



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART XIV

#### MISCELLANEOUS SPECIAL PROVISIONS

### CHAPTER VI

#### OTHER PROVISIONS

#### **411 Business entertaining expenses**

- (1) Subject to the provisions of this section—
- (a) no deduction shall be made in computing profits or gains chargeable to tax under Schedule A or Schedule D for any expenses incurred in providing business entertainment, and such expenses shall not be included in computing any expenses of management in respect of which relief may be given under the Tax Acts;
  - (b) no deduction for expenses so incurred shall be made from emoluments chargeable to tax under Schedule E ; and
  - (c) for the purposes of Chapter II of Part I of the Capital Allowances Act 1968 (capital allowances for machinery and plant) the use of any asset for providing business entertainment shall be treated as use otherwise than for the purposes of a trade.
- (2) Subsection (1) of this section shall not apply to expenses incurred in, or the use of an asset for, the provision by a person carrying on a trade in the United Kingdom (in this section referred to as a " United Kingdom trader "), or by a member of his staff, of entertainment for an overseas customer of that person, being entertainment of a kind and on a scale which is reasonable having regard to all the circumstances.
- (3) The expenses to which paragraph (a) of subsection (1) of this section applies include, in the case of any person, any sums paid by him to, or on behalf of, or placed by him at

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the disposal of, a member of his staff exclusively for the purpose of defraying expenses incurred or to be incurred by him in providing business entertainment, but where—

- (a) any such sum falls to be included in his emoluments chargeable to tax under Schedule E; and
- (b) the deduction or inclusion of that sum as mentioned in that paragraph falls to be disallowed in whole or in part by virtue of this section ;

paragraph (b) of that subsection shall not preclude the deduction of any expenses defrayed out of that sum.

- (4) Where by virtue of subsection (2) of this section a person claims to deduct or include any expenses as mentioned in paragraph (a) or (b) of subsection (1) of this section or claims any allowance under the provisions mentioned in paragraph (c) of that subsection he shall, if the inspector so requires, furnish particulars of the entertainment in question and of the person for whom it was provided.
- (5) For the purposes of this section " business entertainment " means entertainment (including hospitality of any kind) provided by a person, or by a member of his staff, in connection with a trade carried on by that person, but does not include anything provided by him for bona fide members of his staff unless its provision for them is incidental to its provision also for others.
- (6) For the purposes of this section " overseas customer" means, in relation to any United Kingdom trader—
  - (a) any person who is not ordinarily resident nor carrying on a trade in the United Kingdom and avails himself, or may be expected to avail himself, in the course of a trade carried on by him outside the United Kingdom, of any goods, services or facilities which it is the trade of the United Kingdom trader to provide; and
  - (b) any person who is not ordinarily resident in the United Kingdom and is acting, in relation to such goods, services or facilities, on behalf of an overseas customer within paragraph (a) of this subsection or on behalf of any government or public authority of a country outside the United Kingdom.
- (7) In this section any reference to expenses incurred in, or to the use of an asset for, providing entertainment includes a reference to expenses incurred in, or to the use of an asset for, providing anything incidental thereto; references to a trade include references to any business, profession or vocation; and references to the members of a person's staff are references to persons employed by that person, directors of a company or persons engaged in the management thereof being for this purpose deemed to be persons employed by it.
- (8) This section shall apply in relation to the provision of a gift as it applies in relation to the provision of entertainment, except that it shall not by virtue of this subsection apply in relation to the provision for any person of a gift consisting of an article incorporating a conspicuous advertisement for the donor, being an article—
  - (a) which is not food, drink, tobacco or a token or voucher exchangeable for goods ; and
  - (b) the cost of which to the donor, taken together with the cost to him of any other such articles given by him to that person in the same year, does not exceed £1.
- (9) Nothing in this section shall be taken as precluding the deduction of expenses incurred in, or any claim for capital allowances in respect of the use of an asset for, the provision by any person of anything which it is his trade to provide, and which is provided by

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him in the ordinary course of that trade for payment or, with the object of advertising to the public generally, gratuitously.

