



Finance Act 1944

1944 CHAPTER 23 7 and 8 Geo 6

PART V

EXCESS PROFITS TAX

32 Increase of standard profits in certain cases.

- (1) Subject to the provisions of this section, if, in relation to any chargeable accounting period beginning at or after the end of March, nineteen hundred and forty-four, the standard profits of a trade or business are ascertained otherwise than by reference to the profits of the standard period, the standard profits shall, in relation to that chargeable accounting period, be increased by one thousand pounds :

Provided that, in relation to a chargeable accounting period which is less than twelve months, the said increase shall be proportionately reduced so as to correspond with the length of the period.

- (2) Where—
- (a) a trade or business is carried on by a partnership or by a company the directors whereof have a controlling interest therein ; and
 - (b) the standard profits of the trade or business are ascertained by reference to the minimum amount specified in subsection (2) of section thirteen of the Finance (No. 2) Act, 1939 ; and
 - (c) there are three or more working proprietors in the trade or business ;

subsection (1) of this section shall have effect as if for the reference to one thousand pounds there were substituted a reference to such greater sum, not exceeding two thousand pounds, as is arrived at by allowing five hundred pounds for each working proprietor in the trade or business.

- (3) The preceding provisions of this section shall not apply to any member of a group of companies other than the principal company and, in the case of the principal company of a group of companies the condition set out in subsection (1) of this section that the standard profits of the trade or business must be ascertained otherwise than by

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reference to the profits of the standard period shall not be deemed to be complied with in relation to a chargeable accounting period if—

- (a) the standard profits of the group for any relevant period consisting of or comprising the whole or any part of that chargeable accounting period are ascertained by aggregating the profits and losses arising in the standard period of the group in the trades or businesses of all the members of the group, other than new subsidiaries, or by aggregating those profits and losses and halving the amount arrived at ; or
- (b) the standard profits of any new subsidiary for any chargeable accounting period coinciding with or falling wholly or partly within the said chargeable accounting period of the principal company are ascertained by reference to the profits of the standard period of that new subsidiary.

Expressions used in this subsection have the same meanings as they have in the Fifth Schedule to the ^{M1}Finance Act 1940 (which relates to groups of companies).

- (4) Where a deficiency of profits occurring in a chargeable accounting period beginning at or after the end of March, nineteen hundred and forty-four, is greater than it would have been if this section had not been passed, the amount of the increase shall not be available (whether under section fifteen of the Finance (No. 2) Act, 1939, or paragraph 6 of Part IV of the Fifth Schedule to the Finance Act, 1940) to reduce profits for any chargeable accounting period ending at or before that date ; but where by virtue of this subsection the whole of a deficiency occurring in a chargeable accounting period cannot be applied in reducing profits for previous chargeable accounting periods, the amount which cannot be applied shall, for the purposes of paragraph (b) of subsection (2) of the said section fifteen, be treated as part of the balance which, under that paragraph, is to be applied in reducing profits in subsequent chargeable periods.
- (5) The following provisions shall have effect in relation to chargeable accounting periods falling partly before and partly after the end of March, nineteen hundred and forty-four:—
 - (a) the standard profits for the whole period shall be computed first on the basis that the foregoing provisions of this section do not apply to such periods as aforesaid and secondly as if the said foregoing provisions applied to such periods as aforesaid and secondly as if the said foregoing provisions applied to such periods as aforesaid as they apply to periods beginning at or after the said end of March, and it shall then be ascertained, on each basis, whether there are excess profits or a deficiency of profits for the whole period, and if so what is the amount thereof;
 - (b) there shall be deemed to be for the first part of the period, excess profits or a deficiency of profits, as the case may be, equal to an apportioned part of the excess profits or deficiency of profits ascertained under paragraph (a) of this subsection on the first basis mentioned therein, and there shall be deemed to be, for the second part of the period, excess profits or a deficiency of profits, as the case may be, equal to an apportioned part of the excess profits or deficiency of profits ascertained under paragraph (a) of this subsection on the second basis mentioned therein;
 - (c) for the purposes of this section, the first part of the whole period and the second part of the whole period shall each be treated as if it were a separate chargeable accounting period.

