



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XVIII

DOUBLE TAXATION RELIEF

CHAPTER II

RULES GOVERNING RELIEF BY WAY OF CREDIT

General

792 Interpretation of credit code

- (1) In this Chapter, except where the context otherwise requires—
 - “arrangements” means any arrangements having effect by virtue of section 788;
 - “foreign tax” means, in relation to any territory, arrangements with the government of which have effect by virtue of section 788, any tax chargeable under the laws of that territory for which credit may be allowed under the arrangements;
 - “the United Kingdom taxes” means income tax and corporation tax;
 - “underlying tax” means, in relation to any dividend, tax which is not chargeable in respect of that dividend directly or by deduction; and
 - “unilateral relief” means relief under section 790.
- (2) For the purposes of this Chapter one company is a subsidiary of another if the other company controls, directly or indirectly, not less than 50 per cent. of the voting power in the first company.
- (3) Any reference in this Chapter to foreign tax shall be construed in relation to credit to be allowed under any arrangements as a reference only to tax chargeable under the laws of the territory with the government of which the arrangements were made.

Status: This is the original version (as it was originally enacted).

793 Reduction of United Kingdom taxes by amount of credit due

- (1) Subject to the provisions of this Chapter, where under any arrangements credit is to be allowed against any of the United Kingdom taxes chargeable in respect of any income or chargeable gain, the amount of the United Kingdom taxes so chargeable shall be reduced by the amount of the credit.
- (2) Nothing in subsection (1) above authorises the allowance of credit against any United Kingdom tax against which credit is not allowable under the arrangements.

794 Requirement as to residence

- (1) Subject to subsection (2) below, credit shall not be allowed under any arrangements against any of the United Kingdom taxes for any chargeable period unless the person in respect of whose income or chargeable gains the United Kingdom tax is chargeable is resident in the United Kingdom for that period.
- (2) Credit may be allowed by way of unilateral relief—
 - (a) for tax paid under the law of the Isle of Man or any of the Channel Islands, if the person in question is, for the chargeable period in question, resident either in the United Kingdom or in the Isle of Man or any of the Channel Islands, as the case may be;
 - (b) for tax paid under the law of any territory and computed by reference to income from an office or employment the duties of which are performed wholly or mainly in that territory, against income tax chargeable under Schedule E and computed by reference to that income, if the person in question is for the year of assessment in question resident either in the United Kingdom or that territory; and
 - (c) for tax paid under the law of any territory in respect of interest on a loan where the following conditions are fulfilled, namely—
 - (i) that the person in question is a company which, for the chargeable period in question, carries on a banking business in the United Kingdom through a branch or agency;
 - (ii) that the loan was made by the company through the branch or agency in the United Kingdom;
 - (iii) that the territory under whose law the tax was paid is not one in which the company is liable to tax by reason of domicile, residence or place of management; and
 - (iv) that the amount of relief claimed does not exceed (or is by the claim expressly limited to) that which would have been available if the branch or agency had been a company resident in the United Kingdom and the loan had been made by it in the course of its banking business.

795 Computation of income subject to foreign tax

- (1) Where credit for foreign tax falls under any arrangements to be allowed in respect of any income and income tax is payable by reference to the amount received in the United Kingdom, the amount received shall be treated for the purposes of income tax as increased by the amount of the foreign tax in respect of the income, including in the case of a dividend any underlying tax which under the arrangements is to be taken into account in considering whether any and if so what credit is to be allowed in respect of the dividend.

- (2) Where credit for foreign tax falls under any arrangements to be allowed in respect of any income or gain and subsection (1) above does not apply, then, in computing the amount of the income or gain for the purposes of income tax or corporation tax—
 - (a) no deduction shall be made for foreign tax, whether in respect of the same or any other income or gain; and
 - (b) the amount of the income shall, in the case of a dividend, be treated as increased by any underlying tax which, under the arrangements, is to be taken into account in considering whether any and if so what credit is to be allowed in respect of the dividend.
- (3) The amount of any income or gain shall not be treated as increased under this section by reference to any foreign tax which, although not payable, falls to be taken into account for the purposes of section 788(5).