#### **412 Statutory redundancy payments**

- (1) Any redundancy payment, and the corresponding amount of any other employer's payment, shall be exempt from income tax under Schedule E.
- (2) Where a redundancy payment or other employer's payment is made in respect of employment wholly in a trade, profession or vocation carried on by the employer, and within the charge to tax, the amount of the redundancy payment or the corresponding amount of the other employer's payment shall (if not otherwise so allowable) be allowable as a deduction in computing for the purposes of Schedule D the profits or gains or losses of the trade, profession or vocation, but if it is so allowed by virtue of this section the amount of the rebate recoverable shall (if it is not otherwise to be so treated) be treated as a receipt to be brought into account in computing those profits or gains; and if the employer's payment was made after the discontinuance of the trade, profession or vocation the net amount so deductible shall be treated as if it were a payment made on the last day on which the trade, profession or vocation was carried on.
- (3) Where a redundancy payment or other employer's payment is made in respect of employment wholly in a business carried on by the employer, and expenses of management of the business are eligible for relief under section 304 or section 305 of this Act the amount by which the redundancy payment, or the corresponding amount of the other employer's payment, exceeds the recoverable rebate shall (if not otherwise so allowable) be allowable as expenses of management eligible for relief under that section; and if the employer's payment was made after the discontinuance of the business the net amount so allowable shall be treated as if it were expenses of management incurred on the last day on which the business was carried on.
- (4) Where a redundancy payment or other employer's payment is made in respect of employment wholly in maintaining or managing property the expenses of maintaining or managing which were eligible for relief under the provisions of section 72(1) or section 74 of this Act (allowable deductions for tax under Schedule A), the amount by which the redundancy payment or the corresponding amount of the other employer's payment exceeds the recoverable rebate shall (if not otherwise allowable under those provisions) be treated for the purposes of the said provisions as a payment made by the employer in respect of the maintenance or management of the property, or of such part of it as he may elect; and if the employer's payment was made after the latest time when it could be taken into account for the purposes of relief under the said provisions as a payment in respect of the maintenance or management of the property or any part of it, it shall be treated as having been made at that time.
- (5) Relief shall not be given under subsections (2), (3) and (4) above, or otherwise, more than once in respect of any employer's payment, and if the employee was being employed by the employer in such a way that different parts of the employee's remuneration fell for tax purposes to be treated in different ways, the amount by which the redundancy payment, or the corresponding amount of the other employer's payment, exceeds the recoverable rebate shall be apportioned to the different capacities in which the employee was employed, and subsections (2), (3) and (4) above shall apply separately to the employment in those capacities, and by reference to the apportioned part of the said amount, instead of by reference to the full amount of the employer's payment, and the full amount of the rebate.

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- (6) Where the Minister pays a sum under section 32 of the Redundancy Payments Act 1965 or section 42 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 in respect of an employer's payment this section shall apply as if that sum had been paid on account of that redundancy or other employer's payment and, so far as the employer has reimbursed the Minister, as if it had been so paid by the employer.
- (7) In this section " redundancy payment", " employer's payment" and " rebate " have the same meaning as in Part II of the Redundancy Payments Act 1965 or Part III of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965, and—
- (a) references to the corresponding amount of an employer's payment (other than a redundancy payment) are references to the amount of that employer's payment so far as not in excess of the amount of the relevant redundancy payment (and so that where in consequence of section 30(2) of the Redundancy Payments Act 1965 or section 40(2) of the said Act of Northern Ireland, there is no relevant redundancy payment, the corresponding amount of the employer's payment is nil),
  - (b) " relevant redundancy payment" shall be construed in accordance with paragraph 8 of Schedule 5 to the Redundancy Payments Act 1965 or paragraph 8 of Schedule 6 to the said Act of Northern Ireland,
  - (c) in subsection (6) above " the Minister ", in relation to the Redundancy Payments Act 1965, means the Secretary of State and, in relation to the said Act of Northern Ireland, means the Ministry of Health and Social Services,
- and a source of income is " within the charge to tax " if tax is chargeable on the income arising from it, or would be so chargeable if there were any such income.
- (8) In subsection (1) above the reference to tax under Schedule E does not include a reference to tax under section 187 of this Act (payments on retirement or removal from office or employment) and accordingly payments exempted by subsection (1) above may be taken into account under that section.

