



Finance Act 1940

1940 CHAPTER 29 3 and 4 Geo 6

PART III.

EXCESS PROFITS TAX AND NATIONAL DEFENCE CONTRIBUTION.

38 Successions and amalgamations.

- (1) The provisions of section sixteen of the Finance (No. 2) Act, 1939 (which relate to successions and amalgamations) shall have effect subject to the following provisions of this section.
- (2) Any consideration which, under subsection (3) or subsection (4) of the said section sixteen, has to be disregarded in computing capital shall also be disregarded in considering, for the purposes of computing the profits of, and the capital employed in, any chargeable accounting period, whether any and if so what deductions are to be made in respect of wear and tear and replacement of plant and machinery, and whether any and if so what allowance is to be made in respect of depreciation.
- (3) In subsection (6) of the said section sixteen for the words “where a trade or business was carried on immediately before the first day of July, nineteen hundred and thirty-six, and that trade or business, or the main part of that trade or business, was transferred after the said day and before the first day of April, nineteen hundred and thirty-nine, by the person carrying on to another person” there shall be substituted the following words—

“where—

- (a) a trade or business which was commenced before the first day of January, nineteen hundred and thirty-five, or the main part of such a trade or business, was transferred on or after that date and before the first day of April, nineteen hundred and thirty-nine, by the person carrying on to another person; or
- (b) a trade or business which was commenced on or after the said first day of January but before the second day of July, nineteen hundred and thirty-six, or the main part of such a trade or business, was transferred

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1940, Section 38. (See end of Document for details)*

before the said first day of April by the person carrying on to another person.”

(4) Where—

- (a) a trade or business is, by virtue of subsection (2) or subsection (3) of the said section sixteen, deemed not to have been discontinued; or
- (b) a trade or business is, by virtue of subsection (4) of the said section sixteen, to be treated as if it had been in existence throughout the period during which there was in existence any other trade or business; or
- (c) a trade or business is, by virtue of subsection (5) of the said section sixteen, to be treated as a continuation of another trade or business; or
- (d) any person who is carrying on a trade or business after a transfer is treated by virtue of subsection (6) of the said section sixteen as having carried on the trade or business as from the date before the transfer,

the enactments relating to the computation of profits and capital for the purposes of excess profits tax shall, both as respects the standard period and any chargeable accounting period, have effect subject to such modifications, if any, as the Commissioners may think just, and the Commissioners may make such alterations in the periods which would otherwise be the chargeable accounting periods of the trade or business as they think proper :

[^{F1}Provided that if the Commissioners make any such modifications and the person carrying on the trade or business is dissatisfied with the modifications so made, or if the Commissioners refuse to make any modification requested by the person carrying on the trade or business and he is dissatisfied with the refusal, he may appeal to the Board of Referees.]

- (5) In subsection (5) of the said section sixteen the words “subject to any necessary modifications,” and in subsection (6) thereof the words “subject, however, to such modifications (including modifications as respects the computation of capital) as may bejust” and the words “or if the applicant is dissatisfied with any modifications made by the Commissioners” are hereby repealed.

Textual Amendments

F1 Proviso substituted by [Finance Act 1942 \(c. 21\), s. 39](#)

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1940, Section 38.