



Finance (No. 2) Act 1945

1945 CHAPTER 13 9 and 10 Geo 6

An Act to grant certain duties, to alter other duties, and to amend the law relating to the Public Revenue and the National Debt, and to make further provision in connection with Finance. [20th December 1945]

Extent Information

E1 For the extent of this Act see [S. 62\(7\)](#)

Commencement Information

II Act partly in force at Royal Assent, partly retrospective, see individual sections; all provisions so far as unrepealed wholly in force at 1.2.1991.

PART I

1 **F1**

Textual Amendments

F1 [S. 1](#) repealed by [Finance Act 1948 \(c. 49\)](#), s. 82, [Sch. 1\(1\)](#), Pt. I

2 **F2**

Textual Amendments

F2 [S. 2](#) repealed by [Purchase Tax Act 1963 \(c. 9\)](#), s. 41(1), [Sch. 4 Pt. I](#)

3 **F3**

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

Textual Amendments

F3 S. 3 repealed by Finance Act 1950 (c. 15), s. 50(7)(8), **Sch. 8 Pt. II**

4 **F4**

Textual Amendments

F4 S. 4 repealed by Vehicles (Excise) Act 1949 (c. 89), s. 30, **Sch. 7**

5 **F5**

Textual Amendments

F5 S. 5 repealed by Road Traffic Act 1960 (c. 16), s. 267(1), **Sch. 18**

6 **F6**

Textual Amendments

F6 S. 6 repealed by Vehicles (Excise) Act 1949 (c. 89), s. 30, **Sch. 7**

7 **F7**

Textual Amendments

F7 S. 7 repealed by Finance Act 1950 (c. 15), s. 50(7)(8), **Sch. 8 Pt. I**

8—13. **F8**

Textual Amendments

F8 Ss. 8—13 repealed by Customs and Excise Act 1952 (c. 44), s. 320, **Sch. 12 Pt. I**

14 **F9**

Textual Amendments

F9 S. 14 repealed by Customs and Excise Act 1952 (c. 44), s. 320, **Sch. 12 Pt. I** and by Purchase Tax Act 1963 (c. 9), s. 41(1), **Sch. 4 Pt. I**

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

PART II

15— F10
28.

Textual Amendments

F10 Pt. II (ss. 15–28) repealed (with savings) by [Income Tax Act 1952 \(c. 10\)](#), s. 527, [Sch. 25](#)

PART III

EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION

29 Reduction of rate of excess profits tax.

- (1) Subsection (1) of section twenty-six of the Finance Act, 1940 (which raises the rate of excess profits tax from sixty per cent. to one hundred per cent. as from the beginning of April, nineteen hundred and forty) shall not apply to any chargeable accounting period beginning on or after the first day of January, nineteen hundred and forty-six.
- (2) For subsection (2) of the said section twenty-six (which contains provisions for securing that deficiencies occurring after the end of March, nineteen hundred and forty, shall, so far as possible, be applied to reduce profits arising after the said end of March and that deficiencies occurring before the said end of March shall, so far as possible, be applied to reduce profits arising before the said end of March) there shall be substituted the following subsection—

“(2) Notwithstanding anything in subsection (2) of section fifteen of the said Act, a deficiency of profits occurring in a chargeable accounting period to which subsection (1) of this section applies shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period to which the said subsection (1) applies, and a deficiency of profits occurring in a chargeable accounting period to which the said subsection (1) does not apply shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period to which the said subsection (1) does not apply; and where owing to an insufficiency of profits against which the deficiency can be set off for chargeable accounting periods to which the said subsection (1) applies or, as the case may be, does not apply, the whole or any part of a deficiency is applied otherwise than as aforesaid—

- (a) the application shall, either wholly or to such extent as the Commissioners think appropriate, be treated as provisional only; and
- (b) if it thereafter appears that there is no longer such an insufficiency as aforesaid, such adjustments shall be made as the Commissioners may direct”;

and, in paragraph 1 of the Fourth Schedule to the Finance Act, 1941, the words “(which contains provisions for securing that deficiencies occurring after the end of March, nineteen hundred and forty, shall, so far as possible, be applied to reduce profits after the said end of March and deficiencies occurring before the said end of March shall, so far as possible, be applied to reduce profits arising before the said end of March)” shall be omitted.

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- (3) Any excess profits or deficiency of profits occurring for a chargeable accounting period falling partly before and partly after the end of the year nineteen hundred and forty-five shall be apportioned between the part of the period before and the part of the period after the end of the said year, and for the purpose of determining the rate at which excess profits tax is to be charged on any excess profits and of giving relief for deficiencies of profits under the enactments relating to excess profits tax, and for the purposes of section twenty-eight of the Finance Act, 1941, each of the two parts of the period shall be treated as if it were a separate chargeable accounting period.

In this subsection, the expression “excess profits” means the amount by which the profits for any period exceed the standard profits therefor, and any apportionment required to be made by this subsection shall be made by reference to the number of months or fractions of months in each of the parts of the whole period.

- (4) In subsection (4) of section thirty-four of the Finance Act, 1941 (which section relates to the recovery from directors and other persons of expenses for fees or other payments for services disallowed for excess profits tax purposes) for the words “shall be treated as reduced by the sum recovered” there shall be substituted the words “shall be treated as reduced, in the case of the profits, by an amount excess profits tax on which is equal to the sum recovered and, in the case of the liability to excess profits tax, by the sum recovered.”
- (5) The enactments relating to excess profits tax shall be deemed always to have had effect as amended by this section.

