



# Finance Act 1958

## 1958 CHAPTER 56

### PART III

#### INCOME TAX

#### **12 Charge of tax for 1958-59**

Income tax for the year 1958-59 shall be charged at the standard rate of eight shillings and sixpence in the pound, and, in the case of an individual whose total income exceeds two thousand pounds, at such higher rates in respect of the excess as Parliament may hereafter determine.

#### **13 Surtax rates for 1957-58**

Income tax for the year 1957-58 shall be charged, in the case of an individual whose total income exceeded two thousand pounds, at the same higher rates in respect of the excess as were charged for the year 1956-57.

#### **14 Increase of personal reliefs**

(1) In section thirteen of the Finance Act, 1957 (relief for persons over sixty-five with small incomes)—

- (a) for the references to two hundred and fifty pounds and four hundred pounds (which refer to the income limits for exemption under that section) there shall be substituted references to two hundred and seventy-five pounds and four hundred and forty pounds respectively ; and
- (b) for the reference to fifty pounds (which refers to the excess over those limits by reference to which relief under that section by reduction of tax is limited) there shall be substituted a reference to fifty-five pounds.

(2) In subsections (2) and (3) (old age relief) of section two hundred and eleven of the Income Tax Act, 1952, for the references to seven hundred pounds (which refer to the income limit for the full relief under subsection (2)) there shall be substituted references to eight hundred pounds.

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- (3) In section two hundred and sixteen of the Income Tax Act, 1952 (dependent relatives), for the references to one hundred and sixty-five pounds and one hundred and five pounds (which refer to the income of the dependent relative) there shall be substituted respectively references to one hundred and ninety-five pounds and one hundred and thirty-five pounds.
- (4) Subsections (1) and (2) of this section shall not be deemed to have required any change in the amounts deducted or repaid under section one hundred and fifty-seven (pay as you earn) of the Income Tax Act, 1952, before the twenty-second day of June, nineteen hundred and fifty-eight.

## 15 Increase of certain initial allowances

- (1) An initial allowance under Chapter I (industrial buildings and structures, etc.) of Part X of the Income Tax Act, 1952, in respect of expenditure to which this section applies shall be equal to three-twentieths of the expenditure, and accordingly in relation to such an allowance subsection (1) of section two hundred and sixty-five of that Act shall have effect with the substitution of the words " three-twentieths " for the words " one-tenth ".
- (2) An initial allowance under Chapter II (machinery and plant) of the said Part X in respect of expenditure to which this section applies shall be equal to three-tenths of the expenditure, and accordingly, in relation to such an allowance—
  - (a) subsection (2) of section sixteen of the Finance Act, 1953 (which in relation to certain expenditure reduced the rates of initial allowances under the said Chapter II from two-fifths to one-fifth) shall not apply;
  - (b) subsection (1) of section two hundred and seventy-nine of the said Act of 1952 shall have effect with the substitution of the words " three-tenths " for the words " two-fifths ";
  - (c) sub-paragraph (2) of paragraph 3 of the Fourteenth Schedule to the said Act of 1952 shall have effect with the substitution in paragraph (d) and paragraph (i) of the words " seven-tenths " for the words " three-fifths ".
- (3) Notwithstanding subsection (3) of section fifteen of the Finance Act, 1956 (which exempted certain fuel economy expenditure from the suspension of investment allowances), an initial allowance under Chapter I or Chapter II of the said Part X shall, if the person entitled so elects, be made instead of an investment allowance in respect of any such expenditure as is mentioned in paragraph (a) or paragraph (b) of that subsection, being expenditure to which this section applies.
- (4) An initial allowance under section seventeen of the Finance Act, 1956 (dredging), in respect of expenditure to which this section applies shall be equal to three-twentieths of the expenditure, and accordingly in relation to such an allowance that section shall have effect with the substitution in paragraph (a) of subsection (1) thereof of the words " three-twentieths " for the words " one-tenth ".
- (5) Subject to the next following subsection, this section applies to expenditure incurred on or after the fifteenth day of April, nineteen hundred and fifty-eight; but expenditure shall not be treated for the purposes of this section as having been so incurred by virtue of the following provisions, that is to say—
  - (a) subsection (6) of section two hundred and sixty-five or subsection (2) of section two hundred and seventy-nine of the Income Tax Act, 1952 (which

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relate to expenditure incurred by a person for the purposes of a trade before he begins to carry it on);

- (b) subsection (4) of section two hundred and sixty-five and subsection (2) of section two hundred and seventy-seven of that Act (which relate to cases where mills, factories, etc., allowances cease to be allowable);

if it would not be so treated apart from those provisions.

