



Finance Act 1967

1967 CHAPTER 54

PART III

CORPORATION TAX AND INCOME TAX

19 Charge of corporation tax for financial year 1966.

- (1) Corporation tax shall be charged for the financial year 1966 at the rate of 40 per cent.
- (2) It is hereby declared that where an Act charges corporation tax for any financial year the Corporation Tax Acts apply, without any express provision, for that year accordingly.

20 Group relief.

- (1) Relief for trading losses and other amounts eligible for relief from corporation tax may in accordance with Schedule 10 to this Act be surrendered by a company (called " the surrendering company ") which is a member of a group of companies and claimed by another company (called " the claimant company ") which is a member of the same group by way of a new relief from corporation tax to be called group relief.
- (2) Group relief shall also be available in accordance with Schedule 10 to this Act—
 - (a) where the surrendering company is a trading company which is owned by a consortium and which is not a subsidiary of any company, and the claimant company is a member of the consortium, or
 - (b) where the surrendering company is a trading company—
 - (i) which is a ninety per cent. subsidiary of a holding company which is owned by a consortium, and
 - (ii) which is not a subsidiary of a company other than the holding company,and the claimant company is a member of the consortium, or

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- (c) where the surrendering company is a holding company which is owned by a consortium and which is not a subsidiary of any company, and the claimant company is a member of the consortium:

Provided that no claim may be made by a member of a consortium if a profit on a sale of the share capital of the surrendering or holding company which that member owns would be treated as a trading receipt of that member.

- (3) Subject to Schedule 10 to this Act, two or more claimant companies may make claims relating to the same surrendering company, and to the same accounting period of that surrendering company.
- (4) A payment for group relief—
- (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and
 - (b) shall not for any of the purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income,
- and in this subsection " payment for group relief " means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them as respects an amount surrendered by way of group relief, being a payment not exceeding that amount.
- (5) Section 20 of the Finance Act 1953 (subvention payments) as applied to corporation tax by paragraph 10 of Schedule 15 to the Finance Act 1965 shall not have effect in respect of the deficit of any accounting period ending after the passing of this Act.
- (6) For the purposes of this section and Schedule 10 to this Act—
- (a) two companies shall be deemed to be members of a group of companies if one is the subsidiary of the other or both are subsidiaries of a third company,
 - (b) " holding company " means a company the business of which consists wholly or mainly in the holding of shares or securities of companies which are its ninety per cent. subsidiaries, and which are trading companies,
 - (c) " subsidiary " has the meaning assigned to it for certain purposes of the profits tax by section 42 of the Finance Act 1938, and subsections (2) and (3) of that section shall apply as they applied for the purposes of that section, except that in the application of that section any share capital of a registered industrial and provident society shall be treated as within the definition of ordinary share capital,
 - (d) " trading company " means a company whose business consists wholly or mainly of the carrying on of a trade or trades.
- (7) References in this section and the said Schedule to a company apply only to bodies corporate resident in the United Kingdom; and in determining for the purposes of this section and that Schedule whether one company is a subsidiary of another, the 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.

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- (8) For the said purposes—
- (a) a company shall be deemed to be a ninety per cent. subsidiary of another company if not less than ninety per cent. of its ordinary share capital is directly owned by that other company,
 - (b) a company is owned by a consortium if all of the ordinary share capital of that company is directly owned between them by five or fewer companies, and those companies are called the members of the consortium,
 - (c) a member's share in a consortium shall be the percentage of the ordinary share capital of the surrendering company, or as the case may be of the holding company through which the surrendering company is owned, which is owned by that member in the relevant accounting period of the surrendering company, and if that percentage has fluctuated in the accounting period, the average percentage over the period shall be taken,
- and in this subsection references to ownership and to ordinary share capital shall be construed in accordance with section 42(3) of the Finance Act 1938.

21 Capital allowances.

- (1) The rate of any initial allowance falling to be made under section 17 of the Finance Act 1956 (dredging) in respect of expenditure to which section 15 of the Finance Act 1958 applies shall be three-twentieths except where reduced to one-twentieth under section 21(4)(b) of the Finance Act 1959 (initial allowance in addition to investment allowance), and the amendment of the said section 17 made by paragraph 10(1) of Schedule 14 to the Finance Act 1965 (which mentions only the rate of one-twentieth) shall be deemed always to have had effect accordingly.
- (2) In subsection (6) of section 56 of the Finance Act 1965 (set-off of capital allowances against total profits chargeable to corporation tax) the reference to an allowance to be made for an accounting period does not include any amount carried forward from a previous accounting period under subsection (5) of that section, and so much of the said subsection (5) as requires an amount so carried forward from one accounting period to another to be treated as the amount of a corresponding allowance for the later period shall not affect the said subsection (6).
- The said section 56 of the Finance Act 1965 shall be deemed always to have had effect as amended by this subsection.
- (3) The repeals set out in Part IV of Schedule 13 to the Finance Act 1966 (abolition of investment allowances) shall be deemed never to have extended to paragraph 6 or paragraph 7 of Schedule 2 to the Finance Act 1954 (which amend sections 292 and 296 of the Income Tax Act 1952 in connection with cases where no initial allowance is made in respect of machinery or plant, whether or not in consequence of the making of an investment allowance), or to so much of section 16(8) of that Act of 1954 as relates to those paragraphs.
- (4) For the avoidance of doubt it is hereby declared—
- (a) that section 270(6) of the Income Tax Act 1952 (classes of income against which allowances in respect of industrial buildings or structures may be made) applies to allowances under section 274 of that Act (temporary disuse of industrial buildings or structures),
 - (b) that the reference in section 286 of that Act (allowances for machinery or plant for part of a year of assessment) to a writing down (or annual) allowance