796 Limits on credit: income tax

- (1) The amount of the credit for foreign tax which, under any arrangements, is to be allowed to a person against income tax for any year of assessment shall not exceed the difference between the amounts of income tax which would be borne by him for the year (no credit being allowed for foreign tax)—
 - (a) if he were charged to tax on his total income for the year, computed in accordance with section 795; and
 - (b) if he were charged to tax on the same income, computed in the same way, but excluding the income in respect of which the credit is to be allowed.
- (2) Where credit for foreign tax is to be allowed in respect of income from more than one source, subsection (1) above shall be applied successively to the income from each source, but so that on each successive application, paragraph (a) shall apply to the total income exclusive of the income to which the subsection has already been applied.
- (3) Without prejudice to subsections (1) and (2) above, the total credit for foreign tax to be allowed to a person against income tax for any year of assessment under all arrangements having effect by virtue of section 788 shall not exceed the total income tax payable by him for that year of assessment, less any income tax which he is entitled to charge against any other person.

797 Limits on credit: corporation tax

- (1) The amount of the credit for foreign tax which under any arrangements is to be allowed against corporation tax in respect of any income or chargeable gain (“the relevant income or gain”) shall not exceed the corporation tax attributable to the relevant income or gain, determined in accordance with subsections (2) and (3) below.
- (2) Subject to subsection (3) below, the amount of corporation tax attributable to the relevant income or gain shall be treated as equal to such proportion of the amount of that income or gain as corresponds to the rate of corporation tax payable by the company (before any credit under this Part) on its income or chargeable gains for the accounting period in which the income arises or the gain accrues (“the relevant accounting period”).
- (3) Where in the relevant accounting period there is any deduction to be made for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description—

Status: This is the original version (as it was originally enacted).

- (a) the company may for the purposes of this section allocate the deduction in such amounts and to such of its profits for that period as it thinks fit; and
 - (b) the amount of the relevant income or gain shall be treated for the purposes of subsection (2) above as reduced or, as the case may be, extinguished by so much (if any) of the deduction as is allocated to it.
- (4) Where in accordance with section 239 any advance corporation tax falls to be set against the company's liability to corporation tax on its profits (within the meaning of that section) for the relevant accounting period—
- (a) so far as that liability relates to the relevant income or gain, it shall be taken to be reduced by the amount of the credit for foreign tax attributable to that income or gain, as determined in accordance with subsections (2) and (3) above; and
 - (b) the amount of advance corporation tax which may be set against that liability, so far as it relates to the relevant income or gain, shall not exceed whichever is the lower of the limits specified in subsection (5) below;
- and section 239(2) shall have effect in relation only to so much of the profits of the company chargeable to corporation tax for that period as does not include the relevant income or gain.
- (5) In relation to an amount of income or gain in respect of which the company's liability to corporation tax is taken to be reduced as mentioned in paragraph (a) of subsection (4) above, the limits referred to in paragraph (b) of that subsection are—
- (a) the limit which would apply under section 239(2) if that amount of income or gain were the company's only income or gain for the relevant accounting period; and
 - (b) the amount of corporation tax for which, after taking account of that reduction, the company is liable in respect of that amount of income or gain.

798 Interest on certain overseas loans

- (1) This section applies in a case where—
- (a) in any chargeable period the profits of any person ("the lender") which are brought into charge to income tax or corporation tax include an amount computed in accordance with section 795 in respect of interest ("foreign loan interest") on a loan made to a person resident outside the United Kingdom; and
 - (b) in determining the liability of the lender to income tax or corporation tax, expenditure related to the earning of the foreign loan interest is deductible in computing the profits referred to in paragraph (a) above; and
 - (c) the lender is entitled in accordance with this Chapter to credit for foreign tax chargeable on or by reference to the foreign loan interest;
- and for the purpose only of determining whether the condition in paragraph (b) above is fulfilled in a case where the lender has in fact incurred no expenditure related to the earning of the foreign loan interest, it shall be assumed that he has incurred such expenditure.
- (2) In subsection (1) above "interest", in relation to a loan, includes any introductory or other fee or charge which is payable in accordance with the terms on which the loan is made or is otherwise payable in connection with the making of the loan; and any reference in this section to foreign loan interest shall be construed accordingly.

