excess mineral rights duty is payable at the rate of eighty per cent. is not greater than the average amount payable as rent for the two pre-war years the prices in which are selected by the taxpayer for the purpose of determining the pre-war rent values of the rent for the accounting year, or would be reduced below that amount by the payment of excess mineral rights duty, no excess mineral rights duty or, as the case may be, such an amount of excess mineral rights duty only as will reduce the amount payable as rent for the accounting year to the said average amount, shall be paid for that accounting year.

22 Special provisions as to deficiencies and losses of shipping concerns

- (1) In computing the excess profits duty of any trade or business which consists wholly or partly of the business of shipping the provisions of subsection (3) of section thirty-eight of the principal Act (which relate to the repayment or setting off of duty on account of deficiencies or losses) shall not apply in relation to any deficiency or loss in any accounting period commencing on or after the first day of January nineteen hundred and seventeen, and in the case of an accounting period which has commenced before that date but ends after that date, shall not apply in relation to so much of the deficiency or loss as may be apportioned under this Act to the part commencing on that date:

Provided that—

- (a) where the shipping business is carried on merely as ancillary to the principal trade or business, the provisions of this section shall not apply ;
- (b) where the trade or business carried on does not consist wholly of shipping, and the part which does not consist of shipping is not merely ancillary to the business of shipping, such apportionment of any deficiency or loss shall be

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made by the Commissioners as may be necessary to limit the application of this section to such part of the business as consists of shipping ; and

- (c) if in any such accounting period as aforesaid there has been a loss or the profits have not reached the point which would have involved liability to excess profits duty if the percentage standard had been adopted, the same amount shall, as respects the deficiency or loss or so much thereof as is affected by this section, be repaid or set off under subsection (3) of the said section thirty-eight as would have been repaid or set off if the percentage standard had been adopted.
- (2) Any appeal under subsection (5) of section forty-five of the principal Act on any question arising under this section shall be to the Special Commissioners.
 - (3) In this section the expression "business of shipping" means the business carried on by an owner of ships, and for the purposes of this definition the expression " owner " includes any charterer to whom a ship is demised.

23 Relief in respect of Colonial excess profits duty

- (1) His Majesty may by Order in Council declare—
 - (a) that under the law in force in any of His Majesty's possessions excess profits duty is chargeable in respect of any profits in respect of which excess profits duty is also payable in the United Kingdom ; and
 - (b) that arrangements have been made with the Government of any such possession whereby, in respect of any profits, only the duty which is higher in amount is to be payable, and the amount of such duty is to be apportioned between the respective Exchequers in proportion to the amount of duty which would otherwise have been payable in the United Kingdom and in that possession respectively.
- (2) Where any such Order in Council is made, then, if the Commissioners are satisfied that any case is one to which any such arrangements relate, they may, in lieu of any relief granted under paragraph 4 of Part I. of the Fourth Schedule to the principal Act, allow or make such remission or adjustments of duty as may be necessary to give effect to such arrangements, so, however, that the effect of such remission or adjustments shall not be less favourable than, the relief in lieu of which they are allowed or made.
- (3) The obligation as to secrecy imposed by subsection (8) of section forty-five of the principal Act shall not prevent the disclosure to the Government of the possession concerned of such facts as may be necessary to enable such arrangements as aforesaid to be carried into effect.

24 Further provisions with respect to munitions Exchequer payments

- (1) The provisions of section four of the Munitions of War Act, 1915, with respect to munitions Exchequer payments shall not apply to any profits arising after the thirty-first day of December nineteen hundred and sixteen or apportioned under this Act to the period after that date.
- (2) Munitions Exchequer payments arising on or before the thirty-first day of December nineteen hundred and sixteen, or apportioned under this Act to the period down to and including that date shall, after the passing of this Act, be assessed and collected, or, if already assessed but not collected, collected, by the Commissioners, and shall be computed by them in accordance with the provisions of that Act and the rules made

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thereunder, and the Commissioners shall for those purposes have all the powers of the Minister of Munitions, including the power of making rules.

For the purposes of such assessment and collection, the provisions for the time being in force with respect to the assessment and collection of excess profits duty (including provisions as to returns and penalties, but excluding provisions imposing any charge of duty or as to the computation of duty) shall apply, and rules may be made by the Commissioners accordingly, and the provisions of section forty-eight of the Finance Act 1916, relating to the adjustment of excess profits duty and munitions Exchequer payments, shall apply subject to such modifications as may be necessary in consequence of the transfer of powers effected by this subsection.

Any rules made by the Commissioners may specify matters which may be referred to the Minister, or to a referee or board of referees appointed by him, and prescribe the manner in which such cases are to be referred.

- (3) For the purposes of subsection (3) of section five of the said Act, any establishments in which the same person has a controlling or preponderating interest may, if the Commissioners so determine, be treated as belonging to the same owner.
- (4) Subsections (2) and (3) of section forty-nine of the Finance Act, 1916 (which relate to the recovery of payments in respect of increased directors' fees), shall apply for the purposes of munitions Exchequer payments as they apply for the purposes of excess profits duty, with the necessary modifications.

25 Additional powers of reference to referees

Notwithstanding anything contained in section forty-two of the principal Act (which provides for the reference to the Board of Referees of questions as to percentages, &c.) the Commissioners may, if they think fit, refer to the Board of Referees any application made under that section as respects a class of trade or business, although the application may relate to matters already decided by that Board, and the Board may, if they think fit, on cause being shown by additional evidence or otherwise, reopen the case and make any order which they could have made on an application relating to matters not already decided by them, and may revise any order previously made by them affecting that class of trade or business ; and any such order or revised order shall, as from such date as may be specified therein, apply and have effect in lieu of any previous order relating to the same matter.

