



Finance Act 1951

1951 CHAPTER 43

PART V

MISCELLANEOUS

36 Restriction of certain transactions leading to avoidance of income tax or profits tax

- (1) Subject to the provisions of this section, all transactions of the following classes (being classes of transactions which result or may result, directly or indirectly, in the avoidance of liability to income tax or the profits tax) shall be unlawful unless carried out with the consent of the Treasury, that is to say—
 - (a) for a body corporate resident in the United Kingdom to cease to be so resident; or
 - (b) for the trade or business or any part of the trade or business of a body corporate so resident to be transferred from that body corporate to a person not so resident; or
 - (c) for a body corporate so resident to cause or permit a body corporate not so resident over which it has control to create or issue any shares or debentures ; or
 - (d) except for the purpose of enabling a person to be qualified to act as a director, for a body corporate so resident to transfer to any person, or cause or permit to be transferred to any person, any shares or debentures of a body corporate not so resident over which it has control, being shares or debentures which it owns or in which it has an interest.
- (2) Nothing in paragraph (c) of subsection (1) of this section shall apply to the giving to the bankers of the body corporate not resident in the United Kingdom of any security for the payment of any sum due or to become due from it to them by reason of any transaction entered into with it by them in the ordinary course of their business as bankers.
- (3) Nothing in the said paragraph (c) shall apply to the giving by the body corporate not resident in the United Kingdom to an insurance company of any security for the

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payment of any sum due or to become due from that body corporate to that company by reason of any transaction entered into with that body corporate by that company in the ordinary course of that company's business by way of investment of its funds.

- (4) Any consent granted by the Treasury under this section—
- (a) may be given either specially (that is to say, so as to apply only to specified transactions of or relating to a specified body corporate) or generally (that is to say, so as not only to apply as aforesaid); and
 - (b) may, if given generally, be revoked by the Treasury ; and
 - (c) may in any case be absolute or conditional; and
 - (d) shall be published in such a way as to give any person entitled to the benefit of it an adequate opportunity of getting to know of it, unless in the opinion of the Treasury publication is not necessary for that purpose.
- (5) Any person who, whether within or outside the United Kingdom, does or is a party to the doing of any act which to his knowledge amounts to or results in, or forms part of a series of acts which together amount to or result in, or will amount to or result in, something which is unlawful under subsection (1) of this section shall be guilty of an offence under this section, and in any proceedings in respect of such an offence against a director of the body corporate in question (that is to say, the body corporate which is or was resident in the United Kingdom) or against any person who was purporting to act in that capacity—
- (a) it shall be presumed that he was a party to every act of that body corporate unless he proves that it was done without his consent or connivance; and
 - (b) it shall, unless the contrary is proved, be presumed that any act which in fact amounted to or resulted in, or formed part of a series of acts which together amounted to or resulted in or would amount to or result in, something which is unlawful under subsection (1) of this section was to his knowledge such an act.
- (6) Any person who is guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for not more than two years or to a fine not exceeding ten thousand pounds or to both, and proceedings in respect of such an offence alleged to have been committed by a person may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being:

Provided that where the person in question is the body corporate which is or was resident in the United Kingdom, the maximum amount of the fine shall be three times the total income tax and profits tax paid or payable by it for the last three years of assessment and the last three chargeable accounting periods ending before the commission of the offence, or ten thousand pounds, whichever is the greater.

- (7) A body corporate shall be deemed for the purposes of this section to be resident or not to be resident in the United Kingdom according as the central management and control of its trade or business is or is not exercised in the United Kingdom:

Provided that if it is shown that it has been established as between the Crown and a body corporate for any income tax or profits tax purpose that the body corporate was resident or ordinarily resident in the United Kingdom for any year of assessment or chargeable accounting period, it shall be presumed, except so far as the contrary is proved, that that body corporate was resident in the United Kingdom for the purposes of this section at the beginning of that year of assessment or chargeable accounting period and that it continued to be so resident at all times thereafter.

- (8) Where the functions of a body corporate consist wholly or mainly in the holding of investments or other property, the holding of the investments or property shall be deemed for the purposes of this section to be a business carried on by the body corporate.
- (9) Notwithstanding anything in the preceding provisions of this section, in no event shall a mere transfer of assets by a body corporate not resulting in a substantial change in the character or extent of the trade or business of that body corporate be treated for the purpose of this section as a transfer of part of the trade or business thereof.