#### **413 Funds in court**

- (1) If any common investment fund established under section 1 of the Administration of Justice Act 1965 is for the time being designated for the purposes of this subsection by an agreement between the Board and the Public Trustee—
- (a) the Public Trustee shall be entitled to exemption from income tax in respect of so much of the income derived from that fund or any investment thereof as is paid by him by way of dividend on the shares into which the fund is divided ; and
  - (b) dividends on those shares shall be paid without deduction of income tax and shall be chargeable under Case III of Schedule D.
- (2) A claim for exemption under subsection (1)(a) above shall be made to the Board.
- (3) Where at any time, by virtue of subsection (1) of this section, the income of a person from any source becomes chargeable to income tax as therein provided, not having previously been chargeable by direct assessment on that person, section 120(3) of this Act shall apply as if the source of that income were a new source of income acquired by that person at that time.

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- (4) The Accountant General shall as respects each year of assessment furnish to the Board, at such time and in such manner as they may direct, particulars of any sums paid without deduction of tax by virtue of subsection (1) of this section and of the persons to whom such sums were paid, except that particulars shall not be required of any case where the total of such sums paid to any person in that year did not exceed £15.
- (5) An agreement designating a fund for the purposes of subsection (1) of this section may provide for incidental and consequential matters, including arrangements for giving effect to subsection (1)(a) of this section by provisional repayments of tax deducted at source, and may be determined by the Board or the Public Trustee by one year's notice in writing expiring with the end of any year of assessment.
- (6) The reference in this section to the Accountant General is a reference to the Accountant General of the Supreme Court of Judicature in England and, in relation to any such moneys as are mentioned in section 30 of the Administration of Justice Act 1965 (which relates to Northern Ireland), or money in a county court in Northern Ireland, and in relation to investments representing such moneys, includes a reference to the Accountant General of the Supreme Court of Judicature of Northern Ireland or any other person by whom such funds are held.

#### **414 Relief from income tax on certain savings bank interest**

- (1) Where the total income of an individual for the year of assessment includes, or would but for this section include, any sums paid or credited in respect of interest on—
  - (a) deposits with the National Savings Bank, other than investment deposits,
  - (b) ordinary deposits with a trustee savings bank, or
  - (c) deposits with a seamen's savings bank,those sums shall be disregarded for all the purposes of the Income Tax Acts, other than surtax or the furnishing of information, if or in so far as they do not exceed £15 ; and for this purpose the question whether or how far those sums exceed £15 shall, where by virtue of section 37 of this Act, a woman's income is deemed to be her husband's, be determined separately as regards the part of his income which is his by virtue of that section and the part which is his apart from that section.
- (2) Where by virtue of subsection (1) above the total income of an individual for any year of assessment is treated as reduced by any amount for the purposes of income tax chargeable at the standard rate, it shall for the purposes of surtax be treated as having in the first place been reduced by a like amount but having thereafter been increased by such amount as would after deduction of income tax at the standard rate for that year be equal to the amount of the reduction.
- (3) Where, on the application in that behalf of any savings bank maintained under a local Act, the Treasury are satisfied, having regard to the rules to be adopted by the bank, the conditions subject to which deposits are to be accepted by it or any department to be formed by it, and such other matters as the Treasury may require to be proposed in the application, that the deposits will, if the application is granted, sufficiently correspond with savings account deposits in a trustee savings bank to justify a certificate under this section, the Treasury may certify the bank or department for the purposes of this section, and, while the certificate is in force—
  - (a) the interest payable on the deposits shall not exceed the rate of 2 ½ per cent. per annum, but the interest shall be treated for the purposes of this section as if it were such interest as is mentioned in subsection (1) above, and

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- (b) the deposits shall be invested with the National Debt Commissioners, and
- (c) the provisions of the Trustee Savings Banks Act 1969 specified below shall apply in relation to the bank or department as they apply in relation to trustee savings banks, but subject to such modifications as the Treasury may by order provide, including, if the order so provides, a reduction of the rate which the Treasury may by order under section 34(2) of the said Act of 1969 fix as the rate of interest on receipts for the bank's or department's payments into the Fund for the Banks for Savings.

The provisions of the Trustee Savings Banks Act mentioned in paragraph (c) above are sections 32, 33(1) and (2), 34 (except subsections (3) and (5)), 35 to 37 and 39 to 42.

