



Finance Act 1962

1962 CHAPTER 44

PART II

INCOME TAX AND PROFITS TAX

CHAPTER III

MISCELLANEOUS AMENDMENTS

25 Amendments of Finance Act, 1960, ss. 21 to 28

- (1) For the purposes of sections twenty-one to twenty-three of the Finance Act, 1960—
- (a) the expression "share" shall be construed in relation to a company not limited by shares (whether or not it has a share capital) as including references to the interest of a member of the company as such, whatever the form of that interest; and
 - (b) any sale of rights attached to or forming part of a share shall be treated as a sale of a share, as if the rights included in the sale and those not included had been separate shares;
- and the expression " securities" in Part II of that Act shall for the purposes of section twenty-eight include any share in a company within the meaning of paragraph (a) above.
- (2) Where by virtue of section twenty-one of the Finance Act, 1960 (which provides for charging tax in respect of certain sales of shares in a company by reference to a supposed sale of the company's trading stock), the consideration for a sale of shares in a company is deemed to be income of the seller, and any securities of the company other than shares in the company are included in the sale or in an associated sale at a price in excess of the company's liability on the securities, the excess shall for purposes of that section be treated as part of the consideration for the sale of the shares, in so far as it has not by virtue of this provision been treated as part of the consideration for any other sale of shares; and in this subsection—

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- (a) any reference to section twenty-one of the Finance Act, 1960, shall include a reference to that section as extended by section twenty-two or twenty-three of that Act; and
 - (b) " associated sale " means, in relation to any sale of shares, a sale of securities made to the same person as the sale of the shares (or which would be treated under subsection (4) or (5) of section twenty-four of that Act as made to that person), being a sale such that if both sales were of shares they would be sales of associated parcels of shares within the meaning of section twenty-four of that Act.
- (3) In section twenty-eight of the Finance Act, 1960 (which provides for the cancellation of tax advantages from certain transactions in securities where the tax advantage is obtained or obtainable in the circumstances set out in subsection (2) of the section).—
- (a) the reference in paragraph (a) of subsection (2) to a person being entitled by reason of any exemption from tax to recover tax in respect of dividends received by him shall include a reference to his being by reason of section twenty (subvention payments) of the Finance Act, 1953, so entitled ; and
 - (b) the reference in paragraph (b) of subsection (2) to a person becoming entitled in respect of securities held or sold by him to a deduction in computing profits or gains by reason of a fall in the value of securities shall include a reference to his becoming in respect of any securities formerly held by him (whether sold by him or not) so entitled;
- and where a company in the circumstances mentioned in the said paragraph (b) becomes entitled to a deduction as there mentioned, the section shall apply in relation to any tax advantage obtained or obtainable in consequence of that deduction by another company by virtue of section twenty of the Finance Act, 1953, in respect of a subvention payment to the first-mentioned company, as if obtained or obtainable by the other company in circumstances falling within that paragraph.
- (4) In the case of a man and his wife living with him (whether or not she is separately assessed to tax), the said section twenty-eight shall be treated as applying to him in respect of any transaction or transactions as it would apply if any property, rights or liabilities of the wife were his property, rights or liabilities in relation to which she had acted only as nominee for him, and shall be treated as applying to the wife in respect of any transaction or transactions as it would apply if any property, rights or liabilities of the man were her property, rights or liabilities in relation to which he had acted only as nominee for her:
- Provided that no adjustment made under subsection (3) of that section by reference to any transaction or transactions to counteract any tax advantage shall by virtue of this subsection be so made that a person bears more tax than if the transaction or transactions had not had as a consequence that any relief or increased relief from, or repayment or increased repayment of, income tax, or any deduction in computing profits or gains, was obtained or obtainable, or that the way in which receipts accrued was such that the recipient did not pay or bear tax on them.
- (5) For the purposes of the said section twenty-eight a tax advantage obtained or obtainable by a person shall be deemed to be obtained or obtainable by him in consequence of a transaction in securities or of the combined effect of two or more such transactions, if it is obtained or obtainable in consequence of the combined effect of the transaction or transactions and of the liquidation of a company.
- (6) This section shall be construed as one with Part II of the Finance Act, 1960.

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(7) This section—

- (a) in so far as it affects sections twenty-one to twenty three of the Finance Act, 1960, shall not apply in relation to any sale of shares made (or treated for purposes of those sections as made) before the tenth day of April, nineteen hundred and sixty-two ; and
- (b) in so far as it affects section twenty-eight of that Act, shall not apply to a person in respect of any transaction or transactions in securities if they were carried out before that day, and if any change in the nature of any activities carried on by any person, being a change necessary in order that the tax advantage should be obtainable in consequence of the transaction or transactions, was also effected before that day;

but nothing in this section shall be taken to prejudice the operation of any of those enactments in any such case.