



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART XVIII

#### DOUBLE TAXATION RELIEF

### CHAPTER III

#### OTHER PROVISIONS

#### **513 Relief under agreements with Republic of Ireland**

- (1) The repeals effected by this Act shall not affect the confirmation by any enactment of any agreement in force at the passing of this Act between the United Kingdom and the Republic of Ireland, and accordingly, subject to subsection (2) below, the agreement of 14th April 1926 set out in Part I of Schedule 12 to this Act, as modified by the agreements of 25th April 1928, 4th April 1959 and 23rd June 1960 there set out, shall, for any year of assessment for which, under the law of the Republic of Ireland, it has effect with respect to exemption and relief from Republic of Ireland income tax, have effect with respect to exemption or relief to be granted from United Kingdom income tax.
- (2) In paragraph (1) of the Article substituted for Article 2 of the said agreement of 1926 by Article 2 of the said agreement of 1928, the references to section 27 of the Finance Act 1920 shall be taken to be references to that section as set out in Part II of the said Schedule 12 with amendments made therein by subsequent enactments and certain omissions and adaptations of provisions and phrases which have become inapt or unnecessary, or are unnecessary, inapplicable or unsuitable in the case of the Republic of Ireland.
- (3) For the purpose of giving effect to the agreements to which this section applies, the Income Tax Acts, in relation to—
  - (a) persons resident in the United Kingdom, whether or not also resident in the Republic of Ireland, and

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- (b) persons entrusted with payment to persons so resident, and
  - (c) claims by persons resident in the Republic of Ireland,
- shall, for any year for which the said agreements are in force, have effect subject to the provisions of Part III of the said Schedule 12.
- (4) The deduction to be given to an individual under section 22 of this Act (reduced rate relief) shall not, where relief is given under section 27 of the Finance Act 1920 as set out in Part II of the said Schedule 12, be less than it would have been if that relief had not been given.
  - (5) The power to make regulations conferred by subsection (7) of the said section 27 as so set out shall be deemed for the purposes of section 1 of the Statutory Instruments Act 1946 to be a power conferred by an Act passed after the commencement of that Act, and shall be exercisable by statutory instrument.
  - (6) For the purpose of carrying out any obligation of the Government of the United Kingdom under Article 2 of the said agreement of 1960, Her Majesty may by Order in Council direct that any provisions of the Income Tax Acts specified in the Order (being provisions affecting in any way exemptions from income tax of persons resident in the United Kingdom) shall not affect, and be deemed not to have affected, exemptions from income tax which persons enjoy as not resident in the United Kingdom but resident in the Republic of Ireland.
  - (7) Nothing in this section or the said Schedule 12 applies for the purposes of corporation tax.

#### **514 Relief under agreements about shipping, air transport and agency profits**

- (1) If Her Majesty in Council is pleased to declare—
  - (a) that any profits or gains arising from the business of shipping or from the business of air transport which are chargeable to United Kingdom income tax are also chargeable to income tax payable under the law in force in any territory outside the United Kingdom, and
  - (b) that arrangements, as specified in the declaration, have been made with the government of that territory with a view to the granting of relief in cases where such profits and gains are chargeable both to United Kingdom income tax and to the income tax payable in that territory,

then, unless and until the declaration is revoked by Her Majesty in Council, the arrangements specified therein shall, so far as they relate to the relief to be granted from United Kingdom tax, have effect as if enacted in this Act, but only if and so long as the arrangements, so far as they relate to the relief to be granted from the income tax payable in the said territory, have the effect of law in that territory.

In this subsection " the business of shipping" means the business carried on by an owner of ships, and " the business of air transport" means the business carried on by an owner of aircraft, and for the purpose of these definitions " owner" includes any charterer.

- (2) If Her Majesty in Council is pleased to declare—
  - (a) that any profits or gains arising directly or indirectly to a person resident in any territory outside the United Kingdom through an agency in the United Kingdom, or to a person resident in the United Kingdom through an agency

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in any such territory, are chargeable both to United Kingdom income tax and to income tax payable under the law in force in that territory, and

- (b) that arrangements, as specified in the declaration, have been made with the government concerned with a view to the granting of relief from such double taxation,

then, unless and until the declaration is revoked by Her Majesty in Council, the arrangements specified therein shall, so far as they relate to the relief to be granted from United Kingdom tax, have effect as if enacted in this Act, but only if and so long as the arrangements, so far as they relate to the relief to be granted from the income tax payable in the said territory, have the effect of law in that territory:

Provided that no arrangements made under this subsection shall exempt from United Kingdom tax any profits or gains which either—

- (i) arise from the sale of goods from a stock in the United Kingdom, or
- (ii) accrue to a person resident in the United Kingdom, or
- (iii) accrue to a person not resident in the United Kingdom directly or indirectly through any branch or management in the United Kingdom, or through any agency in the United Kingdom where the agent has, and habitually exercises, a general authority to negotiate and conclude contracts.

- (3) Any declaration made by Her Majesty in Council under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) In this section, and in any arrangements made under any earlier enactment corresponding to this section, references to income tax include references to corporation tax; and any reference in any such arrangements to British income tax shall be deemed for the purposes of this section to be a reference to United Kingdom income tax.

