



# Finance (No. 2) Act 1945

## 1945 CHAPTER 13

### PART VI

#### MISCELLANEOUS.

**57 Relief from death duties on land subsequently acquired by government departments, local authorities, etc..**

- (1) The following provisions of this section shall have effect where an interest in land—
- (a) is compulsorily acquired by a government department or a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919; or
  - (b) is acquired by agreement by such a government department or local or public authority as aforesaid, being a department or authority who, when the agreement is made, are authorised by, or are or can be authorised under, any enactment to acquire that interest in land compulsorily,
- and, in either case, the date of acquisition falls within the period of five years from the seventeenth day of November, nineteen hundred and forty-four.
- (2) If it is proved to the satisfaction of the Commissioners of Inland Revenue—
- (a) that estate duty has been paid, or is payable, in respect of the whole of the interest, and that that interest was valued for the purposes of that duty as at a date after the thirty-first day of March, nineteen hundred and thirty-nine, and before the date of acquisition; and
  - (b) that the persons to whom the interest passed beneficially on the death on which the duty was payable were the same persons as were beneficially interested therein at the date of acquisition, and the beneficial interests which they respectively took on the death were the same beneficial interests as they respectively had at the date of acquisition; and
  - (c) that the interest was the same in all respects and with the same incidents at the date of acquisition and at all dates relevant for the purpose of ascertaining the duty; and

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- (d) that the land in which the interest subsisted was in the same state and with the same incidents and held with the same land at the date of acquisition and at all dates relevant for the purpose of ascertaining the duty; and
  - (e) that the duty fell or falls to be wholly borne by the persons who were beneficially interested at the date of the acquisition according to the respective interests which they then had; and
  - (f) that the acquisition did not operate to sever the land from land with which it was held at any of the dates relevant for the purpose of ascertaining the duty,
- the amount of duty payable in respect of the interest shall, where necessary, be reduced by repayment or remission of duty so as not to exceed the amount which would have been payable in respect thereof if the principal value of the interest had been equal to the amount of the compensation or price payable for the purchase thereof, including, in the case of compensation, any supplement thereto under section fifty-eight or section fifty-nine of the Town and Country Planning Act, 1944, or any corresponding enactment relating to Scotland.
- (3) Where the Commissioners are satisfied that the provisions of the last preceding subsection would have had effect but for all or any of the following facts, that is to say—
- (a) that the requirement in paragraph (a) thereof is not fulfilled in that the duty was paid or payable on part of the interest only; or
  - (b) that one or more of the requirements respectively specified in paragraphs (b) to (e) thereof are only partly fulfilled; or
  - (c) that the requirement in paragraph (f) thereof is not fulfilled,
- they may grant to any of the persons paying or bearing any of the duty such relief by repayment or remission of duty as may seem to them just and reasonable.
- (4) The two last preceding subsections shall have effect in relation to any legacy or succession duty becoming payable on the principal value of the interest as they have effect in relation to estate duty, subject, however, to the modification that for the references to the death there shall be substituted references to the happening of any event or the expiry of any period upon which the legacy or succession duty became or becomes payable.
- (5) An interest which is limited to expire, or is subject to an interest which is limited to expire, shall not be treated for the purposes of this section as being the same in all respects at different dates.
- (6) In this section, the expression " the date of acquisition " means—
- (a) in the case of a compulsory acquisition, the date of the service of the notice to treat; and
  - (b) in the case of an acquisition by agreement, the date of the making of the agreement,
- and the reference in this subsection to the service of the notice to treat shall be taken to include a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to the Town and Country Planning Act, 1944, or by virtue of any other enactment, is to be deemed to be served.

## **58 Amendment of law as to exceptional depreciation allowances.**

- (1) The enactments relating to the computation of profits for the purposes of excess profits tax and the national defence contribution shall, in relation to allowances for

exceptional depreciation of buildings, plant or machinery, have effect, and be deemed always to have had effect, subject to the modifications specified in Parts I and II of the Eighth Schedule to this Act.

