



Finance Act 1950

1950 CHAPTER 15

PART III

MISCELLANEOUS PROVISIONS AS TO INCOME TAX AND OTHER TAXES

39 Treatment for taxation purposes of enemy debts, etc., written off during the war

(1) Where—

- (a) the profits or losses arising from a trade or business in an accounting period ending after the end of March, nineteen hundred and thirty-nine, and beginning before the end of the year nineteen hundred and forty-six fell to be computed for excess profits tax or profits tax purposes, or the profits or gains or losses of a year or period ending and beginning as aforesaid fell to be computed in the case of a trade for income tax purposes; and
- (b) in computing those profits, profits or gains or losses a deduction was allowed so as wholly or partly to write off—
 - (i) a debt or claim (whether actual or potential) owed by or on a person resident or carrying on business in territory which was, had been or subsequently became enemy territory, or owed by or on a State or Sovereign of a State which was, had been or subsequently became at war with His Majesty; or
 - (ii) the value of any property in, or believed to be in, any such territory as aforesaid, or under, or believed to be under, the control of any Power which was, had been or subsequently became at war with His Majesty ; and
- (c) a recovery is made in respect of that debt, claim or property, whether from the debtor or person liable or otherwise, and whether by the person carrying on the trade or business or trade in the accounting period, or year or period, aforesaid or by some person claiming through or under him ; and
- (d) the amount of the recovery, or, if there is more than one, the total amount of the recoveries, is greater or less than such part, if any, of the amount or value of the debt, claim or property as is still not written off after effect has been given to the deduction,

Status: This is the original version (as it was originally enacted).

the deduction shall be deemed to have been improper to the extent of the excess or, as the case may be, to have been insufficient to the extent of the deficiency, and, subject to the provisions of the next following section, all such consequences shall ensue, as respects all persons concerned, for the purposes of excess profits tax, the profits tax and income tax (including surtax) for any chargeable accounting period or year of assessment, as would have ensued if no deduction had been made or, as the case may be, if there had been made a deduction smaller by the amount of the said excess or greater by the amount of the said deficiency, and payments of tax (including refunds of excessive repayments of tax) and repayments of tax (including post-war refunds of excess profits tax) shall be made accordingly.

(2) In this section—

- (a) the expression "recovery" means the obtaining of any thing of value, whether in cash or not, and references to the amount of a recovery are references to the amount or value, as the case may require, of what is obtained;
- (b) references to a recovery in respect of a debt, claim or property wholly or partly written off in the manner specified in subsection (1) of this section include, in particular, references to—
 - (i) any sum obtained under the Distribution of German Enemy Property Act, 1949, or any other enactment, in virtue of rights in respect of that debt, claim or property; and
 - (ii) anything of value obtained (whether in cash or not) in consideration of an assignment of any rights in respect of the debt, claim or property,

and where (whether in consideration of an assignment or otherwise) anything is obtained partly in respect of some debt, claim or property so written off as aforesaid and partly in respect of some other debt, claim or property, the amount or value of what is obtained shall be apportioned rateably to the amounts or values of the several debts, claims or properties and there shall be deemed to be a recovery in respect of the first mentioned debt, claim or property of an amount equal to such part of the amount or value of what is obtained as is apportioned thereto:

Provided that where the whole or any part of, or of the value of, something obtained in consideration of an assignment of rights in respect of any debt, claim or property so written off as aforesaid is treated as a recovery in respect of that debt, claim or property, all subsequent recoveries in respect of that debt, claim or property made by virtue of those rights shall be left out of account for the purposes of this section except to the extent that the total amount thereof exceeds or, as the case may be, exceeds that part of, the amount or value of what was obtained in consideration of the assignment.

(3) In ascertaining, under subsection (2) of this section, the amount of any recovery, there may be deducted from the amount or value of what is obtained any expenses incurred in obtaining it, and references in the said subsection to the amount or value of what is obtained shall be construed accordingly:

Provided that, to the extent that any expenses so deducted go to reduce the sum which is to be treated under that subsection as the amount of a recovery in respect of a debt, claim or property wholly or partly written off in the manner specified in subsection (1) of this section—

- (a) no deduction shall be allowed for the expenses in computing, for excess profits tax or profits tax purposes, the profits or losses arising from any trade or business in any accounting period or in computing, for the purposes of income tax for any year of assessment, the profits or gains or losses of any trade; and

- (b) the expenses shall not be included in computing the expenses of management in respect of which relief may be claimed under section thirty-three of the Income Tax Act, 1918;
- and the payments and repayments of tax falling to be made under subsection (1) of this section shall be adjusted accordingly.
- (4) Where an amount of tax has been allowed to remain uncollected on the ground that some debt, claim or property might prove to be irrecoverable or lost, without, however, a deduction being actually allowed in the relevant computation of profits, profits or gains or losses, the preceding provisions of this section shall apply, with the necessary adaptations, as if a deduction had been allowed in the said computation so as to write off the debt or claim, or, as the case may be, the value of the property, to an extent corresponding to the amount of tax allowed to remain uncollected.
- (5) In this section, the expression " enemy territory " means any area under the sovereignty of, or in the occupation of, a Power at war with His Majesty and the expression " at war with His Majesty " means at war with His Majesty at some time during the years nineteen hundred and thirty-nine to nineteen hundred and forty-six.
- (6) In any case to which this section applies—
- (a) all such assessments or additional assessments to excess profits tax. the profits tax or income tax (including surtax) shall be made as are necessary to secure that the payments of tax mentioned in subsection (1) of this section are duly recovered ; and
 - (b) all such assessments as aforesaid, and all repayments of tax mentioned in the said subsection (1), shall be made notwithstanding that the liability of the persons in question to excess profits tax, the profits tax, income tax other than surtax or surtax, as the case may be, has been finally determined (whether before or after the passing of this Act) and notwithstanding that the time limited by law for making assessments, additional assessments or claims for repayments has expired ; and
 - (c) the recovery of all or any of the payments of income tax other than surtax falling to be made by a particular person for any year of assessment (including refunds of excessive repayments of tax) may, if convenient, be secured as aforesaid by a single assessment or additional assessment under Case VI of Schedule D, and may be so secured notwithstanding that all or any of the income in respect of which the tax is payable is income chargeable only by deduction or chargeable only under some other Schedule or Case.