



# Finance (No. 2) Act 1945

## 1945 CHAPTER 13

### PART IV

#### EXCESS PROFITS TAX POST-WAR REFUNDS.

##### *Miscellaneous.*

**46 Reliefs given and repayments made after payments have been made by way of post-war refund.**

- (1) Where any sum has been paid as, or on account of, a post-war refund, any relief from, or repayment of, the excess profits tax in respect of which the sum was paid, being a relief or repayment which falls to be given or made after the payment of that sum, shall be computed as if the rate of excess profits tax had, as respects all relevant chargeable accounting periods, been eighty per cent.:

Provided that, in computing the amount of capital employed in the trade or business, the said tax shall be treated as chargeable at one hundred per cent. for all those periods.

- (2) Where—
- (a) the amount of any relief or repayment is reduced by virtue of subsection (1) of this section; and
  - (b) if the said subsection (1) had not applied and the relief or repayment had been taken into account in computing any sum paid as, or on account of, a postwar refund, that sum would have been reduced,

any undertakings given under this Part of this Act in connection with the payment of that sum shall have effect with respect only to such reduced amount as may be just having regard to the reduction which would have been made in that sum.

- (3) References in this section to a repayment of tax do not include references to any payment of, or on account of, a post-war refund.

---

*Status: This is the original version (as it was originally enacted).*

---

**47 Set-off of refunds against excess profits tax.**

Where after the end of the year nineteen hundred and forty-five, excess profits tax is due and payable in respect of any relevant chargeable accounting period and, if that tax were paid, a sum would (on the giving, or giving and approval, of the requisite undertakings and authorities) be payable for or on account of a post-war refund, the Commissioners may, if they think fit and if the requisite undertakings and authorities are given, or given and approved, give credit for the amount of the sum payable as afore--said, after deduction of tax at the standard rate for the year 1946-47, against the same amount of the excess profits tax which is due and payable as aforesaid, and, where credit is so given, the amount for which credit is given shall be deemed to have been paid to the Commissioners and repaid by them and the ' said undertakings and authorities shall, with the necessary modifications, have effect accordingly:

Provided that the amount deemed to have been repaid by the Commissioners shall for the purposes of income tax be treated as a payment made after deduction of tax at the standard rate for the year 1946-47.

**48 Payment of refunds out of Consolidated Fund.**

- (1) Such sums as are required by the Commissioners of Inland Revenue for the purpose of making payments of, or on account of, post-war refunds shall be issued to the Commissioners out of the Consolidated Fund of the United Kingdom or the growing produce thereof.
- (2) For the purpose of providing any sums to be issued under subsection (1) of this section, the Treasury may raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this section shall be deemed for all purposes to have been created and issued under that Act.
- (3) Notwithstanding anything in sub-paragraph (2) of paragraph 1 of Part II of the Seventh Schedule to the Finance (No. 2) Act, 1939, in computing the amount of the capital employed in a trade or business for the purposes of excess profits tax no deduction shall be made from the price of any asset on the ground that it was acquired wholly or partly out of a sum paid for or on account of a post-war refund and that that sum was, by virtue of this section, contributed but of the Consolidated Fund.

**49 Special cases.**

The provisions of this Part of this Act and of section twenty-eight of the Finance Act, 1941 (as amended by any subsequent enactment) shall, in relation to partnerships, members of groups of companies and tax paid under section twenty-four of the Finance Act, 1943 (which relates to sales of stock at an under-value), have effect subject to the provisions of the Sixth Schedule to this Act.

**50 Interpretation of Part IV.**

- (1) In this Part of this Act and in the Sixth Schedule to this Act, the following expressions have, except so far as the context otherwise requires, the meanings hereby respectively assigned to them, that is to say—
  - " the original trade or business " means, in relation to a post-war refund, the trade or business, tax on the profits of which is or is to be refunded;

---

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

---

" relevant chargeable accounting period " means any chargeable accounting period (for the purposes of excess profits tax) beginning on or after the first day of April, nineteen hundred and forty and ending on or before the thirty-first day of December, nineteen hundred and forty-five, or any part of a chargeable accounting period, being a part beginning on or after the said first day of April and ending on or before the said thirty-first day of December, which falls to be treated for the purposes of section twenty-eight of the Finance Act, 1941, as a separate chargeable accounting period;

" net amount " means, in relation to a post-war refund, the gross amount thereof less the income tax deducted therefrom, and, where the payment is made otherwise than to a body corporate, less also any surtax ascribable to the payment of the refund, the amount of surtax so ascribable being ascertained on the basis that the refund is to be treated as the highest part of the income of the person to whom the payment is made;

"group of companies, " " the principal company " and " subsidiary member " have the meanings respectively assigned to them by subsection (1) of section twenty-eight of the Finance Act, 1940.

- (2) References in this Part of this Act to the national defence contribution for a relevant chargeable accounting period shall, where the relevant chargeable accounting period is not also a chargeable accounting period for the purposes of the national defence contribution, be taken to be references to a sum made up by apportioning and aggregating the amounts of the national defence contribution paid or payable in respect of any chargeable accounting period (as defined for the purposes of the national defence contribution) which falls wholly or partly within the relevant chargeable accounting period.

Any apportionment-required to be made by this subsection shall be made by reference to the number of months or fractions of months in the period to which the apportionment relates.

- (3) Any reference in this Part of this Act or in the Sixth Schedule to this Act to the relevant chargeable accounting periods to which a post-war refund is referable shall be construed as a reference to the relevant chargeable accounting periods in which there was extra tax, and any reference in this Part of this Act or in the said Sixth Schedule to the amount of refund which is referable to any such period shall be construed as a reference to an amount which bears to the total amount of the refund the same proportion as the extra tax in that period bears to the sum of the amounts of extra tax in all the periods to which the refund is referable.

For the purposes of this subsection, if the excess profits tax for any of the relevant chargeable accounting periods exceeds the national defence contribution for that period, there shall be deemed to have been extra tax for that period equal to whichever of the two following amounts is the smaller, that is to say—

- (a) twenty per cent. of the excess profits tax for the period; and
- (b) the amount by which the excess profits tax for the period exceeds the national defence contribution for the period:

Provided that, if the national defence contribution is equal to or exceeds the excess profits tax in the case of all the relevant chargeable accounting periods, there shall be deemed to have been extra tax for all the chargeable accounting periods for which there was excess profits tax, equal, in the case of each such period, to twenty per cent. of the excess profits tax for that period.

---

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

---

In determining for the purposes of this subsection whether there is any, and, if so, what excess profits tax for any period, any national defence contribution payable for that or any other period shall be disregarded except in computing capital and any relief for any deficiency of profits occurring in any other chargeable accounting period shall be altogether disregarded, and in determining for the said purposes whether there is any, and, if so, what national defence contribution for any period, excess profits tax shall be altogether disregarded.

- (4) Where any expenditure has been incurred on or after the first day of April, nineteen hundred and forty-five, in developing or re-equipping a trade or business, any sum used in or towards the recouping of that expenditure shall be deemed for the purposes of this Part of this Act to have been used in developing or re-equipping that trade or business and any undertakings given under this Part of this Act shall have effect accordingly.