Modifications etc. (not altering text)

- C1** The text of ss. 29, 31, 32, 33, 43–45, 49, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

30 **F11**

Textual Amendments

- F11** [S. 30](#) repealed by [Finance Act 1946 \(c. 64\)](#), s. 67, [Sch. 12 Pt. I](#)

31 Extension of relief for deficiencies of profits where a trader acquires or commences a new trade or partly discontinues a trade.

- (1) The provisions of this section shall have effect where either of the following events occurs in relation to a person carrying on a trade or business (hereinafter referred to as “the original trade or business”), that is to say—
- (a) that, while continuing to carry on the whole or some part of the original trade or business, or upon ceasing to carry on the original trade or business, he acquires or commences another trade or business; or
 - (b) that he ceases to carry on part of the original trade or business.
- (2) If, in the opinion of the Commissioners of Inland Revenue, the trade or business carried on by that person immediately after the event (hereinafter referred to as “the

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second trade or business”) is not substantially different in its nature from the original trade or business, the second trade or business shall, if he makes application to the Commissioners for that purpose, be deemed for the purposes of subsection (2) of section fifteen of the Finance (No. 2) Act, 1939 (which provides for granting relief from excess profits tax in respect of deficiencies of profits) to be a continuation of the original trade or business.

- (3) If, in the opinion of the Commissioners, the second trade or business is substantially but not wholly different in its nature from the original trade or business and—
- (a) a final deficiency of profits occurs in either trade or business; and
 - (b) the said person is chargeable to excess profits tax in respect of any profits of the other trade or business, after account has been taken of all such relief as can, apart from the provisions of this and the two next following sections, be given in respect of deficiencies of profits; and
 - (c) the said person applies to the Commissioners for relief under this subsection, 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 extent to which that deficiency and those profits are respectively attributable to so much of one trade or business as is of the same nature as the whole or some part of the other trade or business.
- (4) Where any application is made under this section, the second trade or business shall, for the purposes of subsection (1) of section eighteen of the Finance (No. 2) Act, 1939, and of paragraph 2 of Part II of the Seventh Schedule to that Act (which contain provisions with respect to the effect of the grant of relief in respect of deficiencies of profits), be treated as a continuation of the original trade or business, and any relief given under this section shall be treated as having been given in respect of a deficiency of profits occurring in such chargeable accounting period or periods as the Commissioners may determine.
- (5) Any relief falling to be given under this section shall be given by repayment or otherwise.
- (6) The enactments relating to excess profits tax shall be deemed always to have had effect as amended by this section.

Modifications etc. (not altering text)

- C2** The text of ss. 29, 31, 32, 33, 43–45, 49, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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

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- (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
- (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

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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.

Modifications etc. (not altering text)

- C3** The text of ss. 29, 31, 32, 33, 43–45, 49, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

33 Supplementary provisions as to relief for deficiencies of profits.

- (1) Any person aggrieved by a determination of the Commissioners of Inland Revenue on an application under the provisions of the last two preceding sections may appeal to the Board of Referees.
- (2) Where an application has been made to the Commissioners for relief under the provisions of the last two preceding sections, the Commissioners may, pending an ascertainment whether relief falls to be given on the application, if they are satisfied that the circumstances are such that it is likely that relief will fall to be given thereon, grant such relief as they think fit, but any relief so granted shall be provisional only, and shall be subject to adjustment from time to time as the Commissioners may direct, and shall be finally adjusted when it is ascertained whether any and if so what relief falls to be given upon the application.
- (3) In the last two preceding sections the expression “final deficiency of profits” means, when used in relation to a particular chargeable accounting period, so much of any deficiency of profits which has occurred in that chargeable accounting period in relation to the trade or business in question as cannot be applied in reducing profits under the provisions of subsection (2) of section fifteen of the Finance (No. 2) Act, 1939, or of sub-paragraph (2) of paragraph 6 of Part IV of the Fifth Schedule to the Finance Act, 1940, and, save as aforesaid, means the aggregate amount of all deficiencies of profits which have occurred in the trade or business in question in all chargeable accounting periods ending on or before the thirty-first day of December,

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nineteen hundred and forty-six, minus so much of those deficiencies as, under the said provisions, has been or can be applied in reducing profits.

- (4) Subsection (2) of section twenty-six of the Finance Act, 1940, subsection (4) of section thirty-two of the Finance Act, 1944, and subsection (3) of section five of the Finance Act, 1945 (which relate to the order in which deficiencies of profits are to be applied) and the first two sections of this Part of this Act shall have effect with respect to the grant of relief under the provisions of the last two preceding sections as they have effect with respect to the grant of relief under section fifteen of the Finance (No. 2) Act, 1939.
- (5) Where two or more applications are made under the provisions of the last two preceding sections in respect of the same deficiency of profits, the applications shall be treated as numbered in the order in which the events giving rise to the applications respectively occurred, and so much only of the deficiency as remains after the first application has been disposed of shall be available for the granting of relief on the second application, and so on.
- (6) Where two or more events occur which, under the provisions of the last two preceding sections, entitle a person to relief in respect of the same profits, any applications for relief in respect of those events shall be treated as numbered in the order in which the events giving rise to the applications respectively occurred, and for the purpose of the second application, the profits in respect of which relief is claimed shall be treated as being such only as remain after the first application has been disposed of, and so on.