Status: This is the original version (as it was originally enacted).

- (3) If in a case where this section applies the foreign tax referred to in subsection (1)(c) above is or includes an amount of spared tax, then for the purposes of income tax or corporation tax the amount which apart from this subsection would be the amount of the foreign loan interest shall be treated as increased by so much of the spared tax as does not exceed the permitted amount, as defined in subsection (4) below; but nothing in this subsection prejudices the operation of section 795 in relation to foreign tax which is not spared tax.
- (4) In this section “spared tax” means foreign tax which although not payable falls to be taken into account for the purposes of credit by virtue of section 788(5); and the permitted amount, in relation to spared tax which is referable to the whole or any part of the foreign loan interest, is an amount which does not exceed—
- (a) 15 per cent. of the interest to which the spared tax is referable, computed without regard to any increase under subsection (3) above; or
 - (b) if it is less, the amount of that spared tax for which, in accordance with any arrangements applicable to the case in question, credit falls to be given as mentioned in subsection (1)(c) above.
- (5) If in a case where this section applies—
- (a) the foreign tax referred to in subsection (1)(c) above is or includes an amount of tax which is not spared tax; and
 - (b) the amount of tax exceeds—
 - (i) the amount of the credit which, by virtue of this Chapter (but disregarding subsection (6) below), is allowed for that foreign tax against income tax or corporation tax; or
 - (ii) if it is less, 15 per cent. of the foreign loan interest, computed without regard to any increase or reduction under this section,then, for the purposes of income tax or corporation tax, the amount which, apart from this subsection, would be the amount of the foreign loan interest shall be treated as reduced by a sum equal to the excess.
- (6) Where this section applies, the amount of the credit for foreign tax referred to in subsection (1)(c) above which, in accordance with this Chapter, is to be allowed against income tax or corporation tax—
- (a) shall be limited by treating the amount of the foreign loan interest (as increased or reduced under subsection (3) or (5) above) as reduced (or further reduced) for the purposes of this Chapter by an amount equal to so much of the lender’s financial expenditure in relation to the loan concerned as is properly attributable to the period for which the interest is paid; and
 - (b) shall not exceed 15 per cent. of the foreign loan interest, computed without regard to paragraph (a) above or to any increase under subsection (3) above or any reduction under subsection (5) above.
- (7) For the purposes of this section the lender’s financial expenditure in relation to a loan is the aggregate of—
- (a) the financial expenses (consisting of interest or similar sums) incurred by the lender in or in connection with the provision of the loan, so far as those expenses consist of payments which either are charges on income for the purposes of corporation tax or are deductible in computing profits of the lender which are brought into charge to income tax or corporation tax; and
 - (b) where the loan is financed by the issue of securities at a discount by the lender, so much of the amount of the discount as either constitutes such a charge

Status: This is the original version (as it was originally enacted).

