



# Finance Act 1940

1940 CHAPTER 29 3 and 4 Geo 6

## PART III.

EXCESS PROFITS TAX AND NATIONAL DEFENCE CONTRIBUTION.

### 28 New provisions as to interconnected companies.

- (1) Subsections (2) to (5) of section seventeen of the Finance (No. 2) Act, are hereby repealed and in lieu thereof the provisions of the Fifth Schedule to this Act shall have effect :

Provided that where, before the passing of this Act, any tax has been paid by any body corporate under any assessment made by virtue of the subsections repealed by this section in respect of any chargeable accounting period, the amount paid shall be deemed to have been paid on account of such tax as the Commissioners may direct, being tax charged or chargeable under any assessments made or to be made on that body corporate, by virtue of the provisions substituted for those subsections by this section, in respect of any chargeable accounting periods ending not later than the end of the said period, and no repayment thereof shall be made except in so far as the Commissioners are satisfied that the amount paid exceeds the amount payable in respect of those periods.

In this subsection and the said Schedule, the expression “a group of companies” means two or more bodies corporate of which—

- (a) one (in this subsection and in that Schedule referred to as the “principal company”) is resident in the United Kingdom and is not a subsidiary of any other body corporate resident in the United Kingdom; and
- (b) the remainder (whether or not resident or carrying on business in the United Kingdom) are subsidiaries of the principal company,

and the expression “a subsidiary member” means any member of a group of companies other than the principal company.

- (2) The following subsection shall be inserted after subsection (1) of the said section seventeen :—

“(1A) Where—

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 1940, Section 28. (See end of Document for details)*

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- (a) any debt is owing to any body corporate by another body corporate;  
and
  - (b) one of those bodies corporate is a subsidiary of the other, or both are subsidiaries of a third body corporate; and
  - (c) no interest is payable in respect of the debt, but the circumstances in which the debt came into existence or is allowed to continue to exist are such that the debt represents in substance capital employed in the trade or business of the debtor body corporate,  
the capital of both bodies corporate shall be computed as if the debt did not exist.”
- (3) The provisions of subsection (6) of the said section seventeen (which defines the expression “subsidiary”) shall have effect for the purposes of this section and the said Schedule as they have effect for the purposes of the said section seventeen :  
Provided that a body corporate which, under the said subsection (6), is a subsidiary of two or more bodies corporate, each of which is resident in the United Kingdom and none of which is a subsidiary of any other body corporate resident in the United Kingdom, shall, for the purposes of subsection (1) of this section and the said Schedule, be treated as a subsidiary of such one only of those bodies corporate as the Commissioners may direct.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1940, Section 28.