



# Finance Act 1947

## 1947 CHAPTER 35

### PART IV

#### THE PROFITS TAX.

*Provisions applicable in special cases.*

#### **38 Subsidiary companies.**

- (1) Where a notice under subsection (1) of section twenty-two of the Finance Act, 1937 (which relates to subsidiary companies) is in force—
  - (a) the franked investment income, and the gross relevant distributions, of the subsidiary to which the notice relates for any chargeable accounting period shall for all purposes be included in the franked investment income and the gross relevant distributions of the principal company for the corresponding chargeable accounting period of that company; but
  - (b) no franked investment income received by the principal company directly from that subsidiary, or received by the subsidiary directly from the principal company or directly from any other subsidiary of the principal company with respect to which such a notice is in force given by that company, and no distributions made by the principal company to the subsidiary, or by the subsidiary to the principal company or to any such other subsidiary of the principal company as aforesaid, shall be so included.
- (2) Where the following conditions are fulfilled, that is to say—
  - (a) while such a notice as aforesaid is in force, the net relevant distributions to proprietors for any chargeable accounting period are, in the case of the principal company, greater than the profits for that period chargeable to the profits tax ; and
  - (b) in any chargeable accounting period of the subsidiary, being a period before the notice came into force, the net relevant distributions to proprietors were, in the case of the subsidiary, less than the profits for that period chargeable to the

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profits tax and non-distribution relief was given to the subsidiary accordingly on the amount of the difference,

then, in considering what distribution charge, if any, falls to be made by reason of the excess referred to in paragraph (a) of this subsection on the principal company, the difference on which non-distribution relief was given to the subsidiary as aforesaid shall, except so far as it has already operated to increase a distribution charge on the subsidiary or on any other body corporate which has been a principal company of that subsidiary, be taken into account as if it had been a difference arising in relation to the principal company on which non-distribution relief had been given to the principal company.

(3) Where—

- (a) such a notice as aforesaid is in force ; and
- (b) the subsidiary to which the notice relates pays to the principal company an amount by way of reimbursement of profits tax which by virtue of the notice having been given is payable by that company for any chargeable accounting period ending after the thirty-first day of December, nineteen hundred and forty-six; and
- (c) the principal company and the subsidiary jointly so elect by notice in writing given to the Commissioners of Inland Revenue within six months from the end of that chargeable accounting period or such longer time as those Commissioners may in any case allow,

the amount so paid, and any amount so paid in relation to a subsequent chargeable accounting period, by the subsidiary to the principal company shall for all the purposes of the Income Tax Acts be treated—

- (i) as regards the subsidiary, as an amount of profits tax payable in respect of its profits arising in the chargeable accounting period of the subsidiary corresponding to the chargeable accounting period to which the payment relates; and
- (ii) as regards the principal company, as reducing the amount of the profits tax payable by the principal company for the chargeable accounting period to which the payment relates.

(4) If at any time after the end of the year nineteen hundred and forty-six a body corporate is a subsidiary of another body corporate, there shall be made such alterations, if any, of the periods which would otherwise be chargeable accounting periods of either body corporate as the Commissioners may direct.

(5) The principal company may, at any time within six months from the passing of this Act, or such longer time as the Commissioners may allow, by notice in writing to the Commissioners revoke any such notice as aforesaid which was given before the passing of this Act, and where a notice is so revoked—

- (a) the notice shall be deemed to have ceased to have effect as from the first day of January, nineteen hundred and forty-seven, without, however, reviving any previous notice which had ceased to be in force by reason of the giving thereof ; and
- (b) where any accounting period of either body corporate falls partly before and partly after the end of the year nineteen hundred and forty-six, the parts thereof falling before and after the end of that year shall be separate chargeable accounting periods.

(6) This section shall be construed as one with the said section twenty-two.

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### **39 Persons resident outside United Kingdom.**

- (1) Where the person carrying on a trade or business is ordinarily resident outside the United Kingdom throughout a chargeable accounting period, the profits tax payable by that person shall be ascertained as if no net relevant distributions to proprietors had been made in the case of that person for that period.
- (2) Where a trade or business is carried on by a body corporate and, throughout a chargeable accounting period, both the following conditions are fulfilled, that is to say—
  - (a) that that body corporate is ordinarily resident in the United Kingdom ; and
  - (b) that another body corporate which is not ordinarily resident in the United Kingdom controls, directly or indirectly, not less than one half of the voting power in the first-mentioned body corporate,distributions to that other body corporate shall be left out of account in determining, in relation to the first-mentioned body corporate, the net relevant distributions to proprietors for that period.
- (3) Where the franked investment income of a person includes income received from a body corporate ordinarily resident outside the United Kingdom to which subsection (1) or subsection (2) of this section applies, the preceding provisions of this Part of this Act relating to the determination of the net relevant distributions for any period by reference to the gross relevant distributions therefor shall have effect subject to the following modification, that is to say, that any reference therein to the profits for the period (not being a reference to profits computed without abatement and including franked investment income) shall be construed as a reference to the first mentioned profits increased by the said income received from the said body corporate.