- as is mentioned in paragraph (a) above or is deductible as mentioned in that paragraph; and
- (c) so much as it is just and reasonable to attribute to the loan of any interest or other return foregone by a person connected or associated with the lender in connection with the provision of funds to the lender, either interest free or in other circumstances more favourable to the lender than if the parties were at arm's length; and
 - (d) any other sum, whether paid by way of refund of tax or interest or by way of commission, which—
 - (i) is paid by the lender or a person connected or associated with him;
 - (ii) is paid directly or indirectly to the borrower or a person connected or associated with him;
 - (iii) is deductible as mentioned in paragraph (a) above;
 - (iv) would not, apart from this paragraph, be taken into account in determining the amount of the foreign loan interest; and
 - (v) it is reasonable to regard as referable to the loan or the foreign loan interest (or both).
- (8) In a case where the amount of the lender's financial expenditure in relation to a loan is not readily ascertainable, that amount shall be taken, subject to subsection (9) below, to be such sum as it is just and reasonable to attribute to the financing of the loan, having regard, in particular, to any market rates of interest by reference to which the rate of interest on the loan is determined.
- (9) The Board may by regulations supplement subsection (8) above—
- (a) by specifying matters to be taken into account in determining such a just and reasonable attribution as is referred to in that subsection; and
 - (b) by making provision with respect to the determination of market rates of interest for the purposes of that subsection;
- and any such regulations may make different provision for different cases.
- (10) For the purposes of this section—
- (a) section 839 applies; and
 - (b) subsection (10) of section 783 applies as it applies for the purposes of that section.
- (11) Where the loan on which the foreign loan interest is payable was made pursuant to an agreement entered into before 1st April 1987, this section shall have effect subject to the following modifications in relation to interest payable before 1st April 1989—
- (a) in subsection (1) in paragraph (a) the words “in a territory” shall be inserted after “resident” and the words following paragraph (c) shall be omitted;
 - (b) subsection (2) shall be omitted;
 - (c) in subsection (5) for paragraph (b) there shall be substituted—
 - “(b) that amount of tax exceeds the amount of the credit which, by virtue of this Chapter and in particular subsection (6) below, is allowed for that foreign tax against income tax or corporation tax;”and
 - (d) for subsections (6) to (10) there shall be substituted—
 - “(6) Where this section applies, the amount of the credit for foreign tax referred to in subsection (1)(c) above which, in accordance with this Chapter, is to be allowed against income tax or corporation tax shall

Status: This is the original version (as it was originally enacted).

not exceed 15 per cent. of the foreign loan interest, computed without regard to any increase under subsection (3) or any reduction under subsection (5) above.”;

but subject to that, this section applies whether the loan was made before or after the passing of this Act.

Tax underlying dividends

799 Computation of underlying tax

- (1) Where in the case of any dividend arrangements provide for underlying tax to be taken into account in considering whether any and if so what credit is to be allowed against the United Kingdom taxes in respect of the dividend, the tax to be taken into account by virtue of that provision shall be so much of the foreign tax borne on the relevant profits by the body corporate paying the dividend as is properly attributable to the proportion of the relevant profits represented by the dividend.
- (2) Where under the foreign tax law the dividend has been increased for tax purposes by an amount to be set off against the recipient’s own tax under that law or, to the extent that it exceeds his own tax thereunder, paid to him, then, from the amount of the underlying tax to be taken into account under subsection (1) above there is to be subtracted the amount of that increase.
- (3) For the purposes of subsection (1) above the relevant profits, subject to subsection (4) below, are—
 - (a) if the dividend is paid for a specified period, the profits of that period;
 - (b) if the dividend is not paid for a specified period, but is paid out of specified profits, those profits; and
 - (c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable.
- (4) If, in a case falling under paragraph (a) or (c) of subsection (3) above, the total dividend exceeds the profits available for distribution of the period mentioned in that paragraph the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant profits for the purposes of this section or section 506 of the 1970 Act) as is equal to the excess; and for the purposes of this subsection the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

800 Dividends paid between related companies but not covered by arrangements

Where—

- (a) arrangements provide, in relation to dividends of some classes but not in relation to dividends of other classes, that underlying tax is to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes in respect of the dividends; and
- (b) a dividend is paid which is not of a class in relation to which the arrangements so provide;

then, if the dividend is paid to a company which controls directly or indirectly, or is a subsidiary of a company which controls directly or indirectly, not less than 10 per

Status: This is the original version (as it was originally enacted).