Modifications etc. (not altering text)

- C4** The text of ss. 29, 31, 32, 33, 43–45, 49, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

34 Treatment of certain contributions and other payments made under redundancy schemes.

- (1) Notwithstanding anything in the enactments relating to the computation of profits for the purposes of excess profits tax . . . ^{F12}, where, on or after the first day of January, nineteen hundred and forty-five, the Board of Trade certify a scheme under section twenty-five of the Finance Act, 1935, (which provides for the deduction in computing the profits or gains of a trade of contributions paid under schemes which are certified under that section), then, in computing the profits arising from any trade or business for the purposes of excess profits tax . . . ^{F12}
 - (a) no contribution paid in furtherance of the scheme shall be allowed to be deducted; and
 - (b) no payment made under the scheme shall be taken into account as a trading receipt.
- (2) This section shall apply in relation to schemes for the elimination or reduction of redundant works, machinery or plant, or for other similar purposes, to which effect is given by or under any Act (whether passed before or after this Act) as it applies in relation to schemes certified by the Board of Trade under the said section twenty-five on or after the first day of January, nineteen hundred and forty-five.
- (3) The enactments relating to excess profits tax . . . ^{F12} shall be deemed always to have had effect as amended by this section.

Status: Point in time view as at 02/02/1991.

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Textual Amendments

F12 Words repealed by [Finance Act 1947 \(c. 35\)](#), s. 74, **Sch. 11 Pt. II**

Modifications etc. (not altering text)

C5 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

C6 [S. 34](#) excluded by [Finance Act 1947 \(c. 35\)](#), s. 46, **Sch. 8 Pt. I paras. 6(1), 7**

35 Extension of time for making assessments to excess profits tax and the national defence contribution, and relief in cases of error or mistake.

- (1) So much of any provision of the enactments relating to excess profits tax . . . ^{F13} as limits the time for the making of assessments to six years from the end of the chargeable accounting period in respect of which the assessment is made shall not have effect, and such assessments may be made at any time, as the case may require, unless and until Parliament otherwise determines.
- (2) The provisions of section twenty-four of the Finance Act, 1923 (which provide for relief from income tax in respect of errors or mistakes in returns or statements made for the purposes of tax under Schedule D) shall, as set out with adaptations in the Fifth Schedule to this Act, apply in relation to assessments to excess profits tax . . . ^{F14}.

Textual Amendments

F13 Words repealed (from the beginning of 1959) by [Finance Act 1958 \(c. 56\)](#), s. 40(5), **Sch. 9 Pt. II**

F14 Words repealed by [Finance Act 1965 \(c. 25\)](#), s. 97(5), **Sch. 22 Pt. V**

Modifications etc. (not altering text)

C7 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

36 Research expenditure.

The provisions of Part IV of the Finance Act, 1944 (which provide for allowances for income tax purposes in respect of expenditure incurred on scientific research in connection with any trade) shall not apply for the purposes of excess profits tax . . . ^{F15}.

Textual Amendments

F15 Words repealed by [Finance Act 1965 \(c. 25\)](#), s. 97(5), **Sch. 22 Pt. V**

Modifications etc. (not altering text)

C8 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

37 F16

Textual Amendments

F16 [S. 37](#) repealed (with savings) by [Finance Act 1965 \(c. 25\)](#), s. 97(5), [Sch. 22 Pt. V](#)

PART IV

EXCESS PROFITS TAX POST-WAR REFUNDS

Modifications etc. (not altering text)

C9 [Pt. IV](#) (ss. 38–50) repealed so far as it relates to income tax by [Income Tax Act 1952 \(c. 10\)](#), s. 527, [Sch. 25](#)

Date of payment.

38 Time for repayment of post-war refunds.

Subject to the provisions of this Part of this Act, the sums payable under subsection (1) of section twenty-eight of the Finance Act, 1941, as amended by section thirty-seven of the Finance Act, 1942 (hereafter in this Part of this Act referred to as “post-war refunds”) shall be paid as soon as may be after the final ascertainment and satisfaction of the total liability of the person in question to excess profits tax and the national defence contribution for all relevant chargeable accounting periods:

Provided that, if the Commissioners of Inland Revenue think fit . . . ^{F17}, they may, before the final ascertainment and satisfaction of the said total liability, make payments on account of any post-war refund which, in their opinion, is likely to be found due.

Textual Amendments

F17 Words repealed by [Finance Act 1953 \(c. 34\)](#), ss. 32(5), 35(7), [Sch. 3 Pt. II](#)

Modifications etc. (not altering text)

C10 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

39— F18
 42.

Textual Amendments

F18 [Ss. 39–42](#) repealed (with savings) by [Finance Act 1953 \(c. 34\)](#), ss. 32(1)(5)(6), 35(7), [Sch. 3 Pt. II](#)

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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.

Modifications etc. (not altering text)

- C11** The text of ss. 29, 31, 32, 33, 43–45, 49, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991
- C12** [Ss. 43–45](#) saved by [Finance Act 1953 \(c. 34\)](#), [ss. 32\(4\)](#)

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 alone 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 the 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
 - (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

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to rights of appeal) shall apply in relation to claims under this section as it applies to the claims mentioned in that section.

Modifications etc. (not altering text)

- C13** The text of ss. 29, 31, 32, 33, 43–45, 49, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991
- C14** [Ss. 43–45](#) saved by [Finance Act 1953 \(c. 34\)](#), [ss. 32\(4\)](#)

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 II 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.
- (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.

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- (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.

Modifications etc. (not altering text)

- C15** The text of ss. 29, 31, 32, 33, 43–45, 49, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991
- C16** Ss. 43–45 saved by Finance Act 1953 (c. 34), ss. 32(4)

Miscellaneous.

Modifications etc. (not altering text)

- C17** The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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) ^{F19}
- (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.

