



Finance Act 1951

1951 CHAPTER 43

PART III

PROFITS TAX

28 Rates of profits tax, etc.

- (1) The enactments relating to the profits tax shall be amended as respects any chargeable accounting period ending after the end of the year nineteen hundred and fifty by substituting—
 - (a) fifty per cent. for thirty per cent. as the rate of any tax not being a distribution charge; and
 - (b) forty per cent. for twenty per cent. as the rate of any relief for non-distribution and (subject to the provisions of paragraph 1 of the Sixth Schedule to this Act) as that of any distribution charge,and where any accounting period of a body corporate, unincorporated society or other body falls partly before and partly after the end of that year, the parts thereof falling before and after the end of the year shall be separate chargeable accounting periods.
- (2) The provisions of the Sixth Schedule to this Act (being provisions which re-enact with adaptations certain transitional provisions of the Profits Tax Act, 1949) shall have effect in relation to the preceding provisions of this section.

29 Public utility undertakers to be liable to the profits tax

- (1) The trades or businesses exempted from the profits tax by subsection (5) of section nineteen of the Finance Act, 1937 (which subsection relates to statutory undertakers carrying on certain public utility concerns), shall cease to be so exempt as from the end of the year nineteen hundred and fifty, and any accounting period of any such trade or business falling wholly after the end of the year nineteen hundred and fifty, and so much of any accounting period of any such trade or business falling partly before and partly after the end of the said year as falls after the end of that year, shall be chargeable accounting periods for the purposes of the profits tax:

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Provided that—

- (a) the profits tax payable in respect of any such trade or business 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; and
 - (b) subject, as respects losses, to the provisions of subsection (3) of this section, no relief shall be given for any losses incurred in any accounting period ending before the beginning of the year nineteen hundred and fifty-one and no deduction for wear and tear shall be allowed other than the deduction provided for by sub-paragraph (1) of paragraph 1 of Part I of the Eighth Schedule to the Finance Act, 1947.
- (2) No income received out of the profits of a body corporate which are chargeable to the profits tax as a result of subsection (1) of this section shall be excluded, from the profits of the recipient by reason of sub-paragraphs (a) and (b) of sub-paragraph (1) of paragraph 7 of the Fourth Schedule to the Finance Act, 1937 (as amended by section thirty-two of the Finance Act, 1947), but—
- (a) the profits tax chargeable on the recipient for the chargeable accounting period in which the income is received shall be reduced by ten per cent of the amount of that income or of the amount of the profits of the recipient chargeable for that period to the profits tax, whichever is the less ; and
 - (b) nothing in this section affects the proviso to subparagraph (1) of the said paragraph 7 (which excludes income received from statutory undertakers from the profits of a body corporate with a controlling interest therein).
- (3) Notwithstanding anything in proviso (b) to subsection (1) of this section, there shall be carried forward under paragraph 2 of the Fourth Schedule to the Finance Act, 1937, to the first accounting period ending after the end of the year nineteen hundred and fifty, and, if and so far as is necessary, to subsequent accounting periods, the amount, if any, which could have been carried forward to that accounting period if the said subsection (1) had applied to all accounting periods ending after the end of the year nineteen hundred and forty-six:

Provided that—

- (a) in no event shall any loss incurred in any accounting period ending at or before the end of the year nineteen hundred and forty-six be taken into account for the purposes of this subsection; and
- (b) where an accounting period falls partly before and partly after the end of the year nineteen hundred and forty-six, the loss, if any, for so much of that period as fell after the end of that year shall be so taken into account instead of the loss, if any, for the whole of the period, and the provisions of section forty-seven of the Finance Act, 1947, shall, with any necessary adaptations, have effect for the purpose of determining the first-mentioned loss as they had effect for the purpose of determining the profits tax payable for so much of any chargeable accounting period as fell after the end of that year.

30 Increase, in certain cases, of deductions allowable for directors' remuneration

The following paragraph shall, as respects chargeable accounting periods ending after the end of the year nineteen hundred and fifty, be substituted for paragraph 11 of the Fourth Schedule to the Finance Act, 1937—

