



Finance (No. 2) Act 1945

1945 CHAPTER 13

PART VI

MISCELLANEOUS.

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

Status: This is the original version (as it was originally enacted).

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.

- (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.