### **40 Nationalised undertakings.**

- (1) Where the person carrying on a trade or business is a body corporate with a share capital and, throughout a chargeable accounting period, no person other than the Crown has any beneficial interest in any of the share capital thereof, the profits tax payable by that person shall be computed as if no net relevant distributions to proprietors had been made for that period.
- (2) Subsection (5) of section nineteen of the Finance Act, 1937, (which exempts from the charge to the profits tax certain trades or businesses carried on by statutory undertakings) shall not apply to—
  - (a) the North of Scotland Hydro-Electric Board constituted under the Hydro-Electric Development (Scotland) Act, 1943; or
  - (b) any Authority or Board constituted by any Act of the present Session (whether passed before or after the passing of this Act) which provides, amongst other matters, for the establishment of a British Electricity Authority and Area Electricity Boards ; or
  - (c) any Transport Commission established by, or any body constituted by any scheme made under, any Act of the present Session (whether passed before or after the passing of this Act) which provides, amongst other matters, for the establishment of a British Transport Commission concerned with transport and certain other related matters ; or
  - (d) any Authority, Board, Commission or body constituted by or under any Act passed after the passing of this Act which embodies any scheme for the

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carrying on of any industry, or part of an industry, or any undertaking, under national ownership or control; or

- (e) any body corporate with a share capital if no person other than the Crown has any beneficial interest in any of the share capital thereof,

and nothing in, or in any scheme having effect under, any such Act as is mentioned in paragraph (b), paragraph (c) or paragraph (d) of this subsection which has the effect of applying to any such Authority, Board, Commission or other body as is mentioned in those paragraphs any provisions relating to an undertaking the whole or any part of which is transferred to that Authority, Board, Commission or other body, shall be construed as applying the provisions of the said subsection (5) of the said section nineteen to that Authority, Board, Commission or body, either generally or in relation to any part of the undertakings carried on by them.

(3) The following payments, that is to say—

- (a) payments of interest by any such Authority, Board, Commission or other body as is mentioned in paragraph (b), paragraph (c) or paragraph (d) of subsection (2) of this section, or by any of the three corporations as defined by section one of the Civil Aviation Act, 1946, being payments of interest on stock issued as, or to raise the money for paying, compensation to be made for or in connection with the acquisition of any property or of the whole or any part of any undertaking, or on stock which directly or indirectly replaces any such stock as aforesaid, or being payments of interest payable to recipients of such compensation, or to persons who held securities carrying the right to such compensation, in respect of periods beginning with the acquisition ;
- (b) payments of interest by the said North of Scotland Hydro-Electric Board on any stock issued by that Board to any such Authority as is mentioned in the said paragraph (b), and repayments by that Board to that Authority of any such payments of interest by that Authority as are mentioned in paragraph (a) of this subsection ;
- (c) so much of any payments by the National Coal Board to the Crown under paragraph (a) of subsection (1) of section twenty-eight of the Coal Industry Nationalisation Act, 1946 as would, apart from this subsection, be deducted in computing the profits of that Board for the purposes of the profits tax ; and
- (d) payments by any such Board as is mentioned in paragraph (b) of the said subsection (2) to any such Authority as is mentioned in that paragraph, being payments by way of contribution towards the satisfaction of the obligations of that Authority in respect of any such interest as is mentioned in paragraph (a) of this subsection,

shall not be allowed to be deducted in computing the profits for the purposes of the profits tax of the Boards, Authorities, Commissions, corporations or other bodies in question; and the payments mentioned in paragraphs (b) and (d) of this subsection shall not be taken into account in computing the profits for the purposes of the profits tax of the Authority which receives the said payments:

Provided that where immediately before the acquisition of the whole or any part of any undertaking or any of the property thereof by any such Board, Authority, Commission, corporation or other body, the capital of that undertaking consisted wholly or partly of debentures, debenture stock or other loan capital, this subsection shall not apply to so much of any of the payments therein mentioned relating to the acquisition as in the opinion of the Commissioners may be appropriate having regard to the extent to which the capital consisted of such capital.

