



Finance Act 1916

1916 CHAPTER 24

PART III

EXCESS PROFITS DUTY

45 Continuance and increase of rate of excess profits duty

- (1) The Finance (No. 2) Act, 1915 (in this Part of this Act referred to as the principal Act), shall, so far as it relates to excess profits duty, apply, unless Parliament otherwise determines, to any accounting period ending on or after the first day of July nineteen hundred and fifteen and before the first day of August nineteen hundred and seventeen, as it applies to accounting periods ended after the fourth day of August nineteen hundred and fourteen and before the said first day of July.
- (2) Section thirty-eight of the principal Act shall, as respects excess profits arising in any accounting period beginning after the expiration of a year from the commencement of the first accounting period, have effect as if sixty per cent of the excess were substituted as the rate of duty for fifty per cent of the excess.

Where part of an accounting period is after and part before the date of the expiration of a year from the commencement of the first accounting period, the total excess profits and any deficiencies or losses arising in the accounting period shall be apportioned between the time up to and including, and the time after, that date in proportion to the length of those times respectively, and the rate attributable to the time after and the time before and including that date shall respectively be sixty and fifty per cent of the excess.

In the case of trades or businesses commencing after the fourth day of August nineteen hundred and fourteen, the rate of duty shall be sixty per cent of the excess in respect of any accounting period ending after the fourth day of August nineteen hundred and fifteen.

In calculating any repayment or set off under subsection (3) of section thirty-eight of the principal Act any amount to be repaid or set off on account of a deficiency or loss

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arising in any period in respect of which duty would be payable at the rate of fifty per cent of the excess, shall be calculated by reference to that rate of duty.

Any additional duty payable by virtue of this section in respect of a past accounting period may be assessed and recovered notwithstanding that duty has already been assessed in respect of that period.

- (3) It shall be the duty of every person chargeable to- excess profits duty under Part III of the principal Act, as extended by this Act, if he has not previously given notice of his liability to be charged with excess profits duty in respect of any accounting period, to give notice to the Commissioners of Inland Revenue before the expiration of two months after the termination of any accounting period in respect of which he is chargeable, or, if the accounting period terminated before the passing of this Act, within one month after the passing of this

If any person fails to give the notice required by this provision he shall be liable on summary conviction to a fine not exceeding one hundred pounds, and to a further fine not exceeding ten pounds a day for every day during which the offence continues after conviction therefor.

46 Increase of rate of excess mineral rights duty

- (1) Section forty-three of the principal Act (which relates to excess mineral rights duty) shall have effect as if sixty per cent. of the excess were substituted as the rate of duty for fifty per cent. of the excess, in the case of minerals which have become subject to a mining lease after the fourth day of August nineteen hundred and fourteen for all accounting years, and in the case of other minerals for any accounting year ending after the Completion of the first accounting year, and any additional duty may be recovered accordingly.
- (2) It is hereby declared that the words in subsection (1) of section forty-three of the principal Act "assets of any trade or business " refer only to assets of the trade or business of the person receiving the rent for the right to work the minerals or for the mineral wayleaves.

47 Computation of excess profits duty in case of sale of ships

Where any ship has been sold since the fourth day of August nineteen hundred and fourteen, in such circumstances that the profits of the sale are not the profits of a trade or business, the following special provisions shall, if the Commissioners of Inland Revenue so require, be applied in the computation of the liability to excess profits duty in respect of the profits arising from the use of the ship:—

- (a) The pre-war standard of profits of the purchaser as respects the ship shall, where the standard of the trade or business of the vendor is a profits standard, be calculated by reference to the profits arising from the use of the ship during the pre-war trade years, and shall be ascertained in accordance with the provisions of the principal Act, but calculated, where necessary, as if the use of the ship were a separate business; and where that standard is a percentage standard the pre-war standard of profits as respects the ship shall be the same as if the ship had not been sold, or, in the case of a ship which was used for the first time after the fourth day of August, nineteen hundred and fourteen, shall be calculated by reference to the capital represented by the ship at the date when it was first used ; and the pre-war standard of profits of the trade or business of the" vendor and of the purchaser shall respectively be reduced

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and increased as the case may require, with any adjustments which may be necessary to meet the case of borrowed money or unpaid purchase money or other similar matters:

- (b) For the purpose of estimating separately the profits arising from the use of the ship, an apportionment shall, where necessary, be made of the total profits of the trade or business in which the ship has been used, regard being had to the earnings of the ship as compared with the earnings of the other assets employed in the trade or business :

Any appeal under subsection (5) of section forty-five of the principal Act, so far as it involves any question of an apportionment under this provision, shall be to the Special Commissioners :

- (c) The power to require returns under subsection (1) of section forty-four of the principal Act shall include power for the Commissioners of Inland Revenue to require, any vendor of the ship to give such information to them and to the purchaser as the Commissioners think necessary in order to enable the provisions of this section to be carried into effect:
- (d) Nothing in subsection (3) of section forty of the principal Act or in paragraph 3 of Part I of the Fourth Schedule to the principal Act shall operate so as to enable the purchaser of the ship to obtain any greater relief than could have been obtained by the vendor if the ship had not been sold, other than relief in connection with expenditure by the purchaser on improvements or repairs :
- (e) In the application of section forty-one of the principal Act to any trade or business whose pre-war standard of profits has been determined or adjusted under this section any increase or decrease of capital attributable to the purchase or sale of the ship shall be disregarded, and where any such determination or adjustment has taken place both in respect of the sale of a ship and the purchase of another ship for the same trade or business, paragraphs of Part II of the Fourth Schedule to the principal Act shall not apply.