- (2) The provisions of Part II of the Eighth Schedule to this Act shall, in relation to allowances under section nineteen of the Finance Act, 1941, have effect and be deemed always to have had effect in substitution for the provisions of section fifty-eight and subsections (2) to (5) of section fifty-nine of the Income Tax Act, 1945, and accordingly the said sections fifty-eight and fifty-nine shall have effect and be deemed always to have had effect subject to the following amendments—
- (a) in subsection (4) of the said section fifty-eight, paragraph (b) shall be omitted and for the words " sections nineteen and twenty-nine " there shall be substituted the words " section twenty-nine " ;
  - (b) in subsection (2) of the said section fifty-nine, after the words " subsection (1) of this section " there shall be inserted the words " (other than the said section nineteen) " ; and
  - (c) in subsection (5) of the said section fifty-nine, the words " and, as respects exceptional depreciation allowances, the provisions of this section shall be deemed always to have had effect " shall be omitted.

## **59 Determination of questions affecting allowances for exceptional depreciation.**

- (1) In this section the expression " exceptional depreciation allowance " means any allowance, other than an allowance which, by the terms of the enactments relating thereto, is expressed to be provisional only,—
- (a) under section nineteen of the Finance Act, 1941; or
  - (b) under paragraph 3 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, and subsection (1) of section thirty-three of the Finance Act, 1940; or
  - (c) under the said paragraph 3 and the said subsection (1) as applied in relation to the national defence contribution by subsection (2) of section forty-three of the Finance Act, 1941.
- (2) The question as to whether any, and, if so, what, exceptional depreciation allowance falls to be made in respect of any asset or group of assets shall be determined by the Commissioners of Inland Revenue.
- (3) The Commissioners shall give notice of their decision to the person to whom the exceptional depreciation allowance falls or would fall to be made, and where, for the purposes of their decision, the Commissioners decide—
- (a) how much of the price paid on a sale of two or more assets sold together is properly attributable to any of those assets; or
  - (b) what is the relevant price (as defined for the purposes of paragraph 8 of Part II of the Eighth Schedule to this Act) of any asset or group of assets,
- they shall give notice of their decision on that question to the said person, and, if it appears to them that the same question is also material in relation to the liability of any other person to income tax, excess profits tax or the national defence contribution, shall also give notice of their decision thereon to that other

A person to whom notice of any decision has been given under this subsection shall not, in any proceedings relating to his liability to income tax, excess profits tax or the national defence contribution, be entitled to call that decision in question otherwise than in accordance with the provisions of this section relating to appeals.

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- (4) Any person to whom such a notice is given may appeal against the decision to the Special Commissioners, and the provisions of the Income Tax Acts relating to appeals against assessments, including the provisions relating to the statement of cases for the opinion of the High Court on a point of law, shall, with the necessary modifications, have effect in relation to any such appeal as if it were an appeal against an assessment under Schedule D signed and allowed by the Special Commissioners, and as if the notice were a notice of that assessment:

Provided that upon any such appeal all persons who have received notices under this section in connection with the decision under appeal shall be entitled to appear and be heard, and, in relation to the statement of a case, shall have the same rights as the appellant, and, when the questions under appeal are finally decided, either by the Special Commissioners or by the Court, that decision shall not be called in question by any of the said persons in any proceedings relating to his liability to income tax, excess profits tax or the national defence contribution.

- (5) There shall be made all such adjustments, whether by way of repayment of tax or otherwise, and all such assessments, as are required in consequence of the decision of any question under this section, and, in particular, there shall be made all such assessments as may be necessary for securing that the amount of tax ultimately borne by any person is what it would have been if no provisional allowances had been made and if any exceptional depreciation allowance which, under the decision, falls to be made to him or to any other person had been made immediately upon the conclusion of the year of assessment or chargeable accounting period for which it falls to be made.