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#### **41 Industrial and provident societies.**

- (1) Where the person carrying on a trade or business is a registered society, the profits tax payable by the society shall be computed as if no net relevant distributions to proprietors had been made in the case of that trade or business for any chargeable accounting period.
- (2) For the purposes of this section, the expression "registered society" means a society registered under the Industrial and Provident Societies Acts, 1893 to 1928, or under the enactments in force in Northern Ireland known as the Industrial and Provident Societies Acts (Northern Ireland), 1893 to 1929.

#### **42 Building societies.**

- (1) The amount of the profits tax chargeable on the profits arising in any chargeable accounting period from the business of a building society, including any distribution charge, shall not exceed three per cent. of the amount of those profits, computed without allowing any deduction for interest paid on money borrowed by the society from members or depositors.
- (2) Where the amount of the profits tax payable by a building society for any chargeable accounting period is reduced by the operation of subsection (1) of this section, any distribution charges for subsequent chargeable accounting periods shall be computed as if no reduction had taken place and the full amount of tax had been paid.
- (3) This section shall have effect in substitution for subsection (1) of section twenty-three of the Finance Act, 1937, and, in this section, the expression "building society" has the meaning assigned to it by subsection (2) of that section.

#### **43 Persons carrying on several trades or businesses and changes in the persons carrying on trades or businesses.**

- (1) All trades or businesses to which section nineteen of the Finance Act, 1937, applies carried on by the same person shall be treated as one trade or business for the purposes of the enactments relating to the profits tax.
- (2) Where trades or businesses which were, in previous chargeable accounting periods, treated as separate trades or businesses are, by virtue of subsection (1) of this section, treated as one trade or business, the like sums may be carried forward under paragraph 2 and sub-paragraph (2) of paragraph 3 of the Fourth Schedule to the said Act from the said previous periods for the purposes of the profits tax in respect of the one trade or business as might have been carried forward from those periods for the purposes of the profits tax in respect of the separate trades or businesses if they had still fallen to be treated as separate trades or businesses.
- (3) Nothing in this section shall apply to any trade or business which had ceased to be carried on before the end of the year nineteen hundred and forty-six.
- (4) Where trades or businesses to which the said section nineteen applies are carried on by the same person during the whole or any part of the year nineteen hundred and forty-six and also during the whole or any part of the following year, and the periods which, apart from this section, would be the accounting periods of those trades or businesses for the purposes of the profits tax do not coincide, and any of those periods fall partly before and partly after the end of the year nineteen hundred and forty-six—

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- (a) the parts of the last mentioned periods which fall before the end of the said year shall be treated for the purposes of the profits tax as separate accounting periods ; and
  - (b) accounting periods (the first of which shall begin immediately after the end of the said year) shall be determined for the purposes of the profits tax in relation to the combined trade or business as if it had been commenced to be carried on immediately after the end of the said year; and
  - (c) subsection (1) of this section shall not apply with respect to the accounting periods mentioned in paragraph (a) of this subsection but shall apply with respect to the accounting periods mentioned in paragraph (b) thereof.
- (5) When any change takes place in the persons carrying on a trade or business, the trade or business shall be deemed for the purposes of the profits tax to be discontinued at the time of the change and a new trade or business to have then been set up and commenced.

#### **44 Liquidations, receiverships, partnerships, etc..**

- (1) Where the trade or business of a body corporate, or of an unincorporated society or other body, is being carried on by a liquidator, receiver, manager, trustee or judicial factor, or by any person acting in any capacity similar to the capacities as aforesaid, the trade or business shall, for all the purposes of the enactments relating to the profits tax, be treated as if it were being carried on by the body corporate, society or other body, except that the tax shall be assessed on the liquidator, receiver, manager, trustee, judicial factor or other person and any returns or particulars required to be furnished with respect to the trade or business shall be furnished by the liquidator, receiver, manager, trustee, judicial factor or other person.
- (2) Where a trade or business is carried on by two or more persons in partnership and one of more of them are bodies corporate, each of those bodies corporate shall be treated as if it were carrying on the trade or business itself and not in partnership with any other person, but as if the profits and losses thereof were confined to its share in those profits or losses :

Provided that where such a body corporate as aforesaid is also carrying on, or is by virtue of this subsection to be treated as carrying on, another trade or business, the references in this subsection to profits shall be construed as a reference to the profits computed without abatement, and effect shall be given to the provisions of the last preceding section before giving effect to the provisions for abatement.