cent. of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

801 Dividends paid between related companies: relief for U.K. and third country taxes

- (1) Where a company resident outside the United Kingdom (“the overseas company”) pays a dividend to a company resident in the United Kingdom (“the United Kingdom company”) and the overseas company is related to the United Kingdom company, then for the purpose of allowing credit under any arrangements against corporation tax in respect of the dividend, there shall be taken into account, as if it were tax payable under the law of the territory in which the overseas company is resident—
 - (a) any United Kingdom income tax or corporation tax payable by the overseas company in respect of its profits; and
 - (b) any tax which, under the law of any other territory, is payable by the overseas company in respect of its profits.
- (2) Where the overseas company has received a dividend from a third company and the third company is related to the overseas company, then, subject to subsection (4) below, there shall be treated for the purposes of subsection (1) above as tax paid by the overseas company in respect of its profits any underlying tax payable by the third company, to the extent that it would be taken into account under this Part if the dividend had been paid by a company resident outside the United Kingdom to a company resident in the United Kingdom and arrangements had provided for underlying tax to be taken into account.
- (3) Where the third company has received a dividend from a fourth company and the fourth company is related to the third company, then, subject to subsection (4) below, tax payable by the fourth company shall similarly be treated for the purposes of subsection (2) above as tax paid by the third company; and so on for successive companies each of which is related to the one before.
- (4) Subsections (2) and (3) above are subject to the following limitations—
 - (a) no tax shall be taken into account in respect of a dividend paid by a company resident in the United Kingdom except United Kingdom corporation tax and any tax for which that company is entitled to credit under this Part; and
 - (b) no tax shall be taken into account in respect of a dividend paid by a company resident outside the United Kingdom to another such company unless it could have been taken into account under the other provisions of this Part had the other company been resident in the United Kingdom.
- (5) For the purposes of this section a company is related to another company if that other company—
 - (a) controls directly or indirectly, or
 - (b) is a subsidiary of a company which controls directly or indirectly,not less than 10 per cent. of the voting power in the first-mentioned company.

802 U.K. insurance companies trading overseas

- (1) Subject to subsection (2) below, where—

Status: This is the original version (as it was originally enacted).

- (a) a company resident in the United Kingdom is charged to tax under Case I of Schedule D in respect of any insurance business carried on by it, and
- (b) that business or any part of it is carried on through a branch or agency in a territory outside the United Kingdom,

then, in respect of dividends referable to that business which are paid to the company by companies resident in that territory, any tax payable by those companies in respect of their profits under the law of that or any other territory outside the United Kingdom, and any United Kingdom income tax or corporation tax so payable, shall, in considering whether any and if so what credit is to be allowed under any arrangements, be taken into account as tax so payable under the law of the first-mentioned territory is taken into account in a case falling within section 799.

- (2) Credit shall not be allowed to a company by virtue of subsection (1) above for any financial year in respect of a greater amount of dividends paid by companies resident in any overseas territory than is equal to any excess of—

- (a) the relevant fraction of the company's total income in that year from investments (including franked investment income and group income) so far as referable to the business referred to in subsection (1) above;

over

- (b) the amount of the dividends so referable which are paid to it in the year by companies resident in that territory and in respect of which credit may, apart from subsection (1) above, be allowed to it for underlying tax.

- (3) For the purposes of subsection (2) above the relevant fraction, in relation to any overseas territory, is—

$$\frac{\text{A}}{\text{B}}$$

where—

A is the company's local premium income in the financial year so far as referable to the business referred to in subsection (1) above;

B is the company's total premium income in the financial year so far as referable to that business;

and premium income shall be deemed to be local premium income in so far as it consists of premiums under contracts entered into at or through a branch or agency in that territory by persons not resident in the United Kingdom.

803 Underlying tax reflecting interest on loans

- (1) This section applies in a case where—

- (a) a bank or a company connected with a bank makes a claim for an allowance by way of credit in accordance with this Chapter; and
- (b) the claim relates to underlying tax on a dividend paid by the overseas company, within the meaning of section 801; and
- (c) that underlying tax is or includes tax payable under the law of a territory outside the United Kingdom on or by reference to interest on a loan made in the course of its business by that overseas company or by such third, fourth or successive company as is referred to in subsection (2) or (3) of that section; and

Status: This is the original version (as it was originally enacted).

