

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1944, Part I. (See end of Document for details)

FOURTH SCHEDULE

ENEMY PROPERTY

PART I

INCOME TAX

Tax on income payable to custodian

- 1 Where any income which, but for the operation of the law relating to trading with the enemy, would be chargeable to income tax for any year of assessment apart from this paragraph becomes payable to a custodian, the same assessments to income tax (other than surtax) shall be made for that year on the custodian in respect of income from the source from which that income arose as might have been made on any person if the person who, but for the operation of the said law, would have been entitled to the income had been so entitled.
- 2 Where an assessment is made on a custodian under paragraph 1 of this Part of this Schedule in respect of any income, or any income which is paid subject to deduction of income tax is received by a custodian, and, in either case, it is shown to the satisfaction of the Commissioners of Inland Revenue that, but for the operation of the law relating to trading with the enemy, the person who, but for the operation of that law, would have been assessable to, or would have borne, the tax on that income, would, if a claim were made in that behalf, have been granted relief from all or any of the tax the same relief shall be granted to the custodian by repayment or otherwise.
- 3 Where an assessment is made on a custodian under paragraph 1 of this Part of this Schedule in respect of any income, or any income which is paid subject to deduction of income tax is received by a custodian, and, in either case, it appears that, but for the operation of the law relating to trading with the enemy, the income would have been taken into account in computing the total income of an individual for surtax purposes, that income shall be deemed for surtax purposes to be income of that individual and the same assessments to surtax may, without any notice to make a return being served on the custodian or that individual, be made on the custodian in respect of the income as might have been made on that individual or his executors or administrators if it had been his income and, where that individual has other income, if it were treated as the highest part of his total income:

Provided that where, in the case of any individual, assessments to surtax under this paragraph for any year of assessment could, apart from this proviso, be made on two or more custodians, one of those custodians (to be selected by the Special Commissioners) shall be assessed to surtax for that year in respect of all income to which this paragraph applies in relation to that individual.
- 4 Where, in the case of any individual who, but for the operation of the law relating to trading with the enemy, would be entitled to any income which is payable to a custodian, the Special Commissioners, on any information before them, are of opinion that any income (not being income to which the preceding paragraphs of this Part of this Schedule apply) would, if notice to make a return were served on that individual, fall to be included in his total income for surtax purposes, they may, without any notice to make a return being served on him or any notice of assessment, make an assessment to surtax upon that individual in respect of that income.

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Payment of tax by custodian

- 5 A custodian shall, save as expressly provided in this Part of this Schedule, pay or cause to be paid, out of money in his hands to which some other person would be entitled but for the operation of the law relating to trading with the enemy, any income tax (including surtax) assessed on a custodian by virtue of paragraph 1 or paragraph 3 of this Part of this Schedule, which, but for the operation of that law, would have been chargeable on or borne by that other person.
- 6 (1) A custodian shall, on demand of the Commissioners of Inland Revenue as respects tax other than surtax, and on demand of the Special Commissioners as respects surtax, pay or cause to be paid, out of money in his hands to which some other person would be entitled but for the operation of the law relating to trading with the enemy, any sum stated in the demand to be due from that person in respect of income tax other than surtax, or in respect of surtax, as the case may be, for whatever year of assessment (including years before the year 1939-40).
- (2) Any sum paid by a custodian in pursuance of such a demand shall be deemed for the purposes of the Income Tax Acts to have been paid by the person who is stated in the demand to be the person from whom it is due.
- (3) A sum may be included in any such demand as aforesaid notwithstanding that the relevant assessment is, or is still capable of being, the subject of an appeal.

Effect of release of property or income by custodian

- 7 Where a custodian releases to or for the benefit of, or to the personal representatives of, any person who has ceased to be an enemy or has died everything in the custodian's hands to which that person or his personal representatives, as the case may be, would, but for the operation of the law relating to trading with the enemy, be entitled—
- (a) any income which, but for the operation of that law, would have belonged to that person or to some person under whom he claims, shall thereafter be treated for all the purposes of the Income Tax Acts as having been income of the person whose income it would have been for those purposes but for the operation of the said law;
- (b) all income tax (including surtax) paid by deduction or otherwise by a custodian in respect of any such income shall thereafter be treated as having been paid by, and all reliefs allowed to a custodian in respect of any such income shall thereafter be treated as having been allowed to, the last-mentioned person; and
- (c) appeals may thereafter be brought by the last-mentioned person or his personal representatives against any assessment (including any assessment to surtax) made on a custodian in respect of any such income as if the assessment had been made on him.
- 8 Where an assessment is made under any of the preceding provisions of this Part of this Schedule on a custodian and, whether before or after the making of the assessment, the income or any part thereof is paid, transferred or released, or permitted to be paid or transferred, to any other person by the custodian, so much, if any, of the tax payable by virtue of the assessment as cannot, under the preceding provisions of this Part of this Schedule, be paid by the custodian shall be a debt due to the Crown—

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- (a) in a case to which the last preceding paragraph applies, from the person whose income it is, under that paragraph, treated as having been, or his personal representatives; and
- (b) in any other case, from the person to whom the income is so paid, transferred or released,

and may be recovered accordingly, and the custodian shall cease to be liable in respect of the tax.

Relaxation of time limits

- 9 Notwithstanding anything in the Income Tax Acts limiting the time for making assessments, assessments may be made under paragraphs 1, 3 and 4 of this Part of this Schedule at any time before such date as Parliament may hereafter determine, and any appeal against any such assessment, and any claim made either by a custodian or by virtue of paragraph 7 of this Part of this Schedule to relief from tax, may, notwithstanding anything in the Income Tax Acts restricting the time for bringing appeals or making claims for relief, be brought or made at any time before the said date.

Supplementary

- 10 For the purposes of paragraphs 1 to 4 of this Part of this Schedule it shall, except so far as the contrary is proved, be assumed that nothing has occurred since the third day of September, nineteen hundred and thirty-nine, to change the persons who, but for the operation of the law relating to trading with the enemy, would be entitled to any money or property, or to income therefrom, and any assessment under paragraph 1 or paragraph 3 of this Part of this Schedule shall specify the person who has been taken to be the person who, but for the operation of the said law, would have been entitled to the relevant income.

- 11 Where income from any source for any year of assessment would become payable to a custodian but for the fact that no income from that source is available for payment in that year, but, apart from the operation of the law relating to trading with the enemy, income tax would nevertheless be chargeable in respect of income from that source for that year, the provisions of this Part of this Schedule shall have effect as if income from that source had been available for payment in that year and become payable to the custodian.

- 12 In this Part of this Schedule, the expression “income” means income for the purposes of the Income Tax Acts:

Provided that the said expression includes any rents, profits or other sums arising from any land, and any tax under Schedule A or Schedule B in respect of any land shall be treated as tax in respect of income from that land.

Years to which this Part of this Schedule applies

- 13 This Part of this Schedule shall have effect with respect to income tax (including surtax) for the year 1939-40 and subsequent years of assessment and, to the extent expressly provided by paragraph 6 of this Part of this Schedule, with respect also to income tax (including surtax) for previous years of assessment.

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