- (4) The Treasury may by order under subsection (3) above make for any bank or department for the time being certified under that subsection provision as to the manner in which sums standing to the credit of the bank or department in the books of the National Debt Commissioners may be withdrawn, the manner in which payments may be made on any such withdrawal and the manner in which a valid discharge is to be given to the Commissioners for any such payment.
- (5) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, and may be varied or revoked by a subsequent order.
- (6) If the Treasury at any time cease to be satisfied that a certificate under subsection (3) above is justified they may revoke the certificate and give such directions as they think fit for the withdrawal by the bank or department of any money standing to its credit in the books of the National Debt Commissioners.
- (7) In this section—
  - " investment deposit ", in relation to the National Savings Bank, has the meaning given by section 1(2) of the Post Office Savings Bank Act 1966,
  - " trustee savings bank ", " ordinary deposit " and " savings account deposit " have the same meanings as in the Trustee Savings Banks Act 1969,
  - " seamen's savings bank " means a bank maintained under section 148 of the Merchant Shipping Act 1894.

#### **415 Contractual savings schemes: income tax and capital gains tax**

- (1) Any terminal bonus, or interest or other sum, payable under a certified contractual savings scheme—
  - (a) in respect of money raised under section 12 of the National Loans Act 1968, or
  - (b) in respect of shares in a building society,
 shall be disregarded for all purposes of the Income Tax Acts and of the enactments relating to capital gains tax.
- (2) In this section " certified contractual savings scheme " means, except in relation to a building society, a scheme—
  - (a) governed by regulations made under section 12 of the National Debt Act 1958 or section 52 of the Finance Act 1969, and
  - (b) providing for periodical contributions by individuals for a specified period, and the repayment in accordance with the regulations of contributions together with any additional sum by way of bonus or interest, and
  - (c) certified by the Treasury as qualifying for exemption under this section.

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- (3) In this section "certified contractual savings scheme" means, in relation to a building society, a scheme—
  - (a) providing for periodical contributions by individuals for a specified period, being contributions by way of investment in shares in the building society, and
  - (b) certified by the Treasury as corresponding to a scheme certified under subsection (2) above, and as qualifying for exemption under this section.
- (4) Nothing in this section shall be taken as affecting section 343 (2) (a) of this Act (allowance of dividends on building society's shares in computing the society's profits for corporation tax), and that paragraph shall apply to any terminal bonus paid by the society under a certified contractual savings scheme as if it were a dividend on a share in the society.
- (5) In this section "building society" means a building society within the meaning of the Building Societies Act 1962 or the Building Societies Act (Northern Ireland) 1967.

#### **416 Local authority borrowing in foreign currency**

- (1) If the Treasury direct that this section shall apply to any securities issued by a local authority and expressed in the currency of a country which at the time of the issue is outside the scheduled territories, interest on those securities—
  - (a) shall be paid without deduction of income tax, and
  - (b) so long as the beneficial owner is not resident in the United Kingdom, shall be exempt from income tax (but not from corporation tax).
- (2) Where for repayment of the principal amount due under the securities there is an option between one or more currencies within subsection (1) above and one or more other currencies, that subsection shall be applicable to the securities if the option is exercisable only by the holder of the securities, and shall not be applicable to the securities in any other case.
- (3) Where any income of any person is by virtue of any provision of the Income Tax Acts to be deemed to be income of any other person, that income shall not be exempt from tax by virtue of this section by reason of the first-mentioned person not being resident in the United Kingdom.
- (4) In this section "the scheduled territories" means the territories specified in Schedule 1 to the Exchange Control Act 1947 as for the time being in force.

#### **417 Funding bonds issued in respect of interest on certain debts**

- (1) Where any funding bonds are issued to a creditor in respect of any liability to pay interest on any debt to which this section applies—
  - (a) the issue of the bonds shall be treated for all the purposes of the Tax Acts as if it were the payment of an amount of that interest equal to the value of the bonds at the time of their issue, and
  - (b) the redemption of the bonds shall not be treated for those purposes as the payment of any amount of that interest.
- (2) Where an issue of bonds is treated by virtue of subsection (1) above as if it were the payment of an amount of interest, and any person by or through whom the bonds are issued would be required by virtue of any provision of the Tax Acts to deduct income

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tax from that amount of interest if it had been actually paid by or through him, the following provisions shall have effect—