- (6) This section does not apply to any expenditure in respect of which an initial allowance under Chapter II of Part X of the Income Tax Act, 1952, may be made by virtue of the proviso to subsection (5) of section two hundred and seventy-nine of the said Act of 1952.

## **16 Fees and subscriptions to professional bodies, learned societies, etc.**

- (1) Subject to the following provisions of this section, the following may be deducted from the emoluments of any office or employment to be assessed to tax, if defrayed out of those emoluments, that is to say.—
  - (a) any fee or contribution mentioned in the Fifth Schedule to this Act;
  - (b) any annual subscription paid to a body of persons approved for the purposes of this section by the Commissioners of Inland Revenue.
- (2) The Commissioners of Inland Revenue may on the application of the body approve for the purposes of this section any body of persons not of a mainly local character whose activities are carried on otherwise than for profit and are solely or mainly directed to all or any of the following objects, that is to say.—
  - (a) the advancement or spreading of knowledge (whether generally or among persons belonging to the same or similar professions or occupying the same or similar positions) ;
  - (b) the maintenance or improvement of standards of conduct and competence among the members of any profession ;
  - (c) the indemnification or protection of members of any profession against claims in respect of liabilities incurred by them in the exercise of their profession.
- (3) If the activities of a body approved for the purposes of this section are to a significant extent directed to objects other than those mentioned in subsection (2) of this section the Commissioners may determine that such specified part only of any annual subscription paid to the body may be deducted under this section as corresponds to the extent to which its activities are directed to objects mentioned in that subsection; and in doing so the Commissioners shall have regard to all relevant circumstances and, in particular, to the proportions of the body's expenditure attributable to the furtherance of objects so mentioned and other objects respectively.
- (4) A fee, contribution or subscription shall not be deducted under this section from the emoluments of any office or employment unless—
  - (a) the fee is payable in respect of a registration (or retention of a name in a roll or record) or certificate which is a condition or one of alternative conditions of the performance of the duties of the office or employment or, as the case may be, the contribution is payable on the issue of such a certificate ;
  - (b) the subscription is paid to a body the activities of which, so far as they are directed to the objects mentioned in subsection (2) of this section, are relevant to the office or employment, that is to say, the performance of the duties of

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the office or employment is directly affected by the knowledge concerned or involves the exercise of the profession concerned.

- (5) Any approval given and any determination made under this section may be withdrawn, and any such determination varied, so as to take account of any change of circumstances; and where a body is approved for the purposes of this section in pursuance of an application made before the end of any year of assessment a deduction may be made under this section in respect of a subscription paid to the body in that year, whether the approval is given before or after the end of that year.
- (6) Any body aggrieved by the failure of the Commissioners of Inland Revenue to approve the body for the purposes of this section, or by their withdrawal of the approval, or by any determination made by them under this section or the variation of or a refusal to withdraw or vary such a determination may, by notice in writing given to the Commissioners within thirty days from the date on which the body is notified of their decision, require the matter to be determined by the Special Commissioners, and the Special Commissioners shall thereupon hear and determine the matter in like manner as an appeal made to them against an assessment under Schedule D; and the provisions of the Income Tax Acts relating to such appeals (including the provisions relating to the statement of a case for the opinion of the High Court on a point of law) shall apply accordingly with the necessary modifications.
- (7) References in the Income Tax Acts to paragraph 7 of the Ninth Schedule to the Income Tax Act, 1952, shall be construed as including references to this section, and the proviso to subsection (1) of section one hundred and sixty of that Act shall apply to a deduction under this section as it applies to a deduction under the said paragraph 7 in respect of money expended wholly, exclusively and necessarily in performing the duties of the office or employment.

