



Finance Act 1965

1965 CHAPTER 25

PART IV

TAXATION OF COMPANIES AND OF COMPANY DISTRIBUTIONS.

Corporation tax.

52 Allowance of charges on income.

- (1) In computing the corporation tax chargeable for any accounting period of a company any charges on income paid by the company in the accounting period (but not before the year 1966-67), so far as paid out of the company's profits brought into charge to corporation tax, shall be allowed as deductions against the total profits for the period as reduced by any other relief from tax.
- (2) Subject to the following subsections, " charges on income " means for the purposes of corporation tax payments of any description mentioned in subsection (3) below, not being dividends or other distributions of the company ; but no payment which is deductible in computing profits or any description of profits for purposes of corporation tax shall be treated as a charge on income.
- (3) The payments referred to in subsection (2) above are—
 - (a) any yearly interest, annuity or other annual payment and any such other payments as are mentioned in section 169(3) of the Income Tax Act 1952, but not including sums falling within section 169(4) (rents, etc.); and
 - (b) any other interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom, or from a person who in the opinion of the Board is bona fide carrying on business as a member of a stock exchange in the United Kingdom or bona fide carrying on the business of a discount house in the United Kingdom;

and for the purposes of this section any interest payable by a company as mentioned in paragraph (b) above shall be treated as paid on its being debited to the company's account in the books of the person to whom it is payable.

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- (4) No such payment made by a company as is mentioned in subsection (3) above shall be treated as a charge on income if—
- (a) the payment is charged to capital, or the payment is not ultimately borne by the company; or
 - (b) the payment is not made under a liability incurred for a valuable and sufficient consideration (and, in the case of a company not resident in the United Kingdom, incurred wholly and exclusively for the purposes of a trade carried on by it in the United Kingdom through a branch or agency), and is not a covenanted donation to charity.

In this subsection " covenanted donation to charity " means a payment under a disposition or covenant made by the company in favour of a body of persons or trust established for charitable purposes only, whereby the like annual payments (of which the donation is one) become payable for a period which may exceed six years and is not capable of earlier termination under any power exercisable without the consent of the persons for the time being entitled to the payments.

- (5) No such payment as is mentioned in subsection (3) (a) above made by a company to a person not resident in the United Kingdom shall be treated as a charge on income unless the company is so resident and either—
- (a) the company deducts income tax from the payment in accordance with section 170 of the Income Tax Act 1952, and accounts under this Part of this Act for the tax so deducted ; or
 - (b) the company is carrying on a trade and the payment is a payment of interest satisfying the conditions of section 138(1)(c) to (e) of the Income Tax Act 1952 (under which section certain interest payable overseas is deductible in computing trading profits for purposes of income tax) and the liability to pay the interest was incurred wholly or mainly for the purposes of activities of that trade carried on outside the United Kingdom; or
 - (c) the payment is one payable out of income brought into charge to tax under Case IV or V of Schedule D :

Provided that for purposes of paragraph (b) above the company shall be treated as carrying on any trade carried on by a subsidiary of it (both being bodies corporate), if the subsidiary also is resident in the United Kingdom; and for this purpose " subsidiary ", subject to subsection (6) below, has the meaning assigned to it for certain purposes of the profits tax by section 42 of the Finance Act 1938.

- (6) In determining for the purpose of subsection (5)(b) above whether one company is a subsidiary of another that other company shall be treated as not being the owner—
- (a) of any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade ; or
 - (b) of any share capital which it owns indirectly, and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt; or
 - (c) of any share capital which it owns directly or indirectly in a body corporate not resident in the United Kingdom.
- (7) The deductions authorised by subsection (3)(a) above shall include five-sixths and no more of any payment made as an instalment, or part of an instalment, of an annuity within the meaning of the Tithe Acts 1936 and 1951; and subsection (4) (b) shall not apply to any such payment.