- (a) subject to paragraph (b) below, any such person—
    - (i) shall retain bonds the value of which at the time of their issue is equal to income tax on the said amount of interest at the standard rate for the year of assessment in which the bonds are issued, and
    - (ii) shall be acquitted in respect of any such retention in the same way as if he had deducted such tax from the interest, and
    - (iii) shall be chargeable with the said tax accordingly, but may tender the bonds so retained in satisfaction thereof;
  - (b) where the Board are satisfied that it is impracticable to retain bonds on account of income tax under paragraph (a) above—
    - (i) they may relieve any such person from the obligation to retain bonds and account for income tax under that paragraph, on his furnishing to them a statement of the names and addresses of the persons to whom the bonds have been issued and the amount of the bonds issued to each such person, and
    - (ii) tax in respect of the amount of interest treated by virtue of this section as having been paid by the issue of the bonds shall be charged under Case VI of Schedule D for the chargeable period in which the bonds are issued on the persons receiving or entitled to the bonds.
- (3) This section applies to any debt incurred, whether in respect of any money borrowed or otherwise, by any government, public authority or public institution whatsoever, or by any body corporate whatsoever.
- (4) For the purposes of this section " funding bonds " includes any bonds, stocks, shares, securities or certificates of indebtedness.

#### *Unremittable overseas income*

### **418 Relief for unremittable income**

- (1) Where a person is chargeable to tax by reference to the amount of any income arising in a territory outside the United Kingdom (hereafter in this section referred to as " overseas income"), then for the purposes of tax this section shall apply to the overseas income in so far as—
- (a) he is prevented from transferring the amount of the overseas income to the United Kingdom, either by the laws of that territory or any executive action of its Government or by the impossibility of obtaining foreign currency in that territory ; and
  - (b) he has not realised the overseas income outside that territory for a consideration in sterling or a consideration in some other currency which he is not prevented from transferring to the United Kingdom.

Overseas income to which this section applies is hereafter in this section referred to as unremittable.

- (2) Where a person chargeable as aforesaid gives written notice of his desire to be assessed in accordance with this subsection, then, in the first instance, account shall not be taken of the overseas income to the extent to which he shows to the satisfaction of the Board that the following conditions are satisfied with respect to it, that is to say—



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- (a) that it is unremittable ; and
  - (b) that subsection (1)(a) above would continue to apply notwithstanding any reasonable endeavours on his part,
- and tax shall be assessed and charged on all persons concerned and for all periods accordingly; but, on the Board ceasing, as respects any part of the income, to be satisfied that the said conditions are satisfied, such assessments, reductions of assessments and repayments of tax shall be made as may be necessary to take account of it, and of any tax payable in respect of it under the law of the territory where it arises, according to their value at the date when, in the opinion of the Board, the said conditions cease to be satisfied with respect to it, and may be so made at any time not later than six years after that date.
- (3) Any notice under subsection (2) above shall be delivered to the inspector before an assessment made by reference to that income otherwise than in accordance with that subsection has become final and conclusive; and there shall be made all such assessments, reductions of assessments or repayments of tax as may be required by reason of any such notice.
  - (4) In the case of the death of a person who, if he had not died, would, under subsection (2) above, have become chargeable to any income tax, the tax which would have been so chargeable shall be assessed and charged upon his executors or administrators, and shall be a debt due from and payable out of his estate.
  - (5) Subject to subsection (2) above, the amount of any unremittable overseas income shall be determined by reference to the generally recognised market value in the United Kingdom (if any) or, in the absence of any such value, according to the official rate of exchange of the territory where the income arises.
  - (6) Any appeal against an assessment which involves a question as to the operation of this section shall be made to the Special Commissioners, and not to the General Commissioners.
  - (7) In this section " overseas income " shall include any gains chargeable under Case VII of Schedule D which arise in a territory outside the United Kingdom, but so long as gains so arising in any year of assessment are treated as unremittable, losses arising in that year in the same territory shall be allowable under Case VII only in so far as they exceed those gains or the part thereof for the time being treated as unremittable.

#### **419 Relief from tax on delayed remittances**

- (1) A person charged or chargeable for any year of assessment in respect of income from any source with tax which (apart from this section) falls to be computed under Case IV or V of Schedule D, or under Case III of Schedule E, on the amount of income received in the United Kingdom in the basis year for that year of assessment, may by making a claim require that the following provisions of this section shall apply, on showing that the following conditions are satisfied, that is to say—
  - (a) that of the income so received all or part arose before the basis year but he was unable to transfer it to the United Kingdom before that year; and
  - (b) subject to subsection (2) below, that that inability was due to the laws of the territory where the income arose, or to executive action of its government, or to the impossibility of obtaining foreign currency in that territory; and
  - (c) that the inability was not due to any want of reasonable endeavours on his part.