(10) In this section—

" share ", " debenture " and " director " have, in relation to any body corporate, the meanings respectively assigned to them by section four hundred and fifty-five of the Companies Act, 1948, in relation to a company ;

" control " (except in the expression " central management and control ") means in relation to a body corporate, (the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person ;

" transfer ", in relation to shares or debentures, includes a transfer of any beneficial interest therein ;

" insurance company " means a body corporate lawfully carrying on business as an insurer, whether in the United Kingdom or elsewhere, and " funds " in relation to an insurance company means the funds held by it in connection with that business,

and a body corporate shall not be deemed for the purposes of this section to cease to be resident in the United Kingdom by reason only that it ceases to exist.

- (11) No proceedings for an offence under this section shall be instituted, in England or Wales, except by or with the consent of the Attorney General or, in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland:

Provided that this subsection shall not prevent the issue or execution of a warrant for the arrest of any person in respect of such an offence, or the remanding in custody or on bail of any person charged with such an offence.

37 Sales, etc. between associated persons

- (1) Subject to the provisions of this section, where, on or after the tenth day of April, nineteen hundred and fifty-one, any property is sold and—
- (a) the buyer is a body of persons over whom the seller has control or the seller is a body of persons over whom the buyer has control or both the seller and the buyer are bodies of persons and some other person has control over both of them; and
- (b) the property is sold at a price less than the price which it might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length,

then, in computing the income, profits or losses of the seller for income tax and profits tax purposes, the like consequences shall ensue as would have ensued if the property

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had been sold for the price which it would have fetched if the transaction had been a transaction between independent persons dealing as aforesaid :

Provided that this subsection shall not apply where the buyer is resident in the United Kingdom and is carrying on a trade therein, and the price of the property falls to be taken into account as a deduction in computing the profits or gains or losses of that trade for income tax purposes.

- (2) Subject to the provisions of this section, where, on or after the tenth day of April, nineteen hundred and fifty-one, any property is sold and—
- (a) the buyer is a body of persons over whom the seller has control or the seller is a body of persons over whom the buyer has control or both the seller and the buyer are bodies of persons and some other person has control over both of them; and
 - (b) the property is sold at a price greater than the price which it might have been expected to fetch if the parties to the transaction had been independent persons dealing at arm's length,

then, in computing the income, profits or losses of the buyer for income tax and profits tax purposes, the like consequences shall ensue as would have ensued if the property had been sold for the price which it would have fetched if the transaction had been a transaction between independent persons dealing as aforesaid:

Provided that this subsection shall not apply where the seller is resident in the United Kingdom and is carrying on a trade therein, and the price of the property falls to be taken into account as a trading receipt in computing the profits or gains or losses of that trade for income tax purposes.

- (3) The preceding provisions of this section shall not apply in relation to any sale unless the Commissioners of Inland Revenue so direct, and where such a direction is given all such adjustments shall be made, whether by additional assessment, repayment of tax or otherwise, as are necessary to give effect to the direction.
- (4) Nothing in this section shall be construed as affecting the operation of Rule 6 or Rule 7 of the Rules applicable to Cases I and II of Schedule D, or of any of the provisions of the Income Tax Act, 1945, or of Part IV of the Finance Act, 1944.
- (5) In this section, "body of persons" includes a partnership and "control" has the meaning ascribed to it by subsection (1) of section sixty-eight of the Income Tax Act, 1945, and, for the purposes of this section, a sale shall be deemed to take place at the time of completion or at the time when possession is given, whichever is the earlier.
- (6) The preceding provisions of this section shall, with the necessary adaptations, have effect in relation to lettings and hirings of property, grants and transfers of rights, interests or licences and the giving of business facilities of whatever kind as they have effect in relation to sales, and the references in the said preceding provisions to sales, sellers, buyers and prices shall be deemed to be extended accordingly:

Provided that nothing in this subsection shall apply to any letting of any lands, tenements, hereditaments or heritages charged to income tax under No. I of Schedule A.

- (7) Rule 7 of the General Rules shall cease to have effect, except as respects transactions taking place before the tenth day of April, nineteen hundred and fifty-one.