26 Amendments of law as respects accounting periods ending after December 31st, 1916

In the application of Part III. of the principal Act to excess profits duty for any accounting period ending after the thirty-first day of December nineteen hundred and sixteen, the following provisions shall have effect :—

- (1) In ascertaining the deduction to be made from the profits of the accounting period in respect of increased capital, or the pre-war standard of profits in cases where there has not been one pre-war trade year, three per cent. shall be added to the statutory percentage per annum ; and, accordingly, in subsection (1) of section forty-one of, and paragraph 4 of Part II. of the Fourth Schedule to, the principal Act, the expression " statutory percentage " shall be taken to mean the statutory percentage as so increased :

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- (2) The statutory percentage shall, in the case of a trade or business not carried on or owned by a company or , other body corporate, be taken to be eight per cent. instead of seven per cent.; and accordingly subsection (2) of section forty of the principal Act shall have effect as though eight per cent. were substituted for seven per cent.:

Provided that nothing in this provision shall affect the amount of the statutory percentage for the purposes of subsection (2) of section forty-one of the principal Act:

- (3) Any increase of the statutory percentage under this section shall be in addition to any increase of the statutory percentage which has, before the passing of this Act, been made under section forty-two of the principal Act :
- (4) Where the pre-war standard of profits of any trade or business does not exceed five hundred pounds, and the profits of the accounting period, after any adjustment in respect of increased or decreased capital, are less than two thousand pounds, subsection (1) of section thirty-eight of the principal Act shall have effect as though for two hundred pounds there were substituted two hundred pounds with the addition of one-fifth of the amount by which the profits of the accounting period are less than two thousand pounds ; so, however, that if there has been a loss in the accounting period, then for the purpose of ascertaining the amount of any repayment or set-off under the principal Act the addition allowed shall be such as if there had been neither loss nor profit, and that where the accounting period is a period of less than a year, this provision shall have effect as if there were substituted for two thousand pounds and two hundred pounds respectively a proportionately reduced amount: The foregoing provisions shall apply where the pre-war standard of profits exceeds five hundred pounds, subject to this qualification, that the amount of the addition shall be reduced by the amount by which the pre-war standard exceeds five hundred pounds:
- (5) Where the Commissioners are satisfied—
- (a) that in connection with any trade or business two or more distinct and independent industries are carried on in separate establishments, and with books kept in such a manner that the profits in respect of each industry can be readily ascertained ; and
 - (b) that in any year by reference to which the pre-war standard of profits is calculated a loss has been sustained in respect of any one or more of such industries;

the Commissioners may, if they think fit, in computing the profits standard, disregard that loss :

- (6) Where the Commissioners are satisfied that during the last six pre-war trade years, owing to trading losses—
- (a) any former assets of any trade or business have ceased to form part of the assets of that trade or business; or
 - (b) the money borrowed in respect of the trade or business or the debts of the trade or business have increased ;

the Commissioners shall, for the purpose of ascertaining the capital of the trade or business in any case where the percentage standard is adopted, compute the capital as though there had been no such loss of assets or increase of borrowed money or debts:

- (7) Six years shall be substituted for three years in subsection (4) of section forty-one of the principal Act (which provides for the adjustment of excess profits duty in respect of unremunerative capital).

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- (8) The excess profits duty of a society registered under the Industrial and Provident Societies Acts may, if the society so requires, instead of being computed as provided for by paragraph 10 of Part I. of the Fourth Schedule to the principal Act, be computed as follows :—

The amount of excess profits (if any) arising on commercial transactions with non-members shall be separately ascertained in accordance with the general principles of the principal Act, and there shall be added thereto the amount (if any) by which the profit or surplus arising from transactions with members per pound sterling of turnover in the accounting period exceeds the like profit or surplus in the pre-war trade year or average of years taken as the basis of computation for the purpose of the pre-war standard of profits in respect of such commercial transactions as aforesaid, multiplied by the number of pounds sterling of turnover in the accounting period ; and excess profits duty shall be charged on the sum of those amounts :

Provided that the method of computation hereby laid down shall not be adopted for ascertaining the amount of any deficiency or loss for the purposes of subsection (3) of section thirty-eight of the principal Act, nor shall any duty computed under this provision be repaid or remitted by reason of a deficiency or loss in any other accounting period computed as provided for by the said paragraph

Regulations made by the Commissioners for the purpose of carrying the foregoing provision into effect may provide for defining and ascertaining turnover and the profit or surplus per pound sterling thereof, and for the application, of that provision to new societies, and for extending, subject to such modifications as may be prescribed, to cases where duty is computed under that provision any of the general principles of the principal Act as to relief from duty.

27 Apportionment of accounting periods and years

Where part of an accounting period or of an accounting year, or of any period in respect of part of which munitions Exchequer payments are chargeable, is after, and part before, the beginning of the first day of January nineteen hundred and seventeen, the total excess profits and any deficiencies or losses arising in any such accounting period, and the total excess rent for any such accounting year, and the total profits in respect of part of which munitions Exchequer payments are chargeable, shall be apportioned between the time up to, and the time after, that date in proportion to the number of months or fractions of months before and after that date respectively.

28 Interpretation

In this Part of this Act references to the principal Act, or to the Munitions of War Act, 1915, or to any provisions of those Acts, shall be construed as references to those Acts or provisions as amended by any subsequent enactment, and the expression "the Commissioners" means the Commissioners of Inland Revenue, and the expression "munitions Exchequer payments" in this Part of this Act and in any other enactment, includes any sums payable into the Exchequer under section four of the Munitions of War Act, 1915, on account of the excess of the net profits of a controlled establishment.