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- (2) For the purposes of this section, where in any year of assessment a person is granted a pension or increase of pension retrospectively, the amount paid in respect of any previous year of assessment by virtue of the grant shall be treated as income arising in that previous year, whenever it is paid, and he shall be treated as having possessed the source of income from the time as from which the grant has effect; and subsection (1) (b) above shall not apply in relation to any amount so paid, except as respects the period after it becomes payable.
- (3) Where a person claims that the provisions of this section shall apply for any year of assessment as respects the income from any source, then for purposes of income tax—
  - (a) there shall be deducted from the income received in the United Kingdom in the basis year for that year the amount as respects which the conditions in paragraphs (a), (b) and (c) of subsection (1) above are satisfied, so far as applicable; but
  - (b) the part (if any) of that amount arising in each previous year of assessment shall be treated as if it were income received in the United Kingdom in the basis year for that previous year.
- (4) Nothing in this section shall alter the year which is to be taken as the basis year for computing tax chargeable for any year of assessment under Case IV or V of Schedule D, and where under subsection (3) (b) above income is treated as received in the United Kingdom in a year which is the basis year for two years of assessment, it shall not by reason thereof be taken into account except in the year in which it arose.
- (5) Where a person makes a claim under this section for any year of assessment as respects income from any source chargeable under the said Case IV or V, and that year is the basis year for computing the tax with which he is chargeable on the income from that source both for that and for the succeeding year of assessment, tax shall not be chargeable for either of those years of assessment on the amount referred to in paragraph (a) of subsection (3) of this section (without however being charged a second time by virtue of paragraph (b) of that subsection).
- (6) No claim under this section shall be made in respect of any income more than six years after the end of the year of assessment in which the income is received in the United Kingdom.
- (7) There shall be made all such adjustments, whether by way of repayment of tax, assessment or otherwise, as may be necessary to give effect to this section, and notwithstanding anything in the Income Tax Acts, any adjustment to give effect to a claim under this section may be made at any time.
- (8) A person's executors or administrators may make any claim under this section which he might have made, if he had not died, and after a person's death—
  - (a) any tax paid by him and repayable by virtue of a claim under this section (whoever made the claim) shall be repaid to his executors or administrators ; and
  - (b) any additional tax chargeable by virtue of such a claim shall be assessed and charged upon his executors or administrators and shall be a debt due from and payable out of his estate.
- (9) In this section " basis year " means, in relation to tax chargeable for any year of assessment under Case IV or V of Schedule D in respect of income from any source, the year by reference to which the amount of the income chargeable finally falls to be computed, and in relation to tax chargeable for any year of assessment under Case III

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of Schedule E, means that year of assessment; and any reference in this section to a source of income includes a part of a source.

#### *War risks and war injuries*

### **420 Disallowance of deductions for war risk premiums**

- (1) In computing the amount of the profits or gains of any person for any tax purpose, no sum shall be deducted in respect of any payment made by him to which this section applies.
- (2) No payment to which this section applies shall be included in computing the expenses of management in respect of which relief may be given under section 304 or section 305 of this Act.
- (3) This section applies to any payment made by any person under any contract or arrangement under which that person is, in the event of war damage, entitled or eligible, either absolutely or conditionally, to or for any form of indemnification, whether total or partial, and whether by way of a money payment or not, in respect of that war damage:

Provided that—

- (a) where the payment is made in respect of the right or eligibility aforesaid and also in respect of other matters, the deduction or inclusion of so much of the payment as is properly attributable to the other matters shall not be disallowed by virtue only of subsection (1) or subsection (2) of this section ; and
  - (b) this section shall not apply to any payment made under—
    - (i) any policy of insurance issued under Part II of the War Risks Insurance Act 1939, or any similar enactment in force in any country outside the United Kingdom; or
    - (ii) any contract of marine insurance, or any contract of insurance of an aircraft, or any contract of insurance of goods in transit.
- (4) In this section, " war damage " means loss or damage arising from action taken by an enemy of Her Majesty, or action taken in combating such an enemy or in repelling an imagined attack by such an enemy, or action taken in anticipation of or in consequence of an attack by such an enemy.