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Any apportionment required to be made by paragraph (b) of this subsection shall be made by reference to the number of months or fractions of months in each of the parts of the whole period.

In this subsection, references to the whole period, the first part of the period and the second part of the period shall be construed respectively as references to the whole of the chargeable accounting period falling partly before and partly after the said end of March, so much thereof as falls before the said end of March and so much thereof as falls after the said end of March, and the expression “excess profits” means the amount by which the profits for any period exceed the standard profits therefor.

Modifications etc. (not altering text)

- C1** The text of ss. 32–34 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C2** S. 32 extended by [Finance \(No. 2\) Act 1945 \(9–10 G. 6. c. 13\)](#), s. 33(4)

Marginal Citations

- M1** 1940 c.29

33 Tax avoidance.

- (1) Section thirty-five of ^{M2}the Finance Act, 1941 (which relates to transactions designed to avoid liability to excess profits tax), shall have effect, and shall, subject to the provisions of this section, be deemed always to have had effect, as amended by the subsequent provisions of this section.
- (2) In subsection (1) of the said section, for the words “the main purpose for which any transaction or transactions was or were effected” there shall be substituted the words “the main purpose or one of the main purposes for which any transaction or transactions was or were effected”, and in subsection (3) of the said section, for the words “on the ground that the main purpose of the transaction or transactions was not the avoidance or reduction of liability to tax” there shall be substituted the words “on the ground that the avoidance or reduction of liability to tax was not the main purpose or one of the main purposes of the transaction or transactions”.
- (3) If it appears in the case of any transaction or transactions, being a transaction which involves, or transactions one or more of which involve—
- (a) the transfer or acquisition of shares in a company; or
 - (b) a change or changes in the person or persons carrying on a trade or business or part of a trade or business,

that, having regard to the provisions of the law relating to excess profits tax, other than the said section thirty-five and this section, which were in force at the time when the transaction or transactions was or were effected, the main benefit which might have been expected to accrue from the transaction or transactions during the currency of excess profits tax was avoidance or reduction of liability to the tax, the avoidance or reduction of liability to excess profits tax shall be deemed for the purposes of the said section thirty-five to have been the main purpose or one of the main purposes of the transaction or transactions.

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- (4) A direction under the said section thirty-five as amended by this section may be given notwithstanding that a direction has been given under that section before the passing of this Act in relation to the transaction or transactions in question or some of them :

Provided that in any case where a direction so given has, before the twenty-fifth day of April, nineteen hundred and forty-four, been cancelled or varied on appeal by the Special Commissioners, no direction given by virtue of this section in relation to the transaction or transactions in question shall affect any chargeable accounting periods ending before the first day of April, nineteen hundred and forty-four.

Modifications etc. (not altering text)

- C3** The text of ss. 32–34 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M2** 4 & 5 Geo. 6. c. 30.

34 Amendment of s.21 of Finance Act, 1943.

Section twenty-one of the Finance Act, 1943, shall have effect and be deemed always to have had effect as if the word “coal” were inserted after the second word “to” in the fifth line thereof.

Modifications etc. (not altering text)

- C4** The text of ss. 32–34 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

35–41 **F1**

Textual Amendments

- F1** Pt. VI (ss. 35–41) repealed by Finance Act 1946 (c. 64), s. 67, **Sch. 12 Pt. III**; (with savings) by Finance Act 1965 (c. 25), ss. 88(1), 97(5), **Sch. 22 Pt. IV**; Finance Act 1969 (c. 32), s. 61(6), **Sch 21 Pt. V** and (with savings) by Finance Act 1975 (c. 7), ss. 50, 52(2)(3), 59, **Sch. 13 Pt. I**

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