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computed in accordance with the preceding provisions of Chapter II of Part X of that Act includes, where relevant, a reference to an allowance computed in accordance with those provisions and section 14 of the Finance Act 1965 (new ships),

- (c) that by virtue of section 298(2) of the Income Tax Act 1952 references in Acts passed after that Act to writing down (or annual) allowances in respect of machinery or plant include, except where otherwise expressly provided or where the context otherwise requires, references to allowances under subsection (1) of the said section 298 (allowances for lessors of machinery or plant), and
- (d) that section 279(2) of the Income Tax Act 1952 (which relates to expenditure incurred by a person for the purposes of a trade before he begins to carry it on) applies, where relevant, for the construction of references to the date when expenditure was incurred in subsections (1) and (3) of section 13 of the Finance Act 1965 (withdrawal of initial allowances for cars in respect of expenditure incurred after 6th April 1965).

22 Farming and market gardening: restriction of relief for losses and capital allowances.

- (1) Any loss incurred in a trade of farming or market gardening shall be excluded from section 341 of the Income Tax Act 1952 (set-off of losses and capital allowances against total income) if in each of the prior five years a loss was incurred in carrying on that trade, and where a loss is so excluded any related capital allowance shall also be excluded from the said section 341.
- (2) Any loss incurred in any accounting period by a company in carrying on a trade of farming or market gardening shall be excluded from section 58(2) of the Finance Act 1965 (set-off of losses against total profits) if a loss, computed without regard to capital allowances, was incurred in carrying on that trade in that accounting period, and in each of the chargeable periods wholly or partly comprised in the prior five years.
- (3) Subsections (1) and (2) above shall not restrict relief for any loss or for any capital allowance, if it is shown by the claimant that the whole of his farming or market gardening activities in the year next following the prior five years are of such a nature, and carried on in such a way, as would have justified a reasonable expectation of the realisation of profits in the future if they had been undertaken by a competent farmer or market gardener, but that if that farmer or market gardener had undertaken those activities at the beginning of the prior period of loss he could not reasonably have expected the activities to become profitable until after the end of the year next following the prior period of loss.
- (4) Subsections (1) and (2) above shall not restrict relief where the carrying on of the trade forms part of, and is ancillary to, a larger trading undertaking.
- (5) In this section—
 - " basis year " in relation to any capital allowance shall be construed in accordance with section 18(2) of the Finance Act 1962;
 - " chargeable period ", in relation to a company, means any accounting period, or any basis period ending before its first accounting period, " basis period " having the meaning given in section 325 of the Income Tax Act 1952;
 - " prior five years "—

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- (a) in relation to a loss incurred in a year of assessment, means the last five years of assessment before that year;
 - (b) in relation to a loss incurred in a company's accounting period, means the last five years before the beginning of the accounting period;
- " prior period of loss " means the prior five years except that if losses were incurred in the trade in successive years of assessment or chargeable periods amounting in all to a period longer than five years (and ending when the prior five years end), it means that longer period, and in applying this definition to a chargeable period of a company " losses " means losses computed without regard to capital allowances;
- " farming " and " market gardening " shall be construed in accordance with the definitions of those terms in section 526 of the Income Tax Act 1952, but as if those definitions were not restricted to activities in the United Kingdom, and the reference in this section to section 341 of the Income Tax Act 1952 includes a reference to that section as extended by section 15(3) of the Finance Act 1953 (set-off of losses and capital allowances against total income of following year).
- (6) For the purposes of this section a capital allowance is related to a loss incurred in a trade if it falls to be made in taxing that trade and its basis year is the year of assessment in which the loss was incurred.
 - (7) In ascertaining for the purposes of this section whether a loss was incurred in any part of the prior five years, or earlier, the rules applicable to Case I of Schedule D shall be applied, and in this section " loss computed without regard to capital allowances " means, in relation to a chargeable period of a company, a loss so ascertained but so that, notwithstanding section 56(2) of the Finance Act 1965, no account shall be taken of any allowance or charge under Part X or Part XI of the Income Tax Act 1952 (capital allowances).
 - (8) Subsections (1) and (2) above shall not restrict relief for any loss or capital allowance if the trade was set up and commenced within the prior five years, and for the purposes of this subsection a trade shall be treated as discontinued, and a new trade set up, in any event which under any of the provisions of the Income Tax Acts or the Corporation Tax Acts is to be treated as equivalent to the permanent discontinuance or setting up of a trade:

