



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XIV

MISCELLANEOUS SPECIAL PROVISIONS

CHAPTER V

SCHEMES FOR RATIONALIZING INDUSTRY

406 Deduction from profits of contributions paid under certified schemes

- (1) Notwithstanding anything contained in section 130 of this Act (general rules as to deductions not allowable), but subject to the following provisions of this Chapter, where a person pays, wholly and exclusively for the purposes of a trade in respect of which he is chargeable under Case I of Schedule D, a contribution in furtherance of a scheme which is for the time being certified by the Board of Trade under this section, the contribution shall, in so far as it is paid in furtherance of the primary object of the scheme, be allowed to be deducted as an expense in computing the profits or gains of the said trade.
- (2) The Board of Trade shall certify a scheme under this section if they are satisfied—
 - (a) that the primary object of the scheme is the elimination of redundant works or machinery or plant from use in an industry in the United Kingdom; and
 - (b) that the scheme is in the national interest and in the interest of the said industry as a whole; and
 - (c) that such number of persons engaged in the said industry as are substantially representative of the industry are liable to pay contributions in furtherance of the primary object of the scheme by agreement between them and the body of persons carrying out the scheme.

References in this subsection to an industry in the United Kingdom shall include references to the business carried on by owners of ships or of a particular class of

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

ships, wherever that business is carried on, and, in relation to that business, references in this subsection to works or machinery or plant shall include references to ships.

- (3) The Board of Trade shall cancel any certificate granted under this section if they cease to be satisfied as to any of the matters referred to in subsection (2) of this section.
- (4) The Board of Trade may at any time require the body of persons carrying out a scheme certified under this section to produce any books or documents of whatever nature relating to the scheme and, if the requirement is not complied with, the Board of Trade may cancel the certificate.
- (5) In this section and section 407 below, "contribution", in relation to a scheme, does not include a sum paid by a person by way of loan or subscription of share capital, or in consideration of the transfer of assets to him, or by way of a penalty for contravening or failing to comply with the scheme.

407 Repayment of contributions

- (1) In the event of the repayment, whether directly or by way of distribution of assets on a winding up or otherwise, of a contribution or any part thereof which has been allowed to be deducted under section 406 above, the deduction of the contribution, or of so much thereof as has been repaid, shall be deemed to be an unauthorised deduction in respect of which an assessment shall be made, and, notwithstanding the provisions of the Tax Acts requiring assessments to be made within six years after the end of the chargeable period to which they relate, any such assessment and, in the case of an income tax assessment any consequential assessment to surtax, may be made at any time within three years after the end of the chargeable period in which the repayment was made.
- (2) For the purposes of this section, a sum received by any person by way of repayment of contributions shall be deemed to be by way of repayment of the last contribution paid by him, and, if the sum exceeds the amount of that contribution, by way of repayment of the penultimate contribution so paid, and so on.

408 Payments under certified schemes which are not repayments of contributions

- (1) Subject to the provisions of this section, where under any scheme which is for the time being certified or has at any time been certified by the Board of Trade under section 406 above, any payment (not being a payment made by way of repayment of contributions) is made to a person carrying on a trade to which the scheme relates, that payment shall be treated for the purposes of the Tax Acts as a trading receipt of the trade, and shall accordingly be taken into account in computing the profits or gains of the trade for those purposes.
- (2) Where on a claim it is shown in accordance with the provisions of Part II of Schedule 11 to this Act that the payments which have been made under such a scheme in respect of a trade (not being payments made by way of repayment of contributions) have been made wholly or partly in respect of damage in respect of which no relief may be given under the Tax Acts, then, subject to and in accordance with the provisions of that Schedule, relief shall be given in respect of those payments by reducing the amounts which are to be treated as trading receipts of the trade under subsection (1) of this section, but, where such relief is given, the said section 406 shall, in relation to contributions subsequently paid under the scheme in respect of the trade, have effect subject to the modifications specified in Part III of that Schedule.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) The provisions of this section and of the said Schedule shall apply in relation to any payment made to a person who has ceased to carry on a trade to which any such scheme as aforesaid relates as they apply in relation to payments made to a person carrying on such a trade, subject to the modification that so much of that payment as falls to be treated as a trading receipt by virtue of the said provisions shall be deemed for the purposes of those provisions to have been made to him on the last day on which he was engaged in carrying on the trade.
- (4) In determining, for the purposes of this section and of the said Schedule—
- (a) whether any trade has ceased to be carried on ; or
 - (b) whether any contribution is paid in respect of a trade in respect of which a payment has been made ; or
 - (c) whether any payment is made in respect of a trade in respect of which a contribution has been paid,