Textual Amendments

- F19** S. 46(2) repealed by Finance Act 1953 (c. 34), ss. 32(5), 35(7), Sch. 3 Pt. II

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 (. . . ^{F20}) be payable for or on account of a post-war refund, the Commissioners may, if they think fit, . . . ^{F20}, give credit for the amount of the sum payable as aforesaid, 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 . . . ^{F20}:

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

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 income tax at the standard rate for the year 1946-47.

Textual Amendments

F20 Words repealed by [Finance Act 1953 \(c. 34\)](#), ss. 32(1)(5), 35(7), **Sch. 3 Pt. II**

Modifications etc. (not altering text)

C18 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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 . . . ^{F21}.
- (2) ^{F22}
- (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 out of the Consolidated Fund.

Textual Amendments

F21 Words repealed by [Statute Law Revision Act 1963 \(c. 30\)](#) Sch.

F22 [S.48\(2\)](#) repealed by [National Loans Act 1968 \(c. 13\)](#), s. 24(2), **Sch. 6 Pt. I**

Modifications etc. (not altering text)

C19 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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.

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

Modifications etc. (not altering text)

- C20** The text of ss. 29, 31, 32, 33, 43–45, 49, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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;

“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 paid;

“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.

*Status: Point in time view as at 02/02/1991.**Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)*

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.

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) F23

Textual Amendments

F23 S. 50(4) repealed by Finance Act 1953 (c. 34), ss. 32(5), 35(7), Sch. 3 Pt. II

Modifications etc. (not altering text)

C21 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

PART V

RELIEF FROM DOUBLE TAXATION

51 Agreements for relief from double taxation of income.

(1) F24

- (3) Where any arrangements having effect by virtue of this section relate to any territory with respect to which an Order in Council is in force under section thirty of the Finance Act, 1940 (which provides for relief in respect of excess profits tax in His Majesty's dominions outside the United Kingdom), then, except in so far as the arrangements otherwise provide, no relief shall be granted under that section against excess profits tax or the national defence contribution chargeable for any chargeable accounting period to which the arrangements apply or, where the arrangements apply to part only of chargeable accounting period, against such part of the excess profits tax or the

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

national defence contribution chargeable for that chargeable accounting period as is proportionate to the length of that part thereof.

(4) F24

Textual Amendments

F24 S. 51(1)(2)(4)–(6) repealed by [Income Tax Act 1952 \(c. 10\)](#), s. 527, **Sch. 25**

Modifications etc. (not altering text)

C22 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

C23 S. 51 amended by [Finance Act 1947 \(c. 35\)](#), s. 66(1)

C24 S. 51 extended by [Finance Act 1950 \(c. 15\)](#), s. 50(7)

52, 53. F25

Textual Amendments

F25 Ss. 52, 53 repealed (with savings) by [Income Tax Act 1952 \(c. 10\)](#), s. 527, **Sch. 25**

54 F26

Textual Amendments

F26 S. 54 repealed (with savings) by [Finance Act 1975 \(c. 7\)](#), ss. 29, 50, 52(2)(3), 59, Sch. 7 para. 7(6), **Sch. 13 Pt. I**

55, 56. F27

Textual Amendments

F27 Ss. 55, 56 repealed (with savings) by [Finance Act 1975 \(c. 7\)](#), ss. 50, 52(2)(3), 59, **Sch. 13 Pt. I**

57 F28

Textual Amendments

F28 S. 57 repealed (with savings) by [Finance Act 1975 \(c. 7\)](#), ss. 50, 52(2)(3), 59, **Sch. 13 Pt. I**

*Status: Point in time view as at 02/02/1991.**Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)***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.

Modifications etc. (not altering text)

- C25** The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991
- C26** [Ss. 58, 59](#) repealed so far as they relate to income tax by [Income Tax Act 1952 \(c. 10\)](#), s. 527, [Sch. 25](#)

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

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

- (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 person.

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.

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

Modifications etc. (not altering text)

- C27** The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991
- C28** [Ss. 58, 59](#) repealed so far as they relate to income tax by [Income Tax Act 1952 \(c. 10\)](#), s. 527, [Sch. 25](#)

PART VI

MISCELLANEOUS

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

- (1) ^{F29}
- (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.

Textual Amendments

- F29** [S. 60\(1\)](#) repealed by [Finance Act 1963 \(c. 25\)](#), s. 73(8)(b), [Sch. IV Pt. VI](#)

61 ^{F30}

Textual Amendments

- F30** [S. 61](#) repealed by Statute Law Revision Act 1950

62 Short title, construction and extent.

- (1) This Act may be cited as the Finance (No. 2) Act 1945.
- (2) ^{F31}
- (3) ^{F32}
- (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 ^{M1}Finance (No. 2) Act 1939.

Status: Point in time view as at 02/02/1991.

*Changes to legislation: There are currently no known outstanding effects
for the Finance (No. 2) Act 1945. (See end of Document for details)*

(5) F33

(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.

(8) F34

Textual Amendments

F31 S. 62(2) repealed by [Statute Law \(Repeals\) Act 1971 \(c. 72\)](#)

F32 S. 62(3) repealed by [Statute Law Revision Act 1953 \(c. 5\)](#), **Sch. 1**

F33 S. 62(5) repealed by [Finance Act 1975 \(c. 7\)](#), **Sch. 13**

F34 S. 62(8) repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

Marginal Citations

M1 1939 c. 109.