**17 Amendment as to reliefs in respect of property belonging to charities and certain other institutions or occupied by ministers of religion**

- (1) The amount of the total income of a person occupying or having the use and enjoyment of any property shall not affect—
  - (a) the allowance directed by paragraph (c) of subsection (1) of section one hundred and three of the Income Tax Act, 1952, to be made under Schedule A in respect of public buildings, offices and premises belonging to any hospital, public school or almshouse;
  - (b) the exemption granted by paragraphs (a) and (b) of subsection (1) of section four hundred and forty-eight of that Act in respect of property owned and occupied or, as the case may be, occupied by a charity.
- (2) Subsection (3) of section four hundred and seventy-nine of the Income Tax Act, 1952 (which relates to certain dwelling-houses occupied by ministers of religion), is hereby repealed.

**18 Purchases of shares by financial concerns and persons exempted from tax**

- (1) Section four of and the Third Schedule to the Finance (No. 2) Act, 1955 (which make provision as to the treatment of certain dividends paid to any extent out of accumulated profits), shall have effect subject to the amendments specified in subsections (2) to (4) of this section.

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- (2) In subsection (3) of the said section four, for the words " and in doing so were acting in concert" there shall be substituted the words " and the transactions in pursuance of which the acquisition was made were either transactions entered into by those persons acting in concert or transactions together comprised in any arrangements made by any person ".
- (3) In sub-paragraph (3) of paragraph 5 of the said Third Schedule, the following shall be inserted after paragraph (c):—
- “and
- (d) if the company is not engaged in carrying on such a trade as is mentioned in subsection (1) of section four of this Act and has received in a year of assessment in the period a dividend which, if the company had been engaged in such a trade, would have been required by the said subsection (1) to be brought into account to any extent as mentioned therein, such amount as would, after deduction of income tax at the standard rate in force in that year of assessment, be equal to the amount which would have been so required to be brought into account,”
- (4) At the end of paragraph 4 of the said Third Schedule there shall be added the following sub-paragraph:—
- “(3) In ascertaining for the purposes of this paragraph the amount of income tax and profits tax by which the income of the company for the period is to be diminished any tax on the amount to be deducted under paragraph (d) of sub-paragraph (3) of paragraph 5 of this Schedule shall be left out of account.”
- (5) Where such a company as is mentioned in the new paragraph (d) set out in subsection (3) of this section has received such a dividend as is mentioned therein, any question whether any dividend on shares in that company is to be brought into account as mentioned in subsection (1) of the said section four or whether any exemption from income tax extending to any dividend on such shares is to be excluded to any extent by subsection (2) of that section shall be determined as if the words "being shares sold or issued to him or otherwise acquired by him alter the twenty-sixth day of October, nineteen hundred and fifty-five, and not more than six years before the date on which the dividend becomes payable " in subsection (1) of the said section four, and all similar expressions in that section, were omitted.
- (6) Where a person has acquired any shares before the sixteenth day of April, nineteen hundred and fifty-eight,—
- (a) nothing in subsection (2) of this section shall require him to bring into account as mentioned in subsection (1) of the said section four the amount of any dividend received by him on those shares or exclude to any extent any exemption from income tax extending to dividends so received by him ; and
- (b) subsection (3) of this section shall have effect, in relation to any dividend received by him on those shares, as if in the new paragraph (d) set out in that subsection the reference to a dividend received by the company did not include any dividend on shares acquired by the company before the said sixteenth day of April;

and subsections (5) and (6) of the said section four (which make provision as to the time at which and the person by whom shares are to be treated as having been

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acquired), and the definition of "share" in subsection (8) of that section, shall apply for the purposes of this subsection.