no regard shall be had to any event which, by virtue of any of the provisions of section 154 (income tax consequences of change in ownership of trade) or section 251(1) (corporation tax rules for commencement or discontinuance of trade) of this Act, is to be treated as effecting a discontinuance of a trade.

409 Cancellation of certificates of Board of Trade

- (1) Where any certificate granted with respect to a scheme under section 406 of this Act is cancelled by the Board of Trade, and any deductible contributions paid in furtherance of the scheme have not been repaid at the expiration of one year from the cancellation, the body of persons carrying out the scheme shall, for the chargeable period in which the said year expires, be charged to tax under Case VI of Schedule D upon the aggregate amount of the deductible contributions which have not been repaid at that time:

Provided that the charge shall not be made if the total amount of any contributions, other than deductible contributions, which have been paid under the scheme and have not been repaid before that time is greater than the available resources of the scheme, and shall not in any case be made upon an amount greater than the excess, if any, of those resources over that total amount.

In this subsection, " the available resources ", in relation to any scheme, means a sum representing the total funds held for the purposes of the scheme at the expiration of one year from the cancellation of the certificate plus a sum representing any funds held for the purposes of the scheme which, during that year, have been applied otherwise than in accordance with the provisions of the scheme as in force when the certificate was granted.

- (2) Where the body of persons carrying out a scheme are charged to tax by virtue of subsection (1) of this section, and, after the expiration of the said year, any deductible contribution paid in furtherance of the scheme is repaid, the amount upon which the charge is made shall on the making of a claim be reduced by the amount repaid, and all such repayments of tax shall be made as are necessary to give effect to the provisions of this subsection.
- (3) In this section, "contribution " includes a part of a contribution, and " deductible contribution " means a contribution allowed to be deducted under section 406 above, any reduction thereof under Part III of Schedule 11 to this Act being left out of account.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) For the purposes of this section, a sum received by any person by way of repayment of contributions shall be deemed to be by way of repayment of the last contribution paid by him, and, if the sum exceeds the amount of that contribution, by way of repayment of the penultimate contribution so paid, and so on.

410 Application to statutory redundancy schemes

- (1) Sections 407, 408 and 409 above, and Schedule 11 to this Act, shall, subject to the adaptations specified in sub-section (2) of this section, apply in relation to a statutory redundancy scheme as they apply in relation to a scheme certified under section 406 above.
- (2) The said adaptations are as follows, that is to say—
- (a) for any reference to a contribution allowed to be deducted under the said section 406 there shall be substituted a reference to a contribution allowed to be deducted under any provision of the Tax Acts other than the said section 406; and
 - (b) any provision that the said section 406 shall, in relation to contributions, have effect subject to modifications, shall be construed as a provision that so much of any provision of the Tax Acts other than the said section 406 as authorises the deduction of contributions shall, in relation to the contributions in question, have effect subject to the modifications in question; and
 - (c) for any reference to the cancellation of a certificate with respect to a scheme there shall be substituted a reference to the scheme ceasing to have effect; and
 - (d) for any reference to the provisions of the scheme as in force when the certificate was granted there shall be substituted a reference to the provisions of the scheme as in force when contributions were first paid thereunder.
- (3) In this section, "statutory redundancy scheme " means a scheme 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.