Status: Point in time view as at 02/02/1991.
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

F35F35FIRST SCHEDULE

Textual Amendments

F35 Schedule 1 repealed by Finance Act 1948 (c. 49), s. 82, Sch. 1(1), Pt. I

F35

F36F36SECOND SCHEDULE

Textual Amendments

F36 Schedule 2 repealed by Vehicles (Excise) Act 1949 (c. 89), s. 30, Sch. 7

F36

F37F37THIRD SCHEDULE

Textual Amendments

F37 Schedule 3 repealed by Customs and Excise Act 1952 (c. 44), s. 320, Sch. 12 Pt. I

F37

F38F38FOURTH SCHEDULE

Textual Amendments

F38 Schedule 4 repealed (with savings) by Income Tax Act 1952 (c. 10), s. 527, Sch. 25

F38

FIFTH SCHEDULE

Section 35.

SECTION 24 OF THE FINANCE ACT, 1923, AS APPLIED WITH ADAPTATIONS
TO EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION.

Modifications etc. (not altering text)

C29 Schedule 5 extended by Finance Act 1952 (c. 33), s. 63(2)

*Status: Point in time view as at 02/02/1991.**Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)***C30** Schedule 5 modified by [Finance Act 1961 \(c. 36\), s. 32\(4\)](#)**C31** The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991 (The original text has main provisions in brackets and does not have a paragraph (3))

- (1) If any person who has paid tax charged under an assessment to excess profits tax . . . ^{F39} alleges that the assessment was excessive by reason of some error or mistake in a return or statement made by him . . . ^{F40}, he may, at any time before such date as Parliament may hereafter determine, make an application in writing to the Commissioners of Inland Revenue for relief.

Textual Amendments**F39** Words repealed by [Finance Act 1965 \(c. 25\), s. 97\(5\), Sch. 22 Pt. V](#)**F40** Words repealed (with savings) by [Income Tax Management Act 1964 \(c. 37\), s.17\(4\)\(5\), Sch. 6](#)**Textual Amendments****F39** Words repealed by [Finance Act 1965 \(c. 25\), s. 97\(5\), Sch. 22 Pt. V](#)**F40** Words repealed (with savings) by [Income Tax Management Act 1964 \(c. 37\), s.17\(4\)\(5\), Sch. 6](#)

- (2) On receiving any such application the Commissioners of Inland Revenue shall inquire into the matter and shall, subject to the provisions of this section, give by way of repayment such relief in respect of the error or mistake as is reasonable and just: Provided that no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return or statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return or statement was made.
- (4) Any person who is aggrieved by the determination of the Commissioners of Inland Revenue on an application made by him under this section may, on giving notice in writing to those Commissioners within twenty-one days after the notification to him of their determination, appeal to the Special Commissioners.
- (5) The Special Commissioners shall thereupon hear and determine the appeal in like manner as in the case of an appeal to them against an assessment . . . ^{F41}:
Provided that neither the appellant nor the Commissioners of Inland Revenue shall be entitled to require a case to be stated for the opinion of the High Court otherwise than on a point of law arising in connection with the computation of profits or the computation of capital.

Textual Amendments**F41** Words repealed (with savings) by [Income Tax Management Act 1964 \(c. 37\), s. 17\(4\)\(5\), Sch. 6](#)

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

Textual Amendments

F41 Words repealed (with savings) by [Income Tax Management Act 1964 \(c. 37\)](#), s. 17(4)(5), [Sch. 6](#)

SIXTH SCHEDULE

Sections 49 and 50.

POST-WAR REFUNDS IN THE CASE OF PARTNERSHIPS, GROUPS OF COMPANIES, ETC.

Modifications etc. (not altering text)

C32 [Schedule 6](#) repealed so far as it relates to income tax by [Income Tax Act 1952 \(c. 10\)](#), s. 527, [Sch. 25](#)

C33 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Part I. Partnerships.

1 Where the original trade or business was carried on in the relevant chargeable accounting periods by persons in partnership, the following provisions shall have effect—

- (a) the relevant chargeable accounting periods to which the refund is referable shall first be ascertained;
- (b) the amounts of refund referable to each of those periods shall then be ascertained;
- (c) each of those amounts shall then be apportioned among the partners by reference to their respective shares in the profits of the trade or business for the period in question;
- (d) instead of one refund being made, a separate refund shall be made in the case of each partner equal to the total of the amounts apportioned under the last preceding sub-paragraph to that partner;
- (e) any reference in the provisions of Part IV of this Act relating to income tax to the amount of refund referable to any of the chargeable accounting periods shall be construed, in relation to each of the separate refunds, as a reference to the amount apportioned under sub-paragraph (c) of this paragraph to the partner in question in the case of that period:

Provided that where, in the case of a payment of, or on account of, a post-war refund, all the partners who were carrying on the original trade or business in the relevant chargeable accounting periods are still engaged in carrying it on when the payment falls to be made and are still then carrying it on alone and not in partnership with any other person, one joint payment may be made for all the partners, but the provisions of Part IV of this Act relating to income tax shall nevertheless have effect as though separate payments had been made as aforesaid in the case of each partner.

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

Part II. Groups of Companies.

2 For the purposes of this Part of this Schedule, a group of companies shall be deemed to be the same group notwithstanding any changes in the members thereof so long as, and only so long as, the same body corporate remains the principal company of the group; and references in this Part of this Schedule, in relation to a member of a group of companies, to relevant chargeable accounting periods shall be construed as not including references to any chargeable accounting period during which it was not a member of the group.

3 All sums paid or payable by way of excess profits tax or the national defence contribution for any relevant chargeable accounting period in respect of any trade or business carried on by any member of a group of companies shall, for the purpose of ascertaining whether any, and if so what, post-war refund is due to any person, be deemed to have been paid or to be payable by the principal company of the group and not by any other member thereof; and for the purposes of Part IV of this Act, the trade or business of the principal company shall be deemed to be the original trade or business.

