



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

General reliefs

28 Earned income and other personal reliefs

- (1) Subject to subsection (2) below, for the purpose of charging surtax for any year of assessment there shall be deducted from an individual's total income—
 - (a) the amount income tax on which at the standard rate for that year is equal to the deduction which he is entitled to be allowed for that year under section 9(1) above (earned income relief), and
 - (b) where a deduction falls to be made under paragraph (a) above and the earned income of the individual in question, reduced by the amount of that deduction, exceeds £2,000, whichever is the less of the following amounts, that is to say, the amount of the excess and £2,000, and
 - (c) the amount income tax on which at the standard rate for the year is equal to the deductions which he is entitled to be allowed for that year from income tax other than surtax under sections 8(1), 10 and 12 to 18 above, after subtracting from those deductions the amount of the deduction which a single person may be allowed for that year under the said section 8(1).
- (2) Where an individual not resident in the United Kingdom is entitled to a deduction for any year under subsection (1) above, the deduction shall be reduced in the proportion in which the proviso to section 27(2) above reduces any relief given him for that year under Chapter II of this Part of this Act.

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29 Relief on death in year for which rates increased

The amount of surtax payable in respect of the total income of an individual for the year of assessment in which he dies shall not exceed the amount of surtax which would have been payable if income tax had been chargeable for that year at the same rates as for the year preceding that year, and all such adjustments and repayments of tax shall be made as may be required in order to give effect to the provisions of this section.

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 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.

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- (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 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.

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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.

Other special provisions

34 Surtax to be charged on consideration for certain restrictive covenants etc.

- (1) Where—
 - (a) an individual who holds, has held, or is about to hold, an office or employment gives in connection with his holding thereof an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict him as to his conduct or activities, and
 - (b) in respect of the giving of that undertaking by him, or of the total or partial fulfilment of that undertaking by him, any sum is paid either to him or to any other person, and
 - (c) apart from this section, the sum paid would neither fall to be treated as income of any person for the purposes of income tax for any year of assessment nor fall to be taken into account as a receipt in computing, for the purposes of income tax for any year of assessment, the amount of any income of, or loss incurred by, any person,

the same results shall follow in relation to surtax for the year of assessment in which the said sum is paid as would have followed if the said sum had been paid to the said individual (and not to any other person) as and for the net amount of an annual payment to which the said individual was entitled, being an annual payment chargeable to income tax from the gross amount of which income tax at the standard rate for that year had been duly deducted under section 52 or 53 of this Act:

Provided that, where the individual has died before the payment of the said sum, so much of the preceding provisions of this subsection as relates to the results which are to follow from the matters specified in paragraphs (a) to (c) thereof shall have effect as if the said sum had been paid immediately before the death.

- (2) Where valuable consideration otherwise than in the form of money is given in respect of the giving of, or of the total or partial fulfilment of, any undertaking, subsection (1) above shall apply as if a sum had instead been paid equal to the value of that consideration.

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- (3) Subsections (1) and (2) above shall not apply to any sum paid or consideration given if either—
- (a) the undertaking in question was given on or before 6th April 1948, or
 - (b) the sum or consideration is or was paid or given at or after the time of the retirement of the individual in question from the service of the person under whom the office or employment in question was held, and is or was so paid or given in pursuance of a provision in that behalf which expressly provides for the payment or giving thereof at or after that time and is embodied in a contract made in writing on or before 18th April 1950, or reduced to writing on or before that date, or
 - (c) the sum or consideration is or was paid or given in pursuance of an express provision in that behalf embodied in a contract made in writing on or before the said 18th April, or reduced to writing on or before that date, being a contract the main purpose of which was to provide for the transfer of a trade or part of a trade, or for the transfer of the controlling interest in any body corporate.

For the purposes of this subsection, a director of a company shall be deemed to be in the service of that company and to hold his office as such under that company.

- (4) Where any sum is paid or valuable consideration given to any person in any year of assessment in respect of the giving of, or of the total or partial fulfilment of, an undertaking given after 6th April 1948 and satisfying the conditions specified in subsection (1)(a) above (not being a sum from which income tax is duly deducted under any provision of the Income Tax Acts), it shall be the duty of the person paying over the sum or giving the consideration to deliver particulars thereof in writing to the inspector not later than one month after the end of that year, identifying the recipient of the payment or consideration, the undertaking in connection with which it was made or given and the individual who gave that undertaking.
- (5) In this section " office or employment" means any office or employment whatsoever such that the emoluments thereof, if any, are or would be chargeable to income tax under Case I or II of Schedule E ; and references in this section to the giving of valuable consideration do not include references to the mere assumption of an obligation to make over or provide valuable property, rights or advantages, but do include references to the doing of anything in or towards the discharge of such an obligation.

35 Expenses of Crown servants abroad

For the purpose of charging surtax, there shall be deducted from the total income of an individual in the service of the Crown abroad any such sum as the Minister for the Civil Service may allow for expenses which, in the Minister's opinion, are necessarily incidental to the discharge of the functions of the individual's office and for which an allowance has not already been made.

36 Recovery of surtax due from beneficiary under discretionary trust

- (1) The provisions of this section shall have effect in relation to surtax due from any person (in this section referred to as "the beneficiary") to whom, or for whose benefit, any income or any capital may in the discretion of some other person be paid or applied under a trust.

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- (2) If any surtax charged in respect of the income of the beneficiary is not paid before the expiry of six months from the date when it became due and payable, the Board may at any time thereafter, so long as the said surtax remains unpaid, cause to be served on the trustees of the trust a notice in writing that the said surtax remains unpaid.
- (3) Where such a notice as aforesaid is served in accordance with the provisions of this section on the trustees of the trust, it shall be the duty of the trustees, as soon as may be, and if necessary from time to time, to pay to the Board in or towards satisfaction of the said surtax from time to time remaining unpaid any income or capital which, by virtue of any exercise of the discretion under the trust, the beneficiary may become entitled to receive or to have applied for his benefit.
- (4) Any payments made out of income by trustees on account of surtax in respect of which a notice under this section has been served shall be deemed for all the purposes of the Income Tax Acts to represent income paid to the beneficiary.
- (5) Any sum which the trustees are liable to pay by virtue of the provisions of this section shall be recoverable from them as a debt due to the Crown.
- (6) Where there are two or more trustees under the trust, a notice under this section shall be deemed to have been validly served upon the trustees if served upon any one of them, but nothing in this section shall render a trustee personally liable for anything done by him in good faith and in ignorance of the fact that such a notice has been served.