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- “11 (1) In the case of a trade or business carried on in a chargeable accounting period by a company the directors whereof have a controlling interest therein, the deduction to be allowed in respect of the remuneration of the directors other than whole-time service directors shall not exceed whichever is the greatest of the following amounts, that is to say—
- (a) fifteen per cent. of the profits arising from the trade or business in that period (computed before making any deduction in respect of the remuneration of the directors other than whole-time service directors); or
 - (b) two thousand five hundred pounds ; or
 - (c) where, for more than half that period, there are two or more directors to whom sub-paragraph (2) of this paragraph applies, the amount specified in that sub-paragraph,
- so, however, that in no case shall the deduction exceed fifteen thousand pounds.
- (2) The directors to whom this sub-paragraph applies are any directors who are required to devote substantially the whole of their time to the service of the company in a managerial or technical capacity and are not whole-time service directors, and the amount referred to in paragraph (c) of sub-paragraph (1) of this paragraph is three thousand five hundred pounds, increased where, for more than half the chargeable accounting period, there are more than two directors to whom this sub-paragraph applies by—
- (a) one thousand pounds ; or
 - (b) the aggregate remuneration for the chargeable accounting period of all but two of the directors to whom this sub-paragraph applies, the directors whose remuneration is taken into account being those whose remuneration for the chargeable accounting period is the smallest,
- whichever is the less:
- Provided that—
- (i) in no case shall the amount referred to in paragraph (c) of sub-paragraph (1) of this paragraph exceed the aggregate remuneration for the chargeable accounting period of all the directors to whom this sub-paragraph applies ; and
 - (ii) in applying the preceding provisions of this sub-paragraph (including the preceding provisions of this proviso), the amount by which the remuneration of any director for the chargeable accounting period exceeds two thousand five hundred pounds shall be left out of account.
- (3) In relation to a chargeable accounting period of less than twelve months, the references in the preceding provisions of this paragraph to two thousand five hundred pounds, fifteen thousand pounds, three thousand five hundred pounds and one thousand pounds shall be construed as references to amounts which bear to those amounts respectively the same proportion as the length of the period bears to twelve months.”

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31 Effect of capitalization of profits on rate of profits tax

(1) Subject to the provisions of this section, where—

- (a) whether before or after the passing of this Act but after the sixth day of April, nineteen hundred and forty-nine, a body corporate, unincorporated society or other body capitalises any distributable sum; and
- (b) then or thereafter, whether before or after the passing of this Act but after the tenth day of April, nineteen hundred and fifty-one, any sum is applied in reducing its capital,

there shall be deemed for the purposes of section thirty-five of the Finance Act, 1947 (which defines the expression "gross relevant distributions to proprietors" for profits tax purposes), to be a distribution to the members of the body corporate, society or other body of an amount equal to the sum so applied or to the total amount of the distributable sums previously capitalised by it as aforesaid, whichever is the less, taking place when the sum is so applied.

(2) Subject to the provisions of this section, where a body corporate, unincorporated society or other body—

- (a) whether before or after the passing of this Act but after the tenth day of April, nineteen hundred and fifty-one, applies any sum in reducing its capital; and
- (b) then or thereafter, whether before or after the passing of this Act, capitalises any distributable sum,

there shall be deemed for the purposes of the said section thirty-five to be a distribution to the members of the body corporate, society or other body of an amount equal to the distributable sum capitalised or to the total amount of the sums previously applied by it as aforesaid in reducing capital, whichever is the less, taking place at the time of the capitalisation.

(3) Where by virtue of subsection (1) of this section there is deemed to be a distribution to the members of a body corporate, society or other body by reason of the application of any sum in reducing its capital—

- (a) that sum shall be taken into account for the purposes of subsection (2) of this section only to the extent, if any, to which it exceeds the amount of the distribution ; and
- (b) the total amount of the distributable sums capitalized by the body corporate, society or other body after the sixth day of April, nineteen hundred and forty-nine, but before the distribution shall, in relation to any further reductions of capital, be treated for the purposes of subsection (1) of this section as diminished by the amount of the distribution.

(4) Where by virtue of subsection (2) of this section there is deemed to be a distribution to the members of a body corporate, society or other body by reason of the capitalisation of any distributable sum—

- (a) that the sum shall be taken into account for the purposes of subsection (1) of this section only to the extent, if any, to which it exceeds the amount of the distribution; and
- (b) the total amount of the sums applied in reducing capital of the body corporate, society or other body after the tenth day of April, nineteen hundred and fifty-one, but before the distribution shall, in relation to any further capitalisations, be treated for the purposes of subsection (2) of this section as diminished by the amount of the distribution.

(5) In this section—

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" distributable sum " means, in relation to a body corporate, society or other body, a sum which could be utilised in making a distribution, within the meaning of subsection (1) of section thirty-six of the Finance Act, 1947, to the members thereof;

" capitalise " means capitalise by means of an issue of paid up or partly paid up share capital or by the paying up, in whole or in part, of share capital already issued or by the creation of loan capital, and " capitalisation " shall be construed accordingly,

and references to the reduction of capital shall be deemed to include references to the repayment or return of share capital and the repayment or redemption of loan capital, other than loan capital issued for full consideration paid in cash to the body corporate, society or other body or redeemable preference shares so issued:

Provided that—

- (a) no application of any sum shall be treated as a capitalisation for the purposes of this section if, apart from this section, it falls to be treated as a distribution to the members of the body corporate, society or other body within the meaning of subsection (1) of the said section thirty-six; and
- (b) where the body corporate, society or other body has acquired any business, undertaking or property for full consideration, any loan capital or redeemable preference shares issued by the body corporate, society or other body in or towards payment therefor shall be deemed for the purposes of this subsection to have been issued for full consideration paid in cash to the body corporate, society or other body.