4 F42

Textual Amendments

F42 Sch. 6 para. 4 repealed by Finance Act 1953 (c. 34), ss.32(5), 35(7), Sch. 3 Pt. II

5 Where it is finally determined that any post-war refund is payable in respect of all or any of the trades or businesses carried on by members of a group of companies during any relevant chargeable accounting period, there shall be ascertained, in the case of each subsidiary member of the group—

- (a) the total amount of excess profits tax and the national defence contribution for the relevant chargeable accounting periods which has been borne directly or indirectly by the subsidiary member;
- (b) the total amount of the national defence contribution paid for the relevant chargeable accounting periods in respect of the trade or business of the subsidiary member;
- (c) the total sum which could, under sub-paragraph (2) of paragraph 8 of Part IV of the Fifth Schedule to the Finance Act, 1940, have been required to be paid on account of excess profits tax for the relevant chargeable accounting periods by the subsidiary member on the assumption that excess profits tax had been chargeable for all those periods at eighty per cent., less the amount which would, on that assumption, have been payable to the subsidiary member under sub-paragraph (3) of the said paragraph 8,

and, if the amount mentioned in sub-paragraph (a) of this paragraph exceeds the sum of the amounts mentioned in sub-paragraphs (b) and (c) thereof, an amount equal to the difference shall be paid by the principal company to the subsidiary member:

Provided that—

- (i) if the total of the amounts so payable by the principal company to the subsidiary members of the group of companies exceeds the total amount paid in respect of the post-war refund, the sums so payable shall be proportionately reduced so as together to amount to the said total amount so paid; and
- (ii) on the payment of any sum payable by the principal company to a subsidiary member under this paragraph, the principal company shall be entitled to deduct

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

and retain out of the payment tax at the standard rate for the year 1946-47 as if that payment were an annual payment to which Rule 19 of the General Rules applied paid in that year out of profits and gains brought into charge to tax.

- 6 Where an amount is paid to a subsidiary member under the last preceding paragraph, so much of the provisions of Part IV of this Act relating to income tax as confers a right of election that a post-war refund shall be charged to income tax for the year 1947-48 shall have effect as if the said payment were a payment of refund to the subsidiary member which was to be used for the purposes of its trade or business, as if the tax deducted therefrom under Rule 19 of the General Rules as applied by the last preceding paragraph had been deducted therefrom under the provisions of Part IV of this Act relating to the deduction of tax from payments of refund, and as if the gross amount of the refund paid to the principal company were diminished by the gross amount of the said payment.
- 7 So much of the provisions of Part IV of this Act relating to income tax on sums paid as or on account of post-war refunds as provides that the right to elect that sums so paid shall be chargeable as profits and gains of a trade for the year 1947-48 in lieu of being chargeable to tax for the year 1946-47 shall be restricted to cases where the person to whom the sum is paid is carrying on the trade during the whole or some part of the year 1947-48 shall not apply where, during the whole or part of the year 1947-48, the trade is being carried on by a subsidiary member of a group of companies of which the person to whom the sum was paid is then the principal company.

Part III Tax Paid Under Finance Act, 1943, s. 24

- 8 Where, under section twenty-four of the Finance Act, 1943, a joint and several liability is imposed on any persons, the rights of those persons respectively to a post-war refund shall be based on the amounts of tax ultimately borne by them respectively by reason of the imposition of the liability and not on the amounts of tax paid by them respectively to the Crown, and no sum shall be paid as or on account of a post-war refund in the case of any of those persons unless the Commissioners are satisfied as to the amounts so borne by all those persons and are further satisfied that any liability of any of those persons to make a payment to any other of those persons which arises by virtue of subsection (3) of the said section twenty-four has been extinguished.
- 9 Any reference in Part IV of this Act to the original trade or business shall, in relation to any post-war refund made in respect of tax paid under the said section twenty-four, be construed as a reference to the trade or business carried on by the company whose stock in trade was disposed of at the time of the disposal thereof, . . . ^{F43}.

Textual Amendments

F43 Words repealed by [Finance Act 1953 \(c. 34\)](#), ss. 32(5), 35(7), [Sch. 3 Pt. II](#)

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

F44F44SEVENTH SCHEDULE

Textual Amendments

F44 Schedule 7 repealed by Finance Act 1947 (c. 35), s. 47, Sch. 11 Pt. II

F44

EIGHTH SCHEDULE

Section 58.

AMENDMENTS AS TO EXCEPTIONAL DEPRECIATION ALLOWANCES.

Modifications etc. (not altering text)

C34 Schedule 8 repealed so far as it relates to income tax by Income Tax Act 1952 (c. 10), s. 527, Sch. 25

C35 The text of ss. 34, 35, 36, 38, 46, 47, 48, 50, 51, 58, 59, Schs. 5, 6, 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, save as indicated, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Part I. Provisions Applicable to Excess Profits Tax and the National Defence Contribution.

- 1 In this Part of this Schedule the expression “exceptional depreciation allowance” means any allowance—
 - (a) under paragraph 3 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939 (hereinafter referred to as “the principal paragraph”) and subsection (1) of section thirty-three of the Finance Act, 1940; or
 - (b) under the principal paragraph 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,and any reference in this Part of this Schedule to the principal paragraph shall be construed as including a reference to that paragraph as extended by the said subsection (1) and as applied in relation to the national defence contribution.
- 2 An exceptional depreciation allowance shall be given notwithstanding that on the date determined by Parliament for the purposes of sub-paragraph (1) of the principal paragraph the buildings, plant or machinery have not become obsolete or ceased to be required, and accordingly, in the said sub-paragraph (1), for the words “the buildings, plant or machinery, have, wholly or partially, become obsolete or ceased to be required and the value thereof is less than the net cost thereof” there shall be substituted the words “the value of the buildings, plant or machinery, or, where the buildings, plant or machinery have ceased to exist as such, the value of the remains thereof, is less than the net cost thereof”.
- 3 (1) Where it is material for the purposes of sub-paragraph (1) of the principal paragraph to ascertain the value of any buildings, plant or machinery on the date determined by Parliament for the purposes of that sub-paragraph, that value shall be ascertained as if the buildings, plant or machinery were in a proper state of repair.