Provided that a trade shall not be treated as discontinued if under section 61(2) of the Finance Act 1965 or section 17 of the Finance Act 1954 (company reconstructions without change of ownership) it is not to be treated as discontinued for the purpose of capital allowances and charges.
 - (9) Where at any time before or after the passing of this Act there has been a change in the persons engaged in carrying on a trade this section shall, notwithstanding subsection (8) above, apply to any person who was engaged in carrying on the trade immediately before and immediately after the change as if the trade were the same before and after without any discontinuance, and as if—
 - (a) a husband and his wife were the same person,
 - (b) a husband or his wife were the same person as any company of which either the husband or the wife has control, or of which the two of them have control,and accordingly relief from income tax or from corporation tax may be restricted under this section by reference to losses some of which are incurred in years of assessment and some, computed without regard to capital allowances, are incurred in a company's chargeable periods.

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In this subsection " control " has the meaning given by paragraph 3 of Schedule 18 to the Finance Act 1965.

- (10) This section shall not apply to restrict relief in respect of a loss incurred in, or any capital allowance the basis year for which is, a year of assessment before 1967-68, or a loss incurred in a company's accounting period beginning before 1st April 1967 (but can apply to a company to prevent a loss from being set off against profits of any such accounting period).

23 Tax-free income of banking businesses, etc., carried on by non-residents.

- (1) This section has effect where paragraphs (a) and (b) of section 436(2) of the Income Tax Act 1952 (interest on tax-free Treasury securities excluded from computation of profits, or profits of annuity business) apply to a business for any accounting period or year of assessment.
- (2) Up to the amount determined under this section (called the amount ineligible for relief) interest on money borrowed for the purposes of the business—
- (a) shall be excluded in any computation under the Corporation Tax Acts or the Income Tax Acts of the profits (or loss) arising from the business or, where subsection (5) below applies, arising from any annuity business forming part of the life assurance business, and
 - (b) shall be excluded from the definition of " charges on income " in section 52(2) of the Finance Act 1965.
- (3) In determining the amount ineligible for relief, account shall be taken of all money borrowed for the purposes of the business which is outstanding in the accounting or basis period, up to the total cost of the tax-free Treasury securities held for the purpose of the business in that period:

Provided that where the person carrying on the business is a company, account shall not be taken of any borrowed money carrying interest which, apart from subsection (2) above, does not fall to be included in the computations under paragraph (a) of that subsection, and is not to be treated as a charge on income for the purposes of the Corporation Tax Acts.

- (4) Subject to subsection (5) below, the amount ineligible for relief shall be equal to a year's interest on the amount of money borrowed which is to be taken into account under subsection (3) above at a rate equal to the average rate of interest in the accounting or basis period on money borrowed for the purposes of the business, except that in the case of a period of less than twelve months, interest shall be taken for that shorter period instead of for a year.
- (5) Where relief for expenses of management is to be granted to an assurance company for any accounting period, and that relief falls to be reduced under section 436(3)(b) of the Income Tax Act 1952 (by applying the fraction which is investment income of the life assurance fund other than income from tax-free Treasury securities divided by that total investment income) the amount ineligible for relief shall be a fraction of the amount of interest in the accounting period on money borrowed for the purposes of the business, and that fraction shall be the fraction which is income from tax-free Treasury securities divided by total investment income of the life assurance fund (that is to say one minus the fraction to be applied under the said section 436(3)(b)).

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- (6) In this section " tax-free Treasury securities " means securities issued by the Treasury with a condition regulating the treatment of the interest thereon for income tax or corporation tax purposes such that interest on the securities is excluded in computing the income or profits.
- (7) For the purposes of this section the cost of a holding of tax-free Treasury securities which has fluctuated in the accounting or basis period shall be the average cost of acquisition of the initial holding, and of any subsequent acquisitions in the accounting or basis period, applied to the average amount of the holding in the accounting or basis period, and this subsection shall be applied separately to securities of different classes.
- (8) In this section " accounting or basis period " means the company's accounting period or the period by reference to which the profits or gains arising in the year of assessment are to be computed.
- (9) In section 436(2) of the Income Tax Act 1952 the references to expenses shall not include a reference to interest on borrowed money, and the words " any interest on money borrowed for the purpose of acquiring the securities " and the word " other " (which are superseded by this section) shall cease to have effect.
- (10) This section shall be construed as one with the said section 436.
- (11) This section shall apply for income tax purposes for the year 1967-68 and subsequent years of assessment, and, without prejudice to section 53(2) of the Finance Act 1965 (which applies income tax law for corporation tax), shall apply for corporation tax purposes to accounting periods ending on or after 6th April 1967.

24 Amendments of Corporation Tax Acts.

Schedule 11 to this Act, which contains amendments of the Corporation Tax Acts relating to life assurance business, company distributions, close companies, companies which are wound up and the collection of income tax on payments made by companies and other matters dealt with in Schedule 12 to the Finance Act 1965, shall have effect.