Notwithstanding any provision of the Income Tax Acts limiting the time for claiming adjustments or the time for making assessments, any adjustment or assessment (including any consequential assessment to surtax) required to be made under this subsection may be made at any time.

- (6) Subsection (6) of section nineteen of the Finance Act, 1941, shall not have effect in relation to any adjustments or assessments which are required in consequence of any decision under this section.
- (7) Any notice to be given by the Commissioners under this section may be given on behalf of the Commissioners by any surveyor appointed for the purposes of the Income Tax Acts.
- (8) This section shall have effect both in relation to questions arising before, and in relation to questions arising after, the passing of this Act.
- (9) Section sixty-one of the Income Tax Act, 1945, shall not apply as respects any apportionment or determination which is material as respects the right of any person to an exceptional depreciation allowance.

## **60 Appointment of collectors of taxes, etc. for City of London.**

- (1) The power to appoint collectors of taxes and collectors of land tax for the division of the City of London shall be transferred to and vested in the Commissioners of Inland Revenue; and all collectors of taxes and collectors of land tax for that division, by whomsoever appointed, shall hold office during the will and pleasure of the Commissioners of Inland Revenue and shall be paid such remuneration as the Treasury may determine; and the enactments relating to the collection of income tax and land tax

mentioned in the Ninth Schedule to this Act shall have effect subject to the provisions of that Schedule.

- (2) The Treasury are hereby authorised to grant, subject to and in accordance with such conditions as they may prescribe, out of moneys provided by Parliament, annual allowances by way of compensation to any such collectors of taxes, collectors of land tax or other persons as may be designated by the Treasury, being collectors or other persons whose appointments are determined by the Commissioners of Inland Revenue at any time after the thirty-first day of March, nineteen hundred and forty-six, and who were employed in and about the collection of income tax or land tax in the division of the City of London immediately before the passing of this Act.
- (3) The Pensions Commutation Acts, 1871 to 1882, shall apply to any person to whom a compensation allowance is awarded in pursuance of subsection (2) of this section as if he had retired from a public civil office in consequence of the abolition of his office.

## **61 Amendment as to deficit for 1944-45.**

No issue shall be made out of the Consolidated Fund under section forty-eight of the Finance Act, 1930 (which provides in the case of a deficit in any year for the redemption in the next year of a corresponding amount of debt) in respect of the deficit for the financial year ending with the thirty-first day of March, nineteen hundred and forty-five.

## **62 Short title, construction, extent and repeals.**

- (1) This Act may be cited as the Finance (No. 2) Act, 1945
- (2) Part I of this Act—
  - (a) so far as it relates to purchase tax, shall be construed as one with Part V of the Finance (No. 2) Act, 1940;
  - (b) so far as it relates to duties of customs, shall be construed as one with the Customs (Consolidation) Act, 1876;
  - (c) so far as it relates to duties of excise, shall be construed as one with the Acts which relate to the duties of excise and to the management of those duties;and in the said Part I the expression " the Commissioners " means the Commissioners of Customs and Excise.
- (3) Part II of this Act and, so far as they relate to income tax, Parts IV, V and VI thereof, shall be construed as one with the Income Tax Acts.
- (4) Parts III, IV, V and VI of this Act, so far as they relate to excess profits tax, shall be construed as one with Part III of the Finance (No. 2) Act, 1939.
- (5) Parts V and VI of this Act, so far as they relate to estate duty, shall be construed as one with Part I of the Finance Act, 1894.
- (6) Any reference in this Act to any other enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.
- (7) Save as otherwise expressly provided, such of the provisions of this Act as relate to matters with respect to which the Parliament of Northern Ireland has power to make laws shall not extend to Northern Ireland.

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- (8) The enactments specified in the Tenth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule as from the first day of January, nineteen hundred and forty-six.