

Charge on sale of land with right to reconveyance. ITA67 s85 100.—(1) Where the terms subject to which an estate or interest in land is sold provide that it shall be, or may be required to be, reconveyed at a future date to the vendor or a person connected with the vendor, the vendor shall be chargeable to tax under Case IV of Schedule D on any amount by which the price at which the estate or interest is sold exceeds the price at which it is to be reconveyed or, if the earliest date at which in accordance with those terms it would fall to be reconveyed is a date 2 years or more after the sale, on that excess reduced by 2 per cent of that excess for each complete year (other than the first) in the period between the sale and that date.

(2) Where under the terms of the sale the date of the reconveyance is not fixed, then—

(a) if the price on reconveyance varies with the date, the price shall be taken for the purposes of this section to be the lowest possible under the terms of the sale;

(b) the vendor may, before the expiration of 6 years after the date on which the reconveyance takes place, claim repayment of any amount by which tax assessed on such vendor by virtue of this section exceeded the amount which would have been so assessed if that date had been treated for the purposes of this section as the date fixed by the terms of the sale.

(3) Where the terms of the sale provide for the grant of a lease directly or indirectly out of the estate or interest to the vendor or a person connected with the vendor, this section shall apply as if the grant of the lease were a reconveyance of the estate or interest at a price equal to the sum of the amount of the premium (if any) for the lease and the value at the date of the sale of the right to receive a conveyance of the reversion immediately after the lease begins to run; but this subsection shall not apply if the lease is granted, and begins to run, within one month after the sale.

(4) In computing the profits or gains of a trade of dealing in land, any trading receipts within this section shall be treated as reduced by the amount on which tax is chargeable by virtue of this section; but where, on a claim being made under subsection (2)(b), the amount on which tax is chargeable by virtue of this section is treated as reduced, this subsection shall be deemed to have applied to the amount as reduced, and such adjustment of liability to tax shall be made (for all relevant years of assessment), whether by means of an additional assessment or otherwise, as may be necessary.