## **19 Disallowance for certain purposes of dividends paid out of accumulated profits**

- (1) Where a person carries on a trade other than such a trade as is mentioned in subsection (1) of section four of the Finance (No. 2) Act, 1955, and his income for any year of assessment includes a dividend the net amount of which would, if the trade were such a trade as is mentioned in that subsection, be required to any extent to be brought into account as a trading receipt which has not borne tax, then, in ascertaining whether any or what repayment of tax is to be made to that person under section three hundred and forty-one of the Income Tax Act, 1952, subsection (3) of section fifteen of the Finance Act, 1953, or paragraph 3 of the Third Schedule to the Finance Act, 1954, by reference to any loss sustained in the trade and the aggregate amount of his income for the said year of assessment, there shall be left out of account—
- (a) the gross amount corresponding to so much of the said net amount as would have been required to be brought into account as aforesaid ; and
  - (b) any tax paid on the amount required to be left out of account under paragraph (a) of this subsection.
- (2) Where—
- (a) a company carries on a trade other than such a trade as is mentioned in subsection (1) of section four of the Finance (No. 2) Act, 1955 ; or
  - (b) the business of a company consists mainly in the making of investments;
- and the company's income for any year of assessment includes a dividend the net amount of which would, if the company carried on such a trade as is mentioned in the said subsection (1), be required to any extent to be brought into account as a trading receipt which has not borne tax.—
- (i) the gross amount corresponding to so much of the said net amount as would have been required to be brought into account as aforesaid shall be left out of account in determining for the purposes of section twenty of the Finance Act, 1953 (which relates to payments between associated companies in respect of losses), whether the company has any surplus for tax purposes during any period or what is the amount of that surplus; and
  - (ii) if any annual payment payable by the company is to any extent payable out of the said dividend, that annual payment shall be deemed to that extent not to be payable out of profits or gains brought into charge to tax, and section one hundred and seventy of the Income Tax Act, 1952, shall apply accordingly.
- (3) Where the shares on which the dividend is paid were acquired by the said person or company before the sixteenth day of April, nineteen hundred and fifty-eight, the foregoing provisions of this section shall not apply to the net amount of the dividend except to the extent (if any) that, if the trade or business were such a trade as is mentioned in subsection (1) of section four of the said Act of 1955, the said amount—
- (a) would be required to be brought into account as aforesaid by virtue of the last foregoing section; but
  - (b) would not be required to be so brought into account apart from that section.
- (4) Where shares in a company were acquired by another company from a third company at a time when the three companies were associated, any question whether or to what extent a dividend on those shares was paid out of profits accumulated before the acquisition, shall, for the purposes of this section (but for no other purposes), be

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determined as if the acquisition had taken place at whichever of the following times is the later, that is to say—

- (a) the time when the shares were acquired by the said third company;
- (b) the time when the said other company and the said third company became associated ;

except that if the said third company had acquired the shares from a fourth company at a time when the four companies were associated, the foregoing provisions of this subsection shall have effect as if for the references in paragraphs (a) and (b) to the third company there were substituted references to the fourth company and for the reference in paragraph (b) to the said other company a reference to the third company; and so on for any greater number of associated companies.

In this subsection " associated " means, as regards two companies, that one is a subsidiary of the other or both are subsidiaries of a third company, and, as regards three or more companies, that one is associated with each of the others; and " subsidiary " has the meaning assigned to it for certain purposes of the profits tax by section forty-two of the Finance Act, 1938.

- (5) Subsections (5) and (6) of section four of the said Act of 1955 (which make provision as to the time at which and the person by whom shares are to be treated as having been acquired), and the definitions of " company " and " share " in subsection (8) of that section, shall apply for the purposes of this section.

## **20 Settlements on children**

- (1) Chapter II of Part XVIII of the Income Tax Act, 1952 (which relates to settlements on children), shall be amended in accordance with the following provisions of this section.
- (2) In relation to a payment to which this subsection applies, the words " at the time of the payment" shall be substituted for the words " at the commencement of that year " in subsection (1) of section -three hundred and ninety- even of that Act (which relates to payments in any year of assessment to or for the benefit of a child who at the commencement of that year was an infant and unmarried) and for the words " at the commencement of the year of assessment in which the sum is paid " in paragraph (b) of subsection (2) of section three hundred and ninety-eight of that Act (which makes provision supplementary to the said section three hundred and ninety-seven).
- (3) The reference in the said paragraph (b) to another sum previously paid to or for the benefit of a child who, at the commencement of the year of assessment in which it was paid, was an infant and unmarried, shall be construed, in relation to a payment to which this subsection applies of any such sum, as a reference to a sum so paid to or for the benefit of a child who at the time of the payment was an infant and unmarried.
- (4) Subsections (2) and (3) of this section apply to any payment made after the year 1957-58, except a payment made in the year 1958-59 to or for the benefit of a child born after the sixth day of April, nineteen hundred and fifty-eight, and so made by virtue or in consequence of a settlement made before the ninth day of July of that year.
- (5) In paragraph (ii) of the proviso to section three hundred and ninety-nine of the Income Tax Act, 1952 (which enables a settlement to be treated as irrevocable for the purposes of the said Chapter II notwithstanding that it provides for its determination, if the determination will not, during the lifetime of such a child as is mentioned in that section, benefit any person other than such a child, or the wife, husband or issue of

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such a child), for the words from " any person " to " issue of such a child " there shall be substituted the words " the settlor or the wife or husband of the settlor ".