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

- (2) Where an allowance under the said sub-paragraph (1) is, or, but for the provisions of this paragraph, would be, made in respect of any buildings, plant or machinery by reference to the value thereof on the date determined by Parliament, and—
- (a) on that date the buildings, plant or machinery are not in a proper state of repair; and
 - (b) not later than six years after that date, the buildings, plant or machinery are sold by the person who is or would be entitled to the allowance before all the repairs have been made which are necessary to make good the disrepair existing on that date; and
 - (c) the net proceeds of the sale are less than the value as ascertained for the purposes of the said sub-paragraph (1),
- he may claim that the said value shall for those purposes be deemed to be reduced by such amount as may be just, having regard to the extent to which the said repairs have not been made good at the time of the sale:
- Provided that the said value shall not be treated for the said purposes as having been reduced below the actual value of the buildings, plant or machinery in their actual state at the date determined by Parliament, or the net proceeds of the sale, whichever is the greater, plus any sums paid or payable to or for the benefit of the said person, under Part I or Part II of the War Damage Act, 1943, in respect of damage to the buildings, plant or machinery, being damage which has not been made good before the date determined by Parliament or, as the case may be, the date of the sale.
- (3) In this paragraph and in the said sub-paragraph (1), any reference to the value of buildings, plant or machinery shall be construed as a reference to the value thereof to the person carrying on the trade or business, or to the amount which could be obtained therefor in the open market, whichever is the higher.
- (4) Nothing in this paragraph shall apply in relation to any buildings, plant or machinery which, on the date determined by Parliament, are no longer in existence as such.
- 4 Paragraph (ii) of sub-paragraph (1) of the principal paragraph (which directs war damage payments to be taken into account in determining whether an exceptional depreciation allowance may be made, and, if so, the amount thereof) shall not apply in relation to any payments under Part I or Part II of the War Damage Act, 1943, in respect of any buildings, plant or machinery, unless—
- (a) the buildings, plant or machinery have been sold before the date determined by Parliament for the purposes of that sub-paragraph, or are at that date no longer in existence as such and
 - (b) the said payments have been or are to be made to or for the benefit of the person who is entitled to the allowance or would be entitled to the allowance if an allowance fell to be made.
- 5 (1) Any excess in respect of which an exceptional depreciation allowance falls to be made shall be deemed to have begun to accrue on the first day of April, nineteen hundred and thirty-nine, or on the date when the buildings, plant or machinery were provided, whichever is the later, and to have continued to accrue at an even rate until the date determined by Parliament, the date on which the buildings, plant or machinery were sold or the date on which the buildings, plant or machinery finally ceased to be used by the person to whom the allowance falls to be made, whichever is the earliest date, and the proportion of the excess properly attributable to any accounting period shall be determined accordingly:
- Provided that, in relation to a person to whom the buildings, plant or machinery have been transferred in such circumstances that they are deemed by virtue of

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

subsection (1) of section thirty-three of the Finance Act, 1940, to have been provided by him, the reference in this paragraph to the date when the buildings, plant or machinery were provided shall be construed as a reference to the date of the transfer.

- (2) Where under the enactments relating to excess profits tax or the national defence contribution it is necessary to make any apportionment of the profits or losses of any accounting period which falls partly but not wholly after the thirty-first day of March, nineteen hundred and thirty-nine, then, notwithstanding any enactment relating to the principles upon which such apportionments are to be made, any exceptional depreciation allowance which falls to be taken into account in computing those profits or losses shall be attributed to that part only of that accounting period which falls after the said thirty-first day of March.
- 6 (1) The provisions of this paragraph shall have effect where—
- (a) any buildings, plant or machinery are sold before, on, or not later than six years after, the date determined by Parliament for the purposes of sub-paragraph (1) of the principal paragraph; and
 - (b) the seller is a person to whom an exceptional depreciation allowance, or an allowance under section nineteen of the Finance Act, 1941, falls to be made in respect of the buildings, plant or machinery, whether by reason of the sale or otherwise; and
 - (c) at the time of the sale and, where the event giving rise to the allowance is not the sale, also at the time of the event, the buildings, plant or machinery are not in a proper state of repair; and
 - (d) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them.
- (2) In computing, for the purposes of excess profits tax or the national defence contribution, the profits of any trade or business carried on by the buyer,—
- (a) no deduction shall be allowed in respect of any expenditure incurred in making good the disrepair existing at the time of the event giving rise to the allowance; and
 - (b) where, in the case of plant or machinery, the said disrepair is such as to require the provision of new plant or machinery, no deduction shall be allowed in respect of the wear and tear of the new plant or machinery or in respect of the replacement of the new plant or machinery.
- (3) Where—
- (a) the buyer under such a sale as is mentioned in sub-paragraph (1) of this paragraph again sells the buildings, plant or machinery, or any part of them; and
 - (b) the second sale takes place before, on, or not later than six months after, the date determined by Parliament; and
 - (c) the second buyer is a body of persons over whom the first buyer has control, or the first buyer is a body of persons over whom the second buyer has control, or both the first buyer and the second buyer are bodies of persons and some other person has control over both of them,
- the provisions of the last preceding sub-paragraph shall, in relation to the computation of the profits of any trade or business carried on by the second buyer, have effect as if the second sale had been a sale by the first seller direct to the second buyer, and so on for any subsequent sales.