### **421 Disallowance of certain payments in respect of war injuries to employees**

- (1) In computing the amount of the profits or gains, or total income, of any person for any tax purpose, no sum shall be deducted in respect of any payment made by him to which this section applies.
- (2) No payment to which this section applies shall be included in computing—
  - (a) the expenses of management in respect of which relief may be given under section 304 or section 305 of this Act; or
  - (b) the expenses of management or supervision in respect of which relief may be given under section 158 of this Act (expenses of owner of mineral rights).
- (3) This section applies—
  - (a) to any payments by way of benefit made by any person to, or to the personal representatives or dependants of, any employees of his on account of their

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incapacity, retirement or death owing to war injuries, whether sustained in the United Kingdom or elsewhere; and

- (b) to any payments made by any person by way of premium or contribution under any policy, agreement, scheme or arrangement providing for the payment of benefits to, or to the personal representatives or dependants of, any employees of his on account of their incapacity, retirement or death as aforesaid:

Provided that—

- (i) this section shall not apply to any payment (whether by way of benefit or by way of premium or contribution) which is payable under any policy, agreement, scheme or arrangement made before 3rd September 1939, except to the extent that the amount of the payment is increased by any variation of the terms of that policy, agreement, scheme or arrangement made on or after that date;
- (ii) this section shall not apply to any payment by way of benefit if, in the opinion of the Board, that payment was made under an established practice which was such that the same or a greater payment would have been made if the incapacity, retirement or death had not been due to war injuries.
- (4) Where a person makes a payment by way of benefit to which this section applies and, in the opinion of the Board, there is an established practice under which a smaller payment would have been made if the incapacity, retirement or death had not been due to war injuries, the deduction or inclusion of an amount equal to that smaller payment shall not be disallowed by virtue only of subsection (1) or subsection (2) of this section.
- (5) Where a person makes a payment to which this section applies by way of premium or contribution, and the policy, agreement, scheme or arrangement provides for the payment of any benefit in the event of incapacity, retirement or death not due to war injuries, the deduction or inclusion of so much of the payment of premium or contribution as, in the opinion of the Board, is properly attributable to benefit payable in the event of incapacity, retirement or death not due to war injuries shall not be disallowed by virtue only of subsection (1) or subsection (2) of this section.
- (6) In this section " war injuries " means physical injuries—
- (a) caused by—
- (i) the discharge of any missile (including liquids and gas);
  - (ii) the use of any weapon, explosive or other noxious thing; or
  - (iii) the doing of any other injurious act,
- either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or
- (b) caused by the impact on any person or property of any enemy aircraft, or any aircraft belonging to, or held by any person on behalf of, or for the benefit of, Her Majesty or any allied power, or any part of, or anything dropped from, any such aircraft.

*Pre-war provisions for tax free annuities, salaries, pensions, etc.*

#### **422 Modification of pre-war provisions for tax free annuities, etc.**

- (1) Subject to the provisions of this section, any provision, however worded, for the payment, whether periodically or otherwise, of a stated amount free of income tax, or free of income tax other than surtax, being a provision which—

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- (a) is contained in any deed or other instrument, in any will or codicil, in any order of any court, in any local or personal Act, or in any contract, whether oral or in writing, and
  - (b) was made before 3rd September 1939, and
  - (c) has not been varied on or after that date,
- shall, as respects payments falling to be made during any year of assessment the standard rate of income tax for which exceeds 27-5 per cent., have effect as if for the stated amount there were substituted an amount equal to the appropriate fraction thereof.
- (2) Where any such provision as is mentioned in subsection (1) of this section is a provision for a payment free of income tax (and not merely a provision for a payment free of income tax other than surtax) the sum, if any, to be paid under that provision to make good the requirement that the payment shall be free of surtax shall, in the case of surtax for the year preceding any such year of assessment as is mentioned in the said subsection (1), be reduced to the appropriate fraction of the sum which would have been sufficient for that purpose if the rates of surtax in force for the year 1937-38 had applied to the year for which the surtax is payable.
  - (3) If, in the case of a payment to which subsection (1) of this section applies, the relations of the payee and the payor are such that the payee is accountable to the payor for so much of any relief from income tax which he receives as is ascribable to the payment—
    - (a) the liability of the payee to account to the payor shall be limited to the appropriate fraction of the sum for which he would have been accountable if the 1938-39 rates of income tax, other than surtax, had applied to the year of assessment in which the payment falls to be made, and the preceding provisions of this section had not been passed; and
    - (b) the relief to be given shall be calculated as if—
      - (i) the gross sum represented by the payment were what it would have been if the 1938-39 rates of income tax, other than surtax, had applied to the year of assessment in which the payment falls to be made, and the preceding provisions of this section had not been passed ; and
      - (ii) that gross sum had borne income tax at the standard rate of tax for the year of assessment in which the payment falls to be made.
  - (4) This section shall not—
    - (a) affect any provision falling within section 391(4) of this Act or section 106(2) of the Taxes Management Act 1970 (which render invalid agreements not to deduct income tax), or
    - (b) affect any provision if, by virtue of any provision in the same or any other deed, instrument, will, codicil, order, local or personal Act or contract which contemplates rises in the rates of income tax, the payments thereunder have ceased or, in the event of further rises in the rates of income tax, may cease, to be wholly free of income tax, or, as the case may be, wholly free of income tax other than surtax; or
    - (c) apply to any emoluments of any office, employment, annuity, pension or stipend taxed under Schedule E ; or
    - (d) apply to any dividends or shares of profits:

