



Finance Act 1948

1948 CHAPTER 49

PART VI

THE PROFITS TAX.

69 Payments of interest, etc., between connected companies.

- (1) Subject to the provisions of this section, paragraph (b) of subsection (5) of section forty-two of the Finance Act, 1938 (which subsection provides in the case of certain payments by one body corporate to another connected with it, by paragraph (a) thereof, that the payment shall not be an allowable deduction in computing profits of the payer and, by paragraph (b) thereof, that the payment shall not be included in computing profits of the recipient) shall not have effect as respects any payment made to a body corporate resident in the United Kingdom.
- (2) The preceding subsection shall not apply to a payment—
 - (a) which is made while a notice given under subsection (1) of section twenty-two of the Finance Act, 1937 (which enables a principal company to elect that the profits or losses of a subsidiary shall be treated as profits or losses of the principal company) either by the payer or the recipient is in force with respect to the other, or notices so given by a third body corporate are in force with respect both to the payer and the recipient; or
 - (b) which by virtue of paragraph (c) of subsection (1) of section thirty-six of the Finance Act, 1947 (which relates to amounts deemed to be distributions by a director-controlled company) falls to be treated as part of the gross relevant distributions to proprietors of the payer for any chargeable accounting period.
- (3) Where a payment, by virtue of the said paragraph (a) of subsection (5) of section forty-two of the Finance Act, 1938, falls to be disallowed in computing the profits of the payer and, by virtue of subsection (1) of this section, falls to be taken into account in computing the profits of the recipient, the profits tax chargeable on the recipient for the chargeable accounting period in which the payment is received shall be reduced by ten per cent. of the amount of the payment, or of the amount of the profits of the recipient chargeable for that period to the profits tax, whichever is the less.

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- (4) Where a notice under the said subsection (1) of section twenty-two of the Finance Act, 1937, by a third body corporate is in force with respect to the recipient of the payment, the last preceding subsection shall apply as if for any reference therein to profits tax chargeable on the recipient for the chargeable accounting period in which the payment is received, and to the profits of the recipient chargeable for that period to the profits tax, there were respectively substituted a reference to profits tax chargeable on the third body corporate for the corresponding chargeable accounting period of that body corporate and to the profits of the third body corporate chargeable for that period to the profits tax.
- (5) Neither the said subsection (5) of section forty-two of the Finance Act, 1938, nor any of the preceding provisions of this section shall apply to any payment if—
- (a) the recipient is resident in the United Kingdom ; and
 - (b) the payer and the recipient and, where both the payer and the recipient are subsidiaries of a third body corporate, that third body corporate, jointly elect that the said subsection (5) shall not apply to payments by the said payer to the said recipient; and
 - (c) the payment is one to which the election applies.

Any such election—

- (i) shall specify the first payment to which the election is to apply ;
 - (ii) must be made by notice in writing to the Commissioners given before the expiration of six months from the end of the chargeable accounting period of the recipient in which the said payment is made or within such longer time as the Commissioners may in any case allow ; and
 - (iii) shall apply to that payment and all subsequent payments by the said payer to the said recipient.
- (6) The preceding provisions of this section shall have effect, and shall be deemed always to have had effect, as if they had been part of the provisions of Part IV of the Finance Act, 1947, and any such additional assessments shall be made as are necessary to give effect to this section.

70 Repayment of loans treated as gross relevant distributions.

- (1) Subsection (3) of section thirty-six of the Finance Act, 1947 (which grants relief where loans which have been treated as part of the gross relevant distributions to proprietors are repaid) shall have effect as if for each reference therein, except the first reference, to gross relevant distributions there were substituted a reference to net relevant distributions.
- (2) This section shall have effect, and shall be deemed always to have had effect, as if it had been part of "the provisions of Part IV of the Finance Act, 1947.

71 Directors' remuneration.

- (1) In the enactments relating to the profits tax, the expression " remuneration " in relation to a director of a company includes all sums, whether actually paid to the director or not, which, by virtue of any of the provisions of the Income Tax Acts, and, in particular, any of the provisions of Part IV of this Act, fall to be treated for the purposes of income tax under Schedule E as part of the salaries, fees, wages, perquisites or profits from his office as director or from any employment in which he is employed by the company :

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Provided that where for income tax purposes any deduction falls to be made under Rule 9 of the Rules applicable to Schedule E from any remuneration, that remuneration shall be treated for the purposes of paragraph in of the Fourth Schedule to the Finance Act, 1937, as reduced by the amount of the deduction.

- (2) Where any of the said sums are not paid by the company, the trading receipts of the company and the expenditure of the company in respect of the remuneration of the director shall both be treated as increased by the said sums not so paid, and the said increase of that expenditure shall be treated for the purposes of paragraph (c) of subsection (1) of section thirty-six of the Finance Act, 1947, as having been applied for the benefit of the director.
- (3) This section shall have effect subject to the provisions of subsection (2) of section sixty-three of the Finance Act, 1947 (which provides that certain sums received by directors shall not for certain purposes be treated as part of their remuneration).
- (4) This section shall have effect as respects remuneration accruing on or after the sixth day of April, nineteen hundred and forty-eight, and, as respects that remuneration, shall be deemed always to have had effect.