Status: Point in time view as at 02/02/1991.

*Changes to legislation: There are currently no known outstanding effects
for the Finance (No. 2) Act 1945. (See end of Document for details)*

(4) In this paragraph, references to the event giving rise to an exceptional depreciation allowance are references—

- (a) if the allowance is made because, on the date determined by Parliament, the value of the buildings, plant or machinery is less than the net cost thereof, to the occurrence of that date; and
- (b) if the allowance is made because the buildings, plant or machinery are sold before the said date at a price which is less than the net cost thereof, to the sale.

*Part II Provisions applicable to Income Tax, Excess
Profits Tax and the National Defence Contribution*

7 In this Part of this Schedule, the expression “exceptional depreciation allowance” means an allowance under section nineteen of the Finance Act, 1941, or an exceptional depreciation allowance as defined in paragraph 1 of Part I of this Schedule, and the expression “the principal provisions” means the provisions of section nineteen of the Finance Act, 1941, and any enactments amending that section, and the principal paragraph as defined in paragraph 1 of Part I of this Schedule.

8 (1) This paragraph shall have effect in relation to the sale of buildings, machinery or plant where either—

- (a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and buyer are bodies of persons and some other person has control over both of them; or
- (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from the provisions of this Schedule, might have been expected to accrue to the parties or any of them was the obtaining of any allowance or deduction for any of the purposes of the Income Tax Acts or of the enactments relating to excess profits tax or the national defence contribution.

(2) Where the buildings, machinery or plant are sold at a price other than the relevant price (as defined for the purposes of this paragraph), the like consequences shall ensue for the purposes of the principal provisions, in their application to all persons concerned, as would have ensued if the buildings, machinery or plant had been sold at the relevant price.

(3) In this paragraph the expression “the relevant price” means, in relation to any sale of buildings, machinery or plant, a price equal to—

- (a) the price which they would have fetched if sold in the open market; or
- (b) the net cost of the buildings, machinery or plant to the seller, whichever is the less.

For the purposes of this sub-paragraph, the said net cost shall be treated as reduced by the aggregate amount of any deductions for wear and tear or depreciation, other than exceptional depreciation allowances, allowed to the seller in respect of the buildings, machinery or plant for the purposes of income tax, excess profits tax or the national defence contribution, as the case may be:

Status: Point in time view as at 02/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

Provided that the reference in this sub-paragraph to deductions for wear and tear or depreciation shall, in relation to income tax, be deemed to include a reference to any allowance made under Part I or Part II of the Income Tax Act, 1945, and shall, in relation to excess profits tax and the national defence contribution, be deemed to include a reference to the additional percentage for which provision is made by paragraph 2 of Part I of the Seventh Schedule to the Finance (No. 2) Act, 1939, and to the appropriate proportion of any deduction for wear and tear or depreciation given for income tax purposes for the year 1938-39 or any previous year of assessment.

- 9 Any reference in the provisions of this Schedule or in the principal provisions to the sale of any property includes a reference to the exchange of any property, and, in the case of a leasehold interest, to the surrender thereof for valuable consideration, and all the said provisions shall be construed accordingly with the necessary adaptations, and, in particular, with the adaptation that references to the net proceeds of the sale and to the price shall be construed as including references to the amount of the consideration for the exchange or surrender.

- 10 (1) Any reference in the provisions of this Schedule or of the principal provisions to the sale of any buildings, plant or machinery includes a reference to the sale to the sale thereof together with any property, and, where the buildings, plant or machinery are sold together with other property, so much of the price of the whole of the property sold as, on a just apportionment, is properly attributable to the buildings, plant or machinery in question, shall be deemed to be the price of the buildings, plant or machinery for the purposes of those provisions, and references to the cost of the provision of buildings, plant or machinery shall be construed accordingly.

For the purposes of this sub-paragraph, all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are or purport to be agreed for separate items of that property or that there are or purport to be separate sales of separate items of that property.

- (2) Where it is material, for the purposes of the principal provisions, to take account of any payment made or to be made in respect of buildings, plant or machinery under the War Damage Act, 1943, any payment made or to be made under that Act is properly attributable partly to the buildings, plant or machinery in question shall be taken into account for those purposes.
- 11 For the purposes of the principal provisions and the provisions of this Schedule, the sale of any buildings, plant or machinery shall be deemed to take place at the time of completion or the time when possession is given, whichever is the earlier.
- 12 References in this Schedule to a body of persons include references to a partnership.
- 13 In this Schedule, the expression “control”, in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one half of the assets, or of more than one half of the income, of the partnership.
- 14 In this Schedule, the expression “leasehold interest” includes the interest conferred by an agreement for a lease where the term to be covered by the lease has begun, and the interest conferred by any tenancy, but not the interest conferred by a mortgage:

Status: Point in time view as at 02/02/1991.
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1945. (See end of Document for details)

Provided that, in the application of this Schedule to Scotland, the said expression means the interest of a tenant in property subject to a lease.

F45F45NINTH SCHEDULE

Textual Amendments

F45 Schedule 9 repealed by Finance Act 1963 (c. 25), s. 73(8)(b), Sch. 14 Pt. VI

F45

F46F46TENTH SCHEDULE

Textual Amendments

F46 Schedule 10 repealed by Statute Law (Repeals) Act 1950

F46

Status:

Point in time view as at 02/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Finance (No. 2) Act 1945.