32 Transactions designed to avoid liability to the profits tax

- (1) Where the Commissioners are of opinion that the main purpose or one of the main purposes for which any transaction or transactions was or were effected (whether before or after the passing of this Act) was the avoidance or reduction of liability to the profits tax, they may, if they think fit, direct that such adjustments shall be made as respects liability to the profits tax as they consider appropriate so as to counteract the avoidance or reduction of liability to the profits tax which would otherwise be effected by the transaction or transactions:

Provided that this subsection shall not apply where the transaction or, if there are more than one, all the transactions, was or were completed before the tenth day of April, nineteen hundred and fifty-one.

- (2) Without prejudice to the generality of the powers conferred by subsection (1) of this section, the powers conferred thereby extend—
 - (a) to the charging with the profits tax of persons who, but for the adjustments, would not be chargeable with any tax, or would not be chargeable to the same extent; and
 - (b) to the charging of a greater amount of tax than would be chargeable but for the adjustments.
- (3) If it appears in the case of any transaction or transactions, being a transaction which involves, or transactions one or more of which involve—
 - (a) the transfer or acquisition of shares in or debentures of a company; or
 - (b) a change or changes in the person or persons carrying on a trade or business or part of a trade or business; or

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- (c) a change or changes in the directors of a company the directors whereof have a controlling interest therein,

that, having regard to the provisions of the law relating to the profits tax other than this section which were in force at the time when the transaction or transactions was or were effected, the main benefit which might have been expected, to accrue from the transaction or transactions in the three years immediately following the completion thereof was the avoidance or reduction of liability to the tax, the avoidance or reduction of liability to the profits tax shall be deemed for the purposes of this section to have been the main purpose or one of the main purposes of the transaction or transactions.

- (4) Any direction of the Commissioners under this section shall specify the transaction or transactions giving rise to the direction and the adjustments as respects liability to the profits tax which the Commissioners consider appropriate.
- (5) No direction shall be given by the Commissioners under this section by reason only—
- (a) that, in the case of any body corporate, unincorporated society or other body, no distribution to proprietors has been made or only a smaller distribution than might have been made ; or
 - (b) that debentures of a company (not being a company the directors whereof have a controlling interest therein) have been issued for full consideration paid in cash to the company,

or by reason of any transaction which, or of any transactions all of which, required and received the consent of the Treasury under section thirty-six of this Act, if the consent was specially given to the transaction or transactions in question, was given before the carrying out thereof, and was given after full and accurate disclosure by the applicants for the consent of all facts and considerations material to be known to the Treasury.

- (6) If—
- (a) a body corporate, unincorporated society or other body furnishes to the Commissioners particulars of a transaction or transactions effected or to be effected by them; and
 - (b) the Commissioners are satisfied that the transaction or transactions as described in the particulars have been, or, as the case may be, will be, entered into for bona fide commercial reasons and are such that no direction ought to be given under this section in respect of it or them,

they shall notify the body corporate, unincorporated society or other body accordingly, and thereupon their power to give a direction under this section with respect to the transaction or transactions in question shall cease:

Provided that—

- (i) the particulars given under this subsection with respect to any transaction or transactions shall be such as to make full and accurate disclosure of all facts and considerations relating thereto which are material to be known to the Commissioners and, where the requirements of this paragraph of this proviso are not complied with, any notification given by the Commissioners under this subsection shall be void; and
- (ii) in no event shall the giving of a notification under this subsection with respect to any transaction or transactions prevent the giving by the Commissioners of a direction under this section with respect to transactions which include that transaction or all or some of those transactions and also include another transaction or other transactions.

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- (7) Any person aggrieved by a direction of the Commissioners under this section may appeal to the Special Commissioners, whether on the ground that the avoidance or reduction of liability to tax was not the main purpose or one of the main purposes of the transaction or transactions or on the ground that no direction ought to have been given or that the adjustments directed to be made are inappropriate; and all the provisions of the enactments relating to appeals against assessments to the profits tax (including the provisions enabling the Commissioners to make regulations) shall have effect with respect to any appeal to the Special Commissioners under this subsection.
- (8) In this section, " debenture " has the meaning assigned to it by section four hundred and fifty-five of the Companies Act, 1948, and " company " and " director " have the same meanings as for the purposes of the Fourth Schedule to the Finance Act, 1937.