48 Adjustment of excess profits duty and munitions Exchequer payments in case of controlled establishments

- (1) The Commissioners of Inland Revenue may treat any sums actually paid in respect of munitions Exchequer payments, which appear to the Commissioners to be attributable to the same period and subject matter as that for which excess profits duty is to be paid, as a payment on account of excess profits duty, or, if the amount of the munitions Exchequer payments is larger than the amount payable as excess profits duty, as extinguishing the duty for the purposes of collection; and may arrange with the Minister of Munitions, if in any case excess profits duty is paid before the munitions Exchequer payment, for the deduction of excess profits duty payments from any sums to be collected in respect of munitions Exchequer payments which appear to the Commissioners to be attributable to the same period and subject matter as that for which the excess profits duty payments have been made, or, if the amount of the excess profits duty payments is greater than the amount to be collected on account of munitions Exchequer payments, for the extinction of the amount to be so collected.

For the purpose of determining the period to which any profits are to be attributed under this section, profits shall be deemed to accrue from day to day at a uniform rate.

- (2) Any excess profits duty and any munitions Exchequer payments which are remitted under this section for the purpose of collection shall not be deemed to have been paid for the purposes of section thirty-five of the principal Act (which relates to

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computation of profits and gains in relation to excess profits duty) as extended by this Act.

- (3) Deductions shall not be allowed on account of munitions Exchequer payments in computing profits for the purpose of excess profits duty.

49 Provisions as to directors' fees

- (1) Where the pre-war standard of profits is taken to be the percentage standard or is calculated by reference to the statutory percentage in the case of any trade or business owned or carried on by a company or other body corporate whose directors have a controlling interest, the Commissioners of Inland Revenue may, if they think fit, as respects any accounting period, including a past accounting period, for the purpose of the provisions relating to the statutory percentage and for the purpose of the determination and computation of profits under Part I. of the Fourth Schedule to the principal Act, treat the company or body corporate as if it were a firm and not a company or body corporate and the directors or any of them as if they were partners in the firm.
- (2) If as respects any accounting period ending on or after the first day of July nineteen hundred and fifteen, the Commissioners of Inland Revenue refuse to allow a deduction in respect of any increase in the remuneration of directors of any trade or business, and the taxpayer is required to pay excess profits duty in respect of the disallowed deduction, the taxpayer shall be entitled to recover from any such director the amount which the taxpayer has paid by way of excess profits duty in respect of the increase ; but any amount so recovered shall, unless the Commissioners otherwise direct, be treated as excess profits duty paid by the director from whom it is recovered and not as excess profits duty paid by the taxpayer.
- (3) In this section, the expression " directors " includes any managers or persons concerned in the management of the trade or business who are remunerated out of the funds of the trade or business.

50 Further provision as to profits applied in extinction of previous losses

Paragraph 7 of Part I. of the Fourth Schedule of the principal Act (which allows deductions to be made in respect of profits applied in extinction of losses) shall apply to a case where the capital account of any trade or business shows a debit balance as it applies to a case where the percentage standard is adopted as the pre-war standard of profits.

51 Provision as to accounting period

It is hereby declared that, for the purpose of subsection (2) of section thirty-eight of the principal Act, any period for which the books of a trade or business have been actually made up for any interim or other purpose in such a manner that the profits for that period can be readily ascertained is (without prejudice to the powers of the Commissioners of Inland Revenue under that provision) to be taken as an accounting period, notwithstanding that under the articles of association of the company carrying on the trade or business or under any other regulations affecting the carrying on of the trade or business the accounts are also required to be made up for some other period, and notwithstanding that such accounts are not issued.

52 Provision as to accumulating profits

It is hereby declared that, for the purpose of excess profits duty, profits of any trade or business arising and accumulating during any accounting period are not, during that period, to be treated as accumulated profits within the meaning of Part III: of the Fourth Schedule to the principal Act, or as capital employed in the trade or business.

53 Application of s. 35 of the Finance (No. 2) Act, 1915, to munitions Exchequer payments

Section thirty-five of the principal Act (which relates to the computation of profits and gains for the purpose of income tax in relation to excess profits duty) shall apply to sums actually paid in respect of munitions Exchequer payments as it applies to excess profits duty, except that the relief to the taxpayer under subsection (2) of that section shall in all cases be given by means of repayment and not by deduction.

54 Deposit of sums for payment of excess profits duty

Any person may deposit with the Commissioners of Inland Revenue any sums for the purpose of satisfying any excess profits duty which may thereafter become payable by him; and sums so deposited shall be applied in payment of any such duty as and when it becomes payable.

In calculating the amount to be so applied in payment of duty interest shall be allowed at such rate as may for the time being be determined by the Treasury.

55 Amendment of section 40(3) of the principal Act

Subsection (3) of section forty of the principal Act (which provides amongst other things for the reference of certain matters for the decision of a board of referees)" shall, where the application for such a reference is made in respect of a trade or business carried on in a controlled establishment within the meaning of Part II. of the Munitions of War Act, 1915, and relates to an accounting period during any part of which the establishment has been so controlled, and to the postponement or suspension of renewals or repairs, or to exceptional depreciation or obsolescence of assets, or to the necessity in connexion with the present war of providing plant, have effect as though a referee or board of referees appointed or designated by the Minister of Munitions for the purpose were substituted for the board of referees under the principal Act.

56 Exemption from excess profits duty of businesses carried on under the court

In the case of any trade or business which by reason of its being unable to pay its debenture holders or creditors is being carried on by a liquidator, receiver, or trustee under the court, no excess profits duty shall be levied or paid until provision has been made for payment of such unpaid debenture holders or creditors.

57 Definition

In this Part of this Act the expression " munitions " Exchequer payments" means any sums paid into the Exchequer under section four of the Munitions of War Act, 1915, on account of the excess of the net profits of a controlled establishment.