



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART I

CHARGE OF INCOME TAX, AND GENERAL PROVISIONS RELATING ONLY TO INCOME TAX

CHAPTER III

SURTAX

Special provisions as to accrual of income

30 Provisions for preventing avoidance of surtax by sales cum dividend, etc.

- (1) Any individual upon whom notice is served by the Board requiring him to furnish a statement of and particulars relating to any assets in which, at any time during the period specified in the notice, he has had any beneficial interest, and in respect of which, within such period, either no income was received by him or the income received by him was less than the sum to which the income would have amounted if the income from such assets had accrued from day to day and been apportioned accordingly, shall, whether an assessment to surtax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty-eight days) required by the notice.
- (2) The Board may serve further notices whenever they consider it necessary for the purposes of this section until complete particulars have been furnished to their satisfaction.
- (3) If it appears to the Board by reference to all the circumstances in relation to the assets of any such individual (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers or any other transactions relating to such assets) that the individual has thereby avoided, or would avoid, more than 10 per cent. of the amount of the surtax for any year which would have been payable in his case

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if the income from those assets had been deemed to accrue from day to day and had been apportioned accordingly and the income so deemed to have been apportioned to him had been treated as part of his total income for the purposes of surtax, then those assets shall be deemed to be assets to which subsection (4) below applies.

- (4) For the purposes of assessment to surtax in the case of any such individual, the income from any assets to which this subsection applies shall be deemed to accrue from day to day and, in the case of the sale or transfer of any such assets by or to him, shall be deemed to have been received as and when it is deemed to have accrued:

Provided that an individual shall not be liable to be assessed to surtax under this section in respect of any such income if he proves to the satisfaction of the Board that the avoidance of surtax was exceptional and not systematic, and that there was not in his case in any of the three next preceding years any such avoidance of surtax as is described in the provisions of subsection (3) above.

- (5) If any individual fails to furnish any statement or particulars required under this section, or if the Board are not satisfied with any statement or particulars furnished under this section, they may make an estimate of the amount of the income which, under the preceding provisions of this section, is to be deemed to form part of his total income for the purposes of surtax.
- (6) For the purposes of this section " assets " means—
- (a) stocks or securities entitled to interest or dividend at a fixed rate only, not being stocks or securities the interest or dividend on which is dependent on the earnings of a company, and
 - (b) any other stocks or securities and any shares, if transactions in relation thereto have been effected by the individual otherwise than through a stock exchange in the United Kingdom and by a transfer on which ad valorem duty has been paid under the heading " Conveyance or Transfer on Sale " in Schedule 1 to the Stamp Act 1891.

31 Relief where income attributable to a period exceeding a year is received in a year

If any individual, on a claim made to the Board under this section, proves to the satisfaction of the Board—

- (a) that, as respects any assets, in consequence of the operation of the provisions of the Income Tax Acts which require that for the purposes of surtax any income which is chargeable with income tax by way of deduction shall be deemed to be income of the year in which it is receivable, the income from those assets, as estimated for the purposes of surtax for any year of assessment, represents more than the income which would be attributable to a period of one full year if the income were deemed to have accrued from day to day, and
- (b) that, in consequence, the amount of surtax payable by him for that year exceeds by more than 5 per cent. the amount of the surtax which would have been payable by him for that year if the amount of his income from those assets had not exceeded the amount which would be attributable to a period of one full year if the income from those assets were deemed to have accrued from day to day,

the Board shall charge him to surtax, or adjust his liability to surtax, for that year and any succeeding year so as to give such relief as may be just, having regard to all the

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circumstances and, in particular, to the amount of any liability or additional liability to surtax which would have arisen for any preceding year or years if—

- (i) the income from such assets as aforesaid were deemed to have accrued from day to day and to have been apportioned accordingly, and
- (ii) the income so deemed to have been apportioned to him had been treated as part of his total income for the purposes of surtax.

32 Relief in case of purchases cum dividend

If any individual, on a claim made to the Board under this section, proves to the satisfaction of the Board that, in consequence of the sale or transfer to him of any assets, the amount of surtax payable by him for any year of assessment exceeds by more than 10 per cent. the amount of the surtax which would have been payable by him for that year if the income from those assets and from any assets sold or transferred by him were deemed to have accrued from day to day, then, for the purposes of surtax in the case of that individual for that year, the income from all such assets as aforesaid shall be deemed to have accrued from day to day and to have been received by him as and when it is deemed to have accrued.

33 Supplemental

- (1) Any income arising in respect of any assets which, for any of the purposes of sections 30 to 32 above, is deemed to have accrued from day to day, or which is to be computed as if it were income that accrued from day to day, shall—
 - (a) if payable in respect of any stated period, be deemed to have accrued from day to day during that period, and
 - (b) if not payable in respect of any stated period, be deemed to have accrued from day to day during the period of twelve months next preceding the date on which that income was declared payable, or during the period between the last previous declaration of a dividend (not being a dividend expressed to be an interim dividend in respect of a stated period), payment of interest, or other yield or produce of such asset and the date aforesaid, whichever period is the less.
- (2) The jurisdiction of the Special Commissioners on any appeal shall include jurisdiction to review any relevant decision taken by the Board in the exercise of their functions under the said sections 30 to 32.