



Finance (No. 2) Act 1945

1945 CHAPTER 13

PART IV

EXCESS PROFITS TAX POST-WAR REFUNDS.

Income Tax.

43 Income tax on post-war refunds.

Subject to the provisions of the two next following sections, income tax shall be charged for the year 1946-47 on all sums paid as, or on account of, post-war refunds, whenever those sums are paid, and shall be so charged by deduction of tax at the standard rate for that year, and any sums so paid shall be deemed to be income for all the purposes of the Income Tax Acts.

44 Option to spread refunds backwards for income tax purposes.

- (1) Where a post-war refund is paid to an individual, and in the relevant chargeable accounting periods that individual carried on the original trade or business either atone or in partnership with any other person, he may claim that the income tax (including surtax) payable by him by reason of the receipt of the refund shall be reduced to such extent as may be just having regard to the total income tax (including surtax) which would have been payable by him if the amounts of refund referable to those periods had been treated for the purposes of income tax as additions to the profits or gains of the trade or business for those periods or, as the case may be, as additions to his share thereof, and charged to income tax (including surtax) accordingly.
- (2) Where the amount of income tax which would have been payable as aforesaid is affected by any allowance falling to be made under the provisions of the Income Tax Acts relating to wear and tear and the carrying forward of losses (including the provisions of section nineteen of the Finance Act, 1928) such adjustments, if any, shall be made—
 - (a) in computing the relief falling to be granted under subsection (1) of this section; and

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- (b) in computing the allowances falling to be granted under any of the said provisions of the Income Tax Acts for the year 1947-48 or any subsequent year of assessment,

as are necessary to secure that the same wear and tear, loss or other amount is not taken into account so as to increase the relief under the said subsection (1) and also allowed under the said provisions of the Income Tax Acts.

- (3) References in this section to the income tax (including surtax) payable by an individual include, in cases where profits of a wife are deemed to be profits of her husband, references to the income tax (including surtax) payable by his wife or her husband, as the case may be.
- (4) A claim under this section must be made to the Commissioners of Inland Revenue not later than the fifth day of April, nineteen hundred and forty-seven, or within such further period as those Commissioners may allow, and section nineteen of the Finance Act, 1925 (which relates to the making and allowing of claims for certain reliefs and to rights of appeal) shall apply in relation to claims under this section as it applies to the claims mentioned in that section.

45 Option to have refunds treated as profits of 1947-48.

- (1) Where the net amount of any post-war refund is to be used for the purpose of a trade the profits or gains of which are assessable to tax for the year 1947-48 under Case I of Schedule D or would be so assessable if there were any profits or gains thereof for that year, then, if all the persons who are or would be assessable to tax as aforesaid in respect of those profits or gains for that year and the person to whom the refund is payable, by notice in writing given to the surveyor not later than the end of the year nineteen hundred and forty-eight, or within such further period as the Commissioners of Inland Revenue may allow, so elect—
- (a) in lieu of the refund being chargeable to income tax for the year 1946-47, it shall be charged to income tax for the year 1947-48 as if it were profits or gains of the trade, and shall be so charged, by means of an assessment for the year 1947-48 on the profits or gains of the trade in addition to any other assessment falling to be made thereon for that year; but
- (b) tax at the standard rate for the year 1946-47 shall nevertheless be deducted from any sum paid as, or on account of, the refund and the amount deducted shall be treated as if it had been paid by the persons chargeable under paragraph (a) of this subsection, and had been so paid by them on account of income tax in respect of the profits or gains of the trade for the year 1947-48:

Provided that this subsection shall not apply unless the persons or one or more of the persons who carried on the original trade or business in the relevant chargeable accounting periods also carry on the trade in connection with which the refund is to be used, either alone or in partnership with any other person, for the whole or any part of the year 1947-48.

- (2) If during the year 1947-48 there is any change in the persons carrying on the trade for the purposes of which the sum repaid is to be used and, by virtue of the change, the trade is, for the purposes of Rule n of the Rules applicable to Cases I and II of Schedule D, treated as discontinued, the references in subsection (1) of this section to the trade shall be construed as references to the trade carried on up to the date of the discontinuance, or, where there is more than one discontinuance in the said year, up to the first of the discontinuances.

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- (3) The preceding provisions of this section shall, with the necessary adaptations, apply where the net amount of any post-war refund is to be used for the purposes of more than one trade as it applies where the net amount of a post-war refund is to be used for the purposes of one trade, so, however, that an election can only be made with respect to the whole of the refund and all persons who are or would be assessable to tax under Case I of Schedule D in respect of the profits or gains of any of the trades must be parties to the giving of the notice of the election.
- (4) No election shall be valid under this section in relation to any refund if a claim is made and allowed in relation thereto under the last preceding section.