- (6) In relation to a settlement which would not have been irrevocable within the meaning of the said Chapter II but for subsection (5) of this section, the reference in paragraph (b) of subsection (2) of the said section three hundred and ninety-eight to the date when it became irrevocable shall be construed as referring to the sixth day of April, nineteen hundred and fifty-eight.

## 21 Revocable settlements and settlements made abroad

- (1) In subsection (1) of section four hundred and four of the Income Tax Act, 1952.—
- (a) the references to a power to revoke or otherwise determine a settlement or any provision thereof shall be deemed to include references to any power to diminish the amount of any payments which are or may be payable under the settlement or any provision thereof and to any power to diminish the amount of any annual payments which the settlor or the wife or husband of the settlor is or may be liable to make by virtue or in consequence of any provision of the settlement;
  - (b) the references to the settlor or the wife or husband of the settlor ceasing to be liable to make any annual payments payable by virtue or in consequence of any provision of the settlement shall be deemed to include references to a diminution of the amount of any such annual payments which the settlor or the wife or husband of the settlor is or may be liable to make ;
- but the sums to be treated under the said subsection (1) as the income of the settlor for any year of assessment and not as the income of any other person shall, where that subsection would not apply but for paragraph (b) of this subsection, be such part only of the sums payable as aforesaid by the settlor or the wife or husband of the settlor in that year as corresponds to the diminution mentioned in that paragraph.
- (2) In subsection (2) of the said section four hundred and four the references to a power to revoke or otherwise determine a settlement or any provision thereof shall be deemed to include references to—
- (a) any power to diminish the property comprised in the settlement; and
  - (b) any power to diminish the amount of any payments which are or may be payable under the settlement or any provision thereof to any person other than the settlor and the wife or husband of the settlor.
- (3) Subject to subsection (4) of this section, the foregoing provisions of this section shall apply for all the purposes of income tax for the year 1958-59 and subsequent years of assessment and also for estimating an individual's total income for the purposes of surtax for the year 1957-58.
- (4) Where, in the case of any settlement made before the sixteenth day of April, nineteen hundred and fifty-eight, any sums payable by the settlor or by the wife or husband of the settlor, or any income arising under the settlement, would, by virtue of the foregoing provisions of this section, fall to be treated (whether for purposes of surtax or for all the purposes of income tax) as the income of the settlor and not as the income of any other person, but would not fall to be so treated apart from those provisions, the sums or income shall not be so treated if—
- (a) no power by reason of which they or it would fall to be so treated has been exercised after the fifteenth day of April, nineteen hundred and fifty-eight, or is or can become exercisable after the fifth day of April, nineteen hundred and



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fifty-nine, or such later date as the Commissioners of Inland Revenue may in any particular case allow; and

- (b) neither the settlor nor the wife or husband of the settlor has received or is entitled to any consideration or benefit in connection with the fulfilment of the condition set out in paragraph (a) of this subsection;

or if, in the case of a settlement to which subsection (1) of the said section four hundred and four applies by virtue of subsection (1) of this section, the settlement was entered into in connection with any judicial separation or any agreement between spouses to live separate and apart or with the dissolution or annulment of a marriage.

- (5) For the removal of doubts it is hereby declared that sections four hundred and four and four hundred and five of the Income Tax Act, 1952 (which re-enact, without amendment, the provisions of subsections (1) to (4) of section thirty-eight of the Finance Act, 1938), apply and always have applied in relation to any settlement in relation to which the said section thirty-eight would have applied but for its repeal by the said Act of 1952, that is to say, in relation to any settlement, wherever made.

