



Finance (No. 2) Act 1945

1945 CHAPTER 13

PART III

EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION.

32 Extension of relief for deficiencies of profits in the case of certain amalgamations.

- (1) The provisions of this section shall have effect where either of the following events occurs in relation to two or more trades or businesses (hereinafter referred to as "the constituent concerns"), that is to say—
 - (a) that the constituent concerns are acquired by a partnership which has not previously carried on any trade or business, and the persons by whom the constituent concerns were carried on immediately before the acquisition are, at the time of the acquisition, all members of the partnership; or
 - (b) that the constituent concerns are acquired by a company which has not previously carried on any trade or business, and at the time of the acquisition the said persons together beneficially own more than one half of the ordinary share capital of the company.
- (2) Subject to the provisions of this section, if—
 - (a) throughout any chargeable accounting period of the trade or business carried on by the partnership or the company, any of the said persons is a member of the partnership or the beneficial owner of ordinary share capital of the company; and
 - (b) a final deficiency of profits occurs, in relation to that chargeable accounting period, in the trade or business carried on by the partnership or the company; and
 - (c) that person is chargeable to excess profits tax in respect of the profits of the constituent concern carried on by him, after account has been taken of all such relief as can, apart from the provisions of the last preceding section, this section and the next following section, be given in respect of deficiencies of profits; and

Status: This is the original version (as it was originally enacted).

(d) that person applies to the Commissioners of Inland Revenue for relief under this section,

the profits in respect of which he is so chargeable shall, for the purposes of excess profits tax, be deemed to be reduced by so much of the final deficiency as the Commissioners think just, having regard to the said person's interest in the partnership or the company.

(3) Subject to the provisions of this section, if—

- (a) throughout any chargeable accounting period of the trade or business carried on by the partnership or the company, any of the said persons is a member of the partnership or the beneficial owner of ordinary share capital of the company; and
- (b) a final deficiency of profits has occurred in the constituent concern carried on by that person; and
- (c) the profits of the partnership or the company in that chargeable accounting period are, after account has been taken of all such relief as can, apart from the provisions of the last preceding section, this section and the next following section, be given in respect of deficiencies of profits, chargeable to excess profits tax; and
- (d) the partnership or the company apply to the Commissioners of Inland Revenue for relief under this section,

the final deficiency shall be applied in reducing, for the purposes of excess profits tax, the profits of the partnership or company in that chargeable accounting period to such extent as the Commissioners think just, having regard to the said person's interest in the partnership or the company.

- (4) Any relief falling to be given under this section shall be given by repayment or otherwise, and where that relief is relief from excess profits tax chargeable in respect of the profits of a constituent concern, and is given by repayment, the Commissioners shall take into account any increased sums which would have fallen to be paid in respect of income tax (including surtax) by the person who carried on that concern if the amount repayable apart from this subsection had been profits or gains of a trade carried on by him and as such had been chargeable to income tax (including surtax) for the year of assessment which includes the last day of the chargeable accounting period in which the deficiency in respect of which relief is to be given occurred, and shall reduce the amount of the relief accordingly.
- (5) Where one of the constituent concerns was, immediately before the acquisition, carried on by a partnership, the preceding provisions of this section shall have effect in relation to that concern subject to the following modifications—
 - (a) a member of that partnership shall be entitled to relief under this section in respect of so much only of any excess profits' tax chargeable in respect of the profits of the partnership's trade or business as is appropriate having regard to his interest in the partnership; and
 - (b) where a final deficiency of profits has occurred in the trade or- business carried on by that partnership, then, for the purposes of this section, there shall be attributed to each member of the partnership so much only of that final deficiency as is appropriate having regard to his interest in the partnership.
- (6) The question whether any and if so what final deficiency of profits has occurred in relation to any chargeable accounting period shall be determined for the purposes of this section by the Commissioners.

- (7) The enactments relating to excess profits tax shall be deemed always to have had effect as amended by this section.