Provided that the reference in this subsection to any annuity taxed under Schedule E shall not include a reference to any annuity so taxed by virtue of section 208(3) of this Act (approved superannuation funds).

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- (5) In this section " the appropriate fraction " in relation to any year of assessment is

$$\frac{100-A}{72.5}$$

where A is the standard rate of income tax for the year expressed as a percentage.

#### **423 Modification of pre-war provisions for tax free salaries, pensions, etc.**

- (1) This section applies to offices, employments, annuities, pensions and stipends taxed under Schedule E, where by virtue of—

- (a) some provision which is contained in a contract (whether oral or in writing) made before the 3rd September 1939, and which has not been varied on or after that date; or
- (b) some provision which is contained in an enactment passed before 3rd September 1939 and which has not been amended on or after that date,

the emoluments include a payment to or for the benefit of the recipient of the emoluments in respect of his income tax:

Provided that the reference in this subsection to annuities taxed under Schedule E shall not include a reference to any annuities so taxed by virtue of section 208(3) of this Act (approved superannuation funds).

- (2) The amount, if any, payable, in a case to which this section applies, to or for the benefit of the recipient of the emoluments in respect of his income tax for any year of assessment, other than surtax, shall not exceed the amount which would have been payable if the 1938-39 rates of income tax, other than surtax, had applied to the year of assessment in question.
- (3) The amount, if any, payable, in a case to which this section applies, to or for the benefit of the recipient of the emoluments in respect of his surtax for any year of assessment shall not exceed the amount which would have been payable if the rates of surtax in force for the year 1937-38 had applied to the year of assessment in question.

#### **424 Interpretation of last two preceding sections**

For the purposes of sections 422 and 423 above—

- (a) a provision, however worded, for the payment of such sum as will after deduction of income tax be equal to a stated amount, shall be treated as a provision for the payment of the said stated amount free of income tax, other than surtax; and
- (b) the expression " a stated amount " includes a stated fraction of the gross amount of any specified income (that is to say, of the amount of that income before income tax has been charged thereon, whether by deduction or otherwise), but does not include a stated fraction of the net amount of any specified income (that is to say, of the amount of that income after it has been charged to income tax, whether by deduction or otherwise); and
- (c) the expression " if the 1938-39 rates of income tax, other than surtax, had applied " means, in relation to a year of assessment, if the standard rate of tax for the year had been 27.5 per cent. and the enactments relating to relief from income tax had not been amended in any respect by any Act passed since 3rd September 1939.

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*Arrangements for payment of interest less tax or of fixed net amount*

**425 Application to interest payable without deduction of tax**

- (1) It is hereby declared that any provision made before or after the passing of this Act, whether orally or in writing, for the payment of interest " less tax ", or using words to that effect, is to be construed, in relation to interest payable without deduction of tax, as if the words " less tax ", or the equivalent words, were not included.
- (2) In relation to interest on which the recipient is chargeable to tax under Case III of Schedule D, and which is payable without deduction of tax, any provision, made before or after the passing of this Act, whether orally or in writing, and however worded, for the payment of interest at such a rate (referred to below in this subsection as the " gross rate ") as shall, after the deduction of the standard rate of income tax for the time being in force, be equal to a stated rate, shall be construed as if it were a provision requiring the payment of interest at the gross rate.