## **22 Settlements-discretionary power for benefit of settlor, and c,**

- (1) If and so long as the terms of any settlement (wherever made) are such that any person has or may have power, whether immediately or in the future, and whether with or without the consent of any person—
- (a) to pay or apply to or for the benefit of the settlor or the wife or husband of the settlor the whole or any part of the income or property which may at any time arise under or be comprised in the settlement; or
- (b) to secure the payment or application to or for the benefit of the settlor or the wife or husband of the settlor of the whole or any part of that income or property;

being a power exercisable at his discretion, any income arising under the settlement in any year of assessment or, as the case may be, any income so arising from the property comprised in the settlement or from a corresponding part of that property, or a corresponding part of any such income, shall (so far as it is not so (treated apart from this section) be treated for all the purposes of the Income Tax Acts as the income of the settlor for that year and not as the income of any other person, subject however to the following provisions of this section.

- (2) Where the power mentioned in subsection (1) of this section cannot be exercised within six years from the time when any income or class of income first arises under the settlement or from the time when any particular property first becomes comprised in the settlement, then, so long as the power cannot be exercised, that subsection shall not apply to any income arising under the settlement or, as the case may be, any income of that class or income from that property or property representing that property.
- (3) Where, under the proviso to subsection (2) of section four hundred and five of the Income Tax Act, 1952, the settlor is not deemed to have an interest in any income arising under or property comprised in the settlement, subsection (1) of this section shall not apply to that income or, as the case may be, to income arising from that property.
- (4) Subject to subsection (5) of this section, the foregoing provisions of this section shall apply for all the purposes of income tax for the year 1958-59 and subsequent years of assessment and also for estimating an individual's total income for the purposes of surtax for the year 1957-58.

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- (5) Where, in the case of any settlement made before the ninth day of July, nineteen hundred and fifty-eight, any income arising under the settlement would, by virtue of the foregoing provisions of this section, fall to be treated (whether for purposes of surtax or for all the purposes of income tax) as the income of the settlor and not as the income of any other person, but would not fall to be so treated apart from those provisions, it shall not be so treated if—
- (a) no power by reason of which it would fall to be so treated has been exercised after the eighth day of July, nineteen hundred and fifty-eight, or is or can become exercisable after the fifth day of April, nineteen hundred and fifty-nine, or such later date as the Commissioners of Inland Revenue may in any particular case allow; and
  - (b) neither the settlor nor the wife or husband of the settlor has received or is entitled to any consideration or benefit in connection with the fulfilment of the condition set out in paragraph (a) of this subsection.
- (6) This section shall be deemed to be included in Chapter III of Part XVIII of the Income Tax Act, 1952, and to precede section four hundred and six thereof, and the references in subsection (1) of section four hundred and seven and subsection (2) of section four hundred and eight of that Act to section four hundred and four thereof shall be construed as including references to this section.

## **23 Time limits**

The provisions of the Sixth Schedule to this Act shall have effect for extending the time limits specified in the enactments mentioned in that Schedule.

## **24 Penalty for incorrect accounts**

- (1) Where, after the passing of this Act, incorrect accounts are submitted to the surveyor or any Commissioners in connection with the ascertainment of a person's liability to income tax for any year of assessment, that person shall be liable, subject to the following provisions of this section, to be proceeded against as mentioned in paragraph (a) or (b) of subsection (3) of section twenty-five of the Income Tax Act, 1952 (which imposes penalties on persons failing to make certain statements), and the amounts mentioned therein shall be forfeited and recovered accordingly.
- (2) Proceedings under the said subsection (3) shall not be taken against the same person both by virtue of this section and apart from this section in respect of the same year of assessment.
- (3) Where a person discovers that accounts submitted in connection with the ascertainment of his liability to income tax are incorrect and he submits a statement rectifying the accounts, no proceedings shall thereafter be taken against him by virtue of this section in respect of the accounts.
- (4) In proceedings taken against any person by virtue of this section it shall be a defence to prove that the accounts were submitted without his consent or connivance.
- (5) Where accounts for a period not exceeding a year are submitted in connection with the ascertainment of a person's liability to tax for more than one year the penalty recoverable by virtue of this section shall be recoverable in respect of such one only of those years as the Commissioners of Inland Revenue may elect.