- (d) if the company which made the loan had been resident in the United Kingdom, then, in determining its liability to corporation tax, expenditure related to the earning of the interest on the loan would be deductible in computing the profits of the company brought into charge to tax.
- (2) In a case where this section applies, the amount of the credit for that part of the foreign tax which consists of the tax referred to in subsection (1)(c) above shall not exceed an amount determined under subsection (3) below.
- (3) The amount referred to in subsection (2) above is a sum equal to corporation tax, at the rate in force at the time the foreign tax referred to in paragraph (c) of subsection (1) above was chargeable, on so much of the interest on the loan as exceeds the amount of the lender's relevant expenditure which is properly attributable to the period for which that interest is paid.
- (4) In subsection (3) above—
 - (a) "interest", subject to subsection (5) below, has the meaning assigned to it by section 798(2); and
 - (b) "the lender's relevant expenditure" means the amount which, if the company referred to in subsection (1)(d) above were resident in the United Kingdom (and liable to tax accordingly) would be its financial expenditure in relation to the loan, as determined in accordance with section 798(6) to (10).
- (5) If, in accordance with subsection (6) or subsection (8) below, the amount of the dividend would be treated for the purposes of corporation tax as increased or reduced by any amount, then the amount which, apart from this subsection, would be the amount of the interest referred to in subsection (3) above shall be taken to be increased or reduced by the same amount as the dividend is so treated as increased or reduced.
- (6) If, in a case where this section applies, the underlying tax is or includes an amount of spared tax, then, for the purposes of corporation tax, the amount which apart from this subsection would be the amount of the dividend shall be treated as increased by an amount equal to so much of that spared tax as does not exceed the permitted amount; but nothing in this subsection prejudices the operation of section 795 in relation to foreign tax which is not spared tax.
- (7) In this section—
 - (a) "spared tax" has the same meaning as in section 798; and
 - (b) the permitted amount, in relation to spared tax which is referable to the whole or any part of the interest referred to in subsection (1)(c) above, is an amount which does not exceed—
 - (i) 15 per cent. of the interest to which that spared tax is referable; or
 - (ii) if it is less, the amount of that spared tax which under any arrangements is to be taken into account for the purpose of allowing credit against corporation tax in respect of the dividend concerned.
- (8) If, in a case where this section applies—
 - (a) the underlying tax is or includes an amount of tax which is not spared tax, and
 - (b) that amount of tax exceeds 15 per cent. of the interest to which it is referable,
 then, for the purposes of corporation tax, the amount which would apart from this subsection be the amount of the dividend shall be treated as reduced by a sum equal to the excess.

Status: This is the original version (as it was originally enacted).

- (9) Where this section applies, the amount of the credit referred to in paragraph (a) of subsection (1) above which is referable to the underlying tax payable as mentioned in paragraph (c) of that subsection shall not exceed 15 per cent. of so much of the interest referred to in that paragraph as is included in the relevant profits of the company paying the dividend; and for the purposes of this subsection—
- (a) “relevant profits” has the same meaning as, by virtue of section 799, it has for the purposes of the computation of underlying tax; and
 - (b) the amount of the interest shall be determined without making any deduction in respect of any foreign tax.
- (10) In subsection (1) above “bank” means a company carrying on, in the United Kingdom or elsewhere—
- (a) a banking business; or
 - (b) another business which includes the making of loans where the circumstances of the business are such that, in determining the liability of the company to corporation tax, expenditure related to the earning of the interest on those loans is deductible in computing the profits brought into charge to tax;
- and section 839 applies for the purposes of subsection (1) above.
- (11) Where the loan referred to in subsection (1)(c) was made pursuant to an agreement entered into before 1st April 1987, subsections (2) to (5) above shall not apply in relation to tax payable as mentioned in subsection (1)(c) above by reference to interest payable before 1st April 1989, but subject to that, this section applies whenever the loan referred to in subsection (1)(c) was made.

