



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XII

SPECIAL CLASSES OF COMPANIES AND BUSINESSES

CHAPTER IV

SAVINGS BANKS, INDUSTRIAL AND PROVIDENT SOCIETIES, BUILDING SOCIETIES AND MUTUAL BUSINESS

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- (1) Where any person receives any money or money's worth—
- (a) forming part of the assets of a body corporate, other than assets representing capital, or
 - (b) forming part of the consideration for the transfer of the assets of a body corporate, other than assets representing capital, as part of a scheme of amalgamation or reconstruction which involves the winding up of the body corporate, or
 - (c) consisting of the consideration for a transfer or surrender of a right to receive anything falling under paragraph (a) or (b) above, being a receipt not giving rise to any charge to tax on the recipient apart from this section,

and the body corporate has at any time carried on a trade which consists of or includes the conducting of any mutual business (whether confined to members of the body corporate or not), and is being or has been wound up or dissolved, the provisions of this section shall apply to the receipt.

- (2) If a transfer or surrender of a right under subsection (1)(c) of this section is not at arm's length, the person making the transfer or surrender shall, for the purposes of this section, be deemed then to have received consideration equal to the value of the right.

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- (3) If in respect of a payment of any amount made to the body corporate for the purposes of its mutual business any deduction has been allowed for the purposes of tax in computing the profits or gains or losses of a trade, then—
- (a) if at the time of the receipt the recipient is the person, or one of the persons, carrying on that trade, the amount or value of the receipt shall be treated for the purposes of tax as a trading receipt of that trade, and
 - (b) if at the time of the receipt the recipient is not the person, or one of the persons, carrying on that trade, but was the person, or one of the persons carrying on that trade when any payment was made to the body corporate for the purposes of its mutual business in respect of which a deduction was allowed for the purposes of tax in computing the profits or gains or losses of the trade, the recipient shall, subject to the provisions of subsection (5) of this section, be charged under Case VI of Schedule D for the chargeable period in which the receipt falls on an amount equal to the amount or value of the receipt.

Paragraph (a) of this subsection applies notwithstanding that, as a result of a change in the persons carrying on the trade, the profits or gains are under section 154 or section 251(1) of this Act (income tax and corporation tax rules for commencement or discontinuance of trade), determined as if it had been permanently discontinued and a new trade set up and commenced.

- (4) Where an individual is chargeable to tax by virtue of subsection (3)(b) of this section and the profits or gains of the trade there mentioned fell to be treated as earned income for the purposes of the Income Tax Acts, the sums in respect of which he is so chargeable shall also be treated for those purposes as earned income.
- (5) If the trade mentioned in subsection (3)(b) of this section was permanently discontinued before the time of the receipt, then in computing the charge to tax under the said subsection (3)(b) there shall be deducted from the amount or value of the receipt—
- (a) any loss, expense or debit (not being a loss, expense or debit arising directly or indirectly from the discontinuance itself) which, if the trade had not been discontinued, would have been deducted in computing for tax purposes the profits or gains or losses of the person by whom it was carried on before the discontinuance, or would have been deducted from or set off against those profits as so computed, and
 - (b) any capital allowance to which the person who carried on the trade was entitled immediately before the discontinuance and to which effect has not been given by way of relief before discontinuance.

Relief shall not be given under this subsection or under section 145(1) of this Act (post-cessation receipts: allowable deductions) in respect of any loss, expense, debit or allowance if and so far as it has been so given by reference to another charge to tax under this section or under section 143 of this Act (post-cessation receipts).

- (6) For the purposes of subsection (1) of this section assets representing capital consist of—
- (a) assets representing any loan or other capital subscribed, including income derived from any investment of any part of that capital, but not including profits from the employment of that capital for the purposes of the mutual business of the body corporate,

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- (b) assets representing any profits or gains charged to tax as being profits or gains of any part of the trade carried on by the body corporate which does not consist of the conducting of any mutual business,
 - (c) (so far as not comprised in the paragraphs above) assets representing taxed income from any investments.
- (7) In this section " mutual business " includes any business of mutual insurance or mutual trading.
- (8) Subsections (3), (4) and (5) of this section shall apply with any necessary modifications—
 - (a) to a profession or vocation, and
 - (b) to the occupation of woodlands the profits or gains of which are assessable under Schedule D,as they apply to a trade.
- (9) It is hereby declared that the description of trades in subsection (1) of this section does not include any trade all the profits or gains of which are chargeable to tax and, in particular, does not include such a trade carried on by any registered industrial and provident society.