38 Extension of time in relation to relief from income tax and the profits tax for capital expenditure on rehabilitation

Subsection (1) of section twenty-four of the Finance Act, 1947 (which allows relief from income tax and the profits tax for certain capital expenditure on rehabilitation), shall have effect as if in the proviso thereto (which, as set out in section thirty-three of the Finance Act, 1948, extends in certain cases till not later than the end of March, nineteen hundred and fifty-two, the period within which the expenditure must have been incurred if the relief is to be given) for the words "the end of March, nineteen hundred and fifty-two," there were substituted the words " the end of March, nineteen hundred and fifty-four. "

39 Extension of time in relation to relief from excess profits tax for terminal expenses

Section seventy-eight of the Finance Act, 1948 (which extends the time in relation to relief from excess profits tax for terminal expenses), shall have effect as if for the words " the end of March, nineteen hundred and fifty-two," there were substituted the words " the end of March, nineteen hundred and fifty-four. "

40 Extension of time for proceedings for penalties in case of fraud or wilful default in connection with excess profits tax or the profits tax

- (1) Subject to the provisions of this section, the time limited by the Eighth Schedule to the Finance Act, 1943, for commencing proceedings for the recovery from any person of any penalty incurred (whether before or after the passing of this Act) under the enactments relating to excess profits tax or the profits tax shall, where any form of fraud or wilful default has been committed by him or on his behalf in connection with or in relation to the tax for the chargeable accounting period in question, be extended so as to authorise the commencement of such proceedings at any time within three years from the final determination of the amount of the tax with which he ought to be charged in respect of that chargeable accounting period.
- (2) Nothing in this section shall extend the time for the bringing of—
 - (a) any proceedings to recover any penalty incurred more than six years before the passing of this Act; or
 - (b) any proceedings against the personal representatives of any person by whom or on whose behalf any form of fraud or wilful default has been committed.

41 Exemption for staffs of High Commissioners, etc., not to extend to persons employed for trading purposes

The exemption from income tax and land tax conferred by section twenty-six of the Finance Act, 1925, on persons having or exercising employments to which section nineteen of the Finance Act, 1923, applies shall not extend, and shall be deemed never to have extended, to any person employed in any trade, business or other undertaking carried on for the purposes of profit.

42 Exemption from stamp duties of transfers of International Bank stock

- (1) Transfers of any stock of the International Bank for Reconstruction and Development shall be exempt from all stamp duties.

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- (2) This section shall have effect as from the twenty-sixth day of April, nineteen hundred and fifty-one.

43 Provisions as to permanent annual charge for the National Debt and as to the Old Sinking Fund

- (1) The permanent annual charge for the National Debt for the financial year ending with the thirty-first day of March, nineteen hundred and fifty-two, shall be the sum of five hundred and thirty-five million pounds instead of the sum of three hundred and fifty-five million pounds.
- (2) Any amount applied out of revenue during the said year in redeeming or paying off any description of debt shall be deemed to be expenditure within the meaning of sections four and five of the Sinking Fund Act, 1875.

44 Short title, construction, extent and repeals

- (1) This Act may be cited as the Finance Act, 1951.
- (2) Part I of this Act—
- (a) so far as it relates to duties of customs, shall be construed as one with the Customs Consolidation Act, 1876, except that the expression " the United Kingdom " does not include the Isle of Man and nothing in the said Part I shall be construed as extending to the Isle of Man; and
 - (b) so far as it relates to duties of excise, shall be construed as one with the Acts which relate to the duties of excise and to the management of those duties ; and
 - (c) so far as it relates to purchase tax shall be construed as one with Part V of the Finance (No. 2) Act, 1940;
- and in the said .Part I the expression " the Commissioners " means the Commissioners of Customs and Excise.
- (3) Part II of this Act, and Part V thereof so far as it relates to income tax, shall be construed as one with the Income Tax Acts.
- (4) Part III of this Act, and Part V thereof so far as it relates to the profits tax, shall be construed as one with Part III of the Finance Act, 1937, and the other enactments relating to the profits tax.
- (5) Part IV of this Act shall be construed as one with Part I of the Finance Act, 1894.
- (6) Anything required or authorised under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board or any person authorised by him in that behalf.
- (7) Any reference in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended or applied by or under any other enactment, including this Act.
- (8) Such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.
- (9) The enactments specified in the Seventh Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.