Miscellaneous rules

804 Relief against income tax in respect of income arising in years of commencement

- (1) Subject to the provisions of this section, credit for overseas tax paid in respect of any income arising in the years of commencement shall be allowed under this Part against United Kingdom income tax chargeable for any year of assessment in respect of that income if it would have been so allowed but for the fact that credit for that overseas tax had been allowed against the United Kingdom income tax chargeable in respect of that income for a previous year of assessment.
- (2) The amount of credit to be allowed in respect of any income by virtue of this section for any year of assessment shall not exceed the difference between—
- (a) the total credit allowable against income tax in respect of that income under this Part (including this section) for all years of assessment for which credit is so allowable; and
 - (b) the amount of credit which was in fact so allowed in respect of that income for any earlier year or years of assessment.
- (3) The total credit so allowable in respect of any income for all those years of assessment shall be taken to be the amount of the overseas tax charged on that income, adjusted where the number of the United Kingdom periods of assessment exceeds the number of foreign periods of assessment, in the proportion which the former number bears to the latter, a period for which part only of the income is charged to tax being counted not as one period but as a fraction equal to the proportion which that part of the income bears to the whole of the income.

Status: This is the original version (as it was originally enacted).

- (4) Where the same income is charged to different overseas taxes for different foreign periods of assessment, subsection (3) above, so far as it relates to the adjustment of overseas tax, shall be applied separately to each of the overseas taxes, and the total credit allowable shall be the aggregate of those taxes after the making of any adjustments in accordance with that subsection as so applied.
- (5) Where credit against income tax for any year of assessment is allowed by virtue of subsection (1) above in respect of any income (“the original income”) and subsequently by reason of the enactments relating to cessations, income arising in a non-basis period from the same source as the original income is not assessed to income tax, then if the amount of credit allowed against income tax in respect of the original income under this Part (including this section) for all years of assessment for which credit is so allowable exceeds the aggregate of the following amounts—
 - (a) the amount of the credit against income tax which would have been allowed apart from subsection (1) above for all those years in respect of the original income; and
 - (b) the amount of the overseas tax for which, under this Part, credit would have been allowable against income tax in respect of income arising in the non-basis period from the same source as the original income,the person chargeable in respect of income (if any) from the same source in the year of assessment following the non-basis period shall be treated as having received in that year a payment chargeable under Case VI of Schedule D of an amount such that income tax thereon at the basic rate is equal to the excess.
- (6) Any payment which a person is treated by virtue of subsection (5) above as having received shall not on that account constitute income of his for any of the purposes of the Income Tax Acts other than that subsection and in particular no part thereof shall constitute profits or gains brought into charge to income tax for the purposes of section 348.
- (7) Any claim for relief by way of credit under subsection (1) above against income tax for any year of assessment shall be made within six years of the end of that year or, where there is more than one year of assessment in respect of which such relief may be given, within six years of the end of the later of them.
- (8) In this section—

“overseas tax” means tax under the law of a territory outside the United Kingdom;

“non-basis period” means a period the income arising in which is, by reason only of the operation of the enactments relating to cessations, not chargeable to United Kingdom income tax for any year of assessment;

“United Kingdom period of assessment” and “foreign period of assessment”, in relation to any income, mean respectively a year or other period for which under the relevant law the income falls to be charged to the relevant tax;

“years of commencement”, in relation to income from any source, means the first three years of assessment for which income from that source falls to be assessed to income tax, and also, in the case of profits or gains chargeable to tax under Case I or II of Schedule D, the whole of any period falling partly within those years such that the profits or gains arising in the period fall to be assessed to income tax for a year of assessment later than those years;

references to the enactments relating to cessations are references to sections 63, 67 and 113; and

references to income arising in any year include, in relation to income the income tax on which is to be computed by reference to the amount of income received in the United Kingdom, references to income received in that year.

805 Elections against credit

Credit shall not be allowed under any arrangements against the United Kingdom taxes chargeable in respect of any income or chargeable gains of any person if he elects that credit shall not be allowed in respect of that income or those gains.

806 Time limit for claims etc

- (1) Subject to subsection (2) below and section 804(7), any claim for an allowance under any arrangements by way of credit for foreign tax in respect of any income or chargeable gain shall be made not later than six years from the end of the chargeable period for which the income or the gain falls to be charged to income tax or corporation tax, or would fall to be so charged if any income tax or corporation tax were chargeable in respect of the income or gain.
- (2) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the United Kingdom or under the laws of any other territory, nothing in the Tax Acts limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in the United Kingdom or elsewhere, as are material in determining whether any and if so what