

DÁIL ÉIREANN.

AN BILLE AIRGEADAIS, 1944—AN COISTE.
FINANCE BILL, 1944—COMMITTEE.

Leasuithe.
Amendments.



SECTION 3.

1. Before section 3 to insert a new section as follows:—

“(1) Where in any year of assessment a person sustains a loss in any transaction or activity, whether he was engaged therein solely or in partnership, being a transaction or activity of such a nature that, if any profits had arisen therefrom, he would have been liable to be assessed in respect thereof under Case VI of Schedule D, he may claim that the amount of the loss sustained by him shall, as far as may be, be deducted from or set off against the amount of any profits or gains arising from any transaction or activity in respect of which he is assessed for that year under the said Case VI, and that any portion of the loss for which relief is not so given shall, as far as may be, be carried forward and deducted from or set off against the amount of any profits or gains arising from any transaction or activity in respect of which he is assessed under the said Case VI for any of the six following years of assessment.

(2) In the application of this section to a loss sustained by a partner in a partnership the expression ‘the amount of any profits or gains arising from any transaction or activity in respect of which he is assessed’ shall be taken to mean in respect of any year such portion of the amount on which the partnership is assessed under Case VI in respect of any transaction or activity as he would be required under the Income Tax Acts to include in a return of his total income for that year.

(3) Any relief under this section by way of the carrying forward of the loss shall be given as far as possible from the first subsequent assessment in respect of any such profits or gains as aforesaid for any year within the said six following years, and, so far as it cannot be so given, then from the next such assessment and so on.

(4) The provisions of section 34 of the Income Tax Act, 1918, shall apply to a loss under this section as if the loss were sustained in a trade.

(5) The provisions of this section shall extend so as to apply to a loss sustained in the year ended on the fifth day of April, nineteen hundred and forty-four.”

—Maurice E. Dockrell.

SECTION 4.

2. In sub-section (2), line 46, to delete the words “but for this sub-section” and in line 50 to delete all words after the word “assessment” and substitute therefor the words: “he shall pay by way of refund to the Revenue Commissioners a sum equal to the amount he is entitled to receive in the corresponding year in respect of any such child in excess of two such children under the Children’s Allowances Act, 1944.”
—Risteárd Ua Maolchatha.

SECTION 8.

3. To delete the words “to the satisfaction of the Revenue Commissioners” wherever they appear in the section.

—John A. Costello.

SECTION 13.

4. In sub-section (1), page 7, lines 20 and 21, to delete the words “for any accounting period ending”.—Risteárd Ua Maolchatha.

5. In sub-section (1) to delete paragraph (c), page 8, and substitute the following paragraph:—

[No. 14 of 1944.]

“(c) In the case of a company the standard profits of which are the substituted standard or the sum of two thousand five hundred pounds and which had no trade year ended in the year ended on the 31st day of August, 1939, not being an auxiliary of another company within the meaning of section 14 and to which the provisions of section 42 of the Finance Act, 1941, and section 13 of the Finance Act, 1942, are not applicable no deduction shall be allowed in respect of remuneration paid to a director in excess of an amount calculated at the rate of £1,000 per annum.”

—Maurice E. Dockrell.

6. In sub-section (1) (c), page 8, line 5, after the word “allowed” to insert the words “over and above remuneration paid to Directors who are required to devote substantially the whole of their time to the service of the company”.—Risteárd Ua Maolchatha.

7. In sub-section (1) (c), line 6, page 8, after the word “sum” to insert the words “of one thousand pounds or a sum” and in line 7, after the word “company” to insert the words “whichever is the greater”.—John A. Costello.

8. In sub-section (1) (c), page 8, line 11, at the end of the paragraph to add the words “The provisions of this paragraph shall not apply to a company which was formed to take over a business carried on by one or more individuals and which carries on substantially the same trade or business as was carried on by such individual or individuals”.—Risteárd Ua Maolchatha.

9. In sub-section (1) (f), at the end of the paragraph, line 45, to add the words:—“Or to a director who was an employee but not a director of the company on 31st August, 1939, and was an employee of the company at the time he was appointed a director”.

—John A. Costello.

10. Before sub-section (2), page 8, to insert a new sub-section as follows:—

“Provided that nothing in this section shall operate to limit the deduction in respect of the total remuneration of all directors to a sum less than 25 per cent. of the profits as adjusted for income tax purposes but before charging directors remuneration or deducting the amount of corporation profits tax (including excess corporation profits tax) payable for the particular accounting period.”

—Henry M. Dockrell.

SECTION 14.

11. In sub-section (5), page 9, line 20, after the word “company” to insert the words “and the main purpose for which the post-appointed day company was formed was the avoidance or reduction of liability to corporation profits tax or excess corporation profits tax”.—Risteárd Ua Maolchatha.

12. In sub-section (9), page 10, line 32, to delete the word “fifty” and substitute therefor the word “seventy-five”.—Henry M. Dockrell.

13. Before sub-section (10), page 10, to insert a new sub-section as follows:—

“(10) This section shall apply only when a direction is made by the Revenue Commissioners and any company aggrieved by such a direction may appeal to the Special Commissioners on any of the following grounds, that is to say:—

(a) the post-appointed day company was not formed with the object of avoiding liability to corporation profits tax;

(b) the post-appointed day company was formed to manufacture or market a commodity or commodities not

manufactured or marketed by the pre-appointed day company;

- (c) the post-appointed day company was formed to take over an existing business not carried on by the pre-appointed day company;
- (d) the post-appointed day company was formed to develop a trade or business not carried on by the pre-appointed day company;
- (e) it is not just or equitable that the section should be applied."

—Henry M. Dockrell.

14. In sub-section (11) (a), to delete all words after the word "effect" in line 54 to the end of the paragraph and substitute the words "as from October 5th, 1943. The profits arising in an accounting period which ended after October 5th, 1943, shall be apportioned between the part of the accounting period which was prior to October 5th, 1943, and the part which was subsequent to that date".—John A. Costello.

15. In sub-section (11), after paragraph (b), page 11, to add a new paragraph as follows:—

"(c) Where the provisions set out in sub-section (5) of this section apply to a pre-appointed day and a post-appointed day company and the said companies inform the Revenue Commissioners that they desire to have the provisions of this section to apply and have effect in relation to assessments of income-tax, corporation profits tax and excess corporation profits tax, the Revenue Commissioners may grant the request and the provisions of this section shall apply and have effect accordingly."

—John A. Costello.

SECTION 15.

16. In sub-section (1), line 12, after the word "effected" to insert the words "by a company".—Maurice E. Dockrell.

17. In sub-section (3), line 31, to insert before the word "whether" the words "and from a decision of the Special Commissioners to the Circuit Court".

—John A. Costello.

18. At the end of sub-section (3) to add the words:—

"The determination of the Special Commissioners shall be final, provided however that the company may require that its appeal shall be reheard under section 196 of the Income Tax Act, 1918, or that a case be stated for the opinion of the High Court under that Act as amended by section 10 of the Finance Act, 1944."

—Maurice E. Dockrell.

