



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART XII

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

### CHAPTER II

#### INSURANCE COMPANIES, ETC

##### *Non-resident banks, insurance companies and dealers in securities*

#### **328 Treatment of tax-free income**

- (1) Where a banking business, an insurance business or a business consisting wholly or partly in dealing in securities is carried on in the United Kingdom by a person not resident therein, then—
- (a) in computing for any of the purposes of the Tax Acts the profits arising from, or loss sustained in, the business, and
  - (b) in the case of an insurance business, also in computing the profits or loss from annuity business under section 312 of this Act,

all interest, dividends and other payments whatsoever to which section 100 or section 159(4) of this Act (which exempt certain dividends of non-residents) extends shall be included notwithstanding the exemption from tax conferred by those sections respectively.

In this subsection " securities " includes stocks and shares.

- (2) Where—
- (a) any such business as aforesaid is carried on in the United Kingdom by a person not ordinarily resident therein, and
  - (b) in making any such computation as aforesaid with respect to that business, any interest on any securities issued by the Treasury is excluded by virtue of

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

a condition of the issue thereof regulating the treatment of the interest thereon for tax purposes,

any expenses attributable to the acquisition or holding of, or to any transaction in, the securities (but not including in those expenses any interest on borrowed money), and any profits or losses so attributable, shall also be excluded in making that computation.

- (3) In the case of an overseas life insurance company as defined in section 323 of this Act—
- (a) in computing for the purposes of section 316 of this Act the income from the investments of the life assurance fund of the company, any interest, dividends and other payments whatsoever to which section 100 or section 159(4) of this Act extends shall be included notwithstanding the exemption from tax conferred by those sections respectively, and
  - (b) where in computing the said income any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue thereof regulating the treatment of the interest thereon for tax purposes, the relief under section 305 of this Act shall be reduced so as to bear to the amount of relief which would be granted but for the provisions of this paragraph the same proportion as the amount of that income, excluding the said interest, bears to the amount of that income including that interest.

### **329 Tax-free Treasury securities: exclusion of interest on borrowed money**

- (1) This section has effect where paragraphs (a) and (b) of section 328(2) above apply to a business for any accounting period or year of assessment.
- (2) Up to the amount determined under this section (called the amount ineligible for relief) interest on money borrowed for the purposes of the business—
  - (a) shall be excluded in any computation under the Tax Acts of the profits (or loss) arising from the business or, where subsection (5) below applies, arising from any annuity business forming part of the life assurance business, and
  - (b) shall be excluded from the definition of " charges on income " in section 248 of this Act.
- (3) In determining the amount ineligible for relief, account shall be taken of all money borrowed for the purposes of the business which is outstanding in the accounting or basis period, up to the total cost of the tax-free Treasury securities held for the purpose of the business in that period:

Provided that where the person carrying on the business is a company, account shall not be taken of any borrowed money carrying interest which, apart from subsection (2) above, does not fall to be included in the computations under paragraph (a) of that subsection, and is not to be treated as a charge on income for the purposes of the Corporation Tax Acts.

- (4) Subject to subsection (5) below, the amount ineligible for relief shall be equal to a year's interest on the amount of money borrowed which is to be taken into account under subsection (3) above at a rate equal to the average rate of interest in the accounting or basis period on money borrowed for the purposes of the business, except that in the case of a period of less than twelve months, interest shall be taken for that shorter period instead of for a year.
- (5) Where relief for expenses of management is to be granted to an insurance company for any accounting period, and that relief falls to be reduced under section 328(3)(b)

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

above (by applying the fraction which is investment income of the life assurance fund other than income from tax-free Treasury securities divided by that total investment income) the amount ineligible for relief shall be a fraction of the amount of interest in the accounting period on money borrowed for the purposes of the business, and that fraction shall be the fraction which is income from tax-free Treasury securities divided by total investment income of the life assurance fund (that is to say one minus the fraction to be applied under the said subsection (3)(b)).

- (6) In this section "tax-free Treasury securities" means securities issued by the Treasury with a condition regulating the treatment of the interest thereon for income tax or corporation tax purposes such that interest on the securities is excluded in computing the income or profits.
- (7) For the purposes of this section the cost of a holding of tax-free Treasury securities which has fluctuated in the accounting or basis period shall be the average cost of acquisition of the initial holding, and of any subsequent acquisitions in the accounting or basis period, applied to the average amount of the holding in the accounting or basis period, and this subsection shall be applied separately to securities of different classes.
- (8) In this section " accounting or basis period " means the company's accounting period or the period by reference to which the profits or gains arising in the year of assessment are to be computed.