## **515 Postponement of capital allowances to secure double taxation relief**

- (1) Where a person chargeable to tax in respect of a trade under Case I of Schedule D is liable to overseas tax in respect of any income arising from the trade, being overseas tax for which relief may be given by way of credit, repayment or set-off under the preceding provisions of this Part of this Act, and the conditions specified in subsection (2) below are satisfied, he may, in claiming the relief in respect of that income, claim a postponement under this section of the relevant capital allowances operating to reduce that income for the purposes of tax for any chargeable period.
- (2) The said conditions are—
  - (a) that the law under which the overseas tax is chargeable provides for deductions or allowances to be given corresponding to capital allowances, but on a different basis such that they operate to reduce the income in question (if at all) to a less extent than the capital allowances to which the claim relates, but are calculated to operate to a greater extent than the corresponding capital allowances to reduce income arising subsequently, and
  - (b) that the relief falling to be given as aforesaid in respect of the income in question is less than it would be if the capital allowances to which the claim relates operated to reduce the income to the same extent only as the deductions or allowances so provided for.
- (3) Where a person claims a postponement under this section of capital allowances for any chargeable period, then, for the purpose of making the assessment for that period,

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the amount of those allowances shall be reduced by such amount as may be necessary to secure that they operate to reduce the income only to the extent mentioned in subsection (2) (b) above (or such less amount as the claimant may require), and, for the purpose of making the assessment for the following period, that amount shall be added to the amount of the allowances for that period, and shall be deemed to be part of those allowances or, if there are no such allowances for that period, shall be deemed to be the allowances for that period.

- (4) For the purposes of any claim under this section there shall be taken into account such only of the relevant capital allowances, and the deductions or allowances operating to reduce the income in question for purposes of the overseas tax, as are calculated to give relief in respect of the same expenditure or the same assets.
- (5) In this section " overseas tax " means tax chargeable under the laws of any territory outside the United Kingdom, and " relevant capital allowances ", in relation to any trade, means capital allowances falling to be made in taxing the trade; and the reference in subsection (1) above to tax for a chargeable period shall be construed, in relation to corporation tax, as referring to the tax for any financial year which is chargeable in respect of that period.
- (6) This section applies (with any necessary adaptations) in relation to a profession, employment, vocation or office, and in relation to the occupation of woodlands the profits or gains of which are assessable under Schedule D, as it applies in relation to a trade.

#### **516 Deduction for foreign tax where no credit allowable**

- (1) For the purposes of the Tax Acts, the amount of any income arising in any place outside the United Kingdom shall, subject to subsection (2) below, be treated as reduced by any sum which has been paid in respect of tax on that income in the place where the income has arisen (that is to say, tax payable under the law of a country outside the United Kingdom).
- (2) Subsection (1) above—
  - (a) shall not apply to income the tax on which is to be computed by reference to the amount of income received in the United Kingdom, and
  - (b) shall not affect the proviso to section 27(2) of this Act (computation of personal reliefs for non-residents by reference to total income, including income not taxed in United Kingdom),

and this section has effect subject to section 503(2) above (no deduction for foreign tax if credit allowable therefor).

#### **517 Power to make regulations for carrying out s. 497**

- (1) The Board may from time to time make regulations generally for carrying out the provisions of section 497 above or any arrangements having effect thereunder, and may in particular by those regulations provide—
  - (a) for securing that relief from taxation imposed by the laws of the territory to which any such arrangements relate does not enure to the benefit of persons not entitled thereto, and
  - (b) for authorising, in cases where tax deductible from any payment has, in order to comply with any such arrangements, not been deducted, and it is discovered that the arrangements did not apply to that payment, the recovery of the tax

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by assessment on the person entitled to the payment or by deduction from subsequent payments.

The power conferred by this subsection to make regulations shall be exercisable by statutory instrument.

- (2) The giving of relief under this Part of this Act in respect of income tax under Schedule F by authorising, pursuant to regulations under subsection (1) above, the making of distributions of amounts exceeding what would otherwise be distributed shall not affect the provisions of paragraph 2 of Schedule F (which determines the amount of income tax under that Schedule chargeable in respect of any distribution), and references in the said paragraph 2 to the amount of the distribution shall be taken as references to that amount apart from any increase made in pursuance of such regulations.

## **518 Disclosure of information**

- (1) Where, under the law in force in any territory outside the United Kingdom, provision is made for the allowance, in respect of the payment of United Kingdom income tax or corporation tax, of relief from tax payable under that law, the obligation as to secrecy imposed by the Tax Acts upon persons employed in relation to Inland Revenue shall not prevent the disclosure to the authorised officer of the government of the territory in question of such facts as may be necessary to enable the proper relief to be given under the law thereof.

Section 498(6) above shall apply to the interpretation of this subsection as it applies to the interpretation of that section.

- (2) Where any arrangements have effect by virtue of section 497 above, the obligation as to secrecy imposed by any enactment shall not prevent the Board, or any authorised officer of the Board, from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed under the arrangements.
- (3) Where a person beneficially entitled to income from any securities as defined by section 24 of the Taxes Management Act 1970 (information as to income from securities) is resident in a territory to which arrangements having effect under the said section 497 with respect to income tax or corporation tax relate, subsection (3) of the said section 24 shall not exempt any bank from the duty of disclosing to the Board particulars relating to the income of that person.
- (4) The obligation as to secrecy imposed by any enactments with regard to income tax or corporation tax shall not prevent the disclosure, to any authorised officer of any country to which a declaration under section 514 above relates, of such facts as may be necessary to enable relief to be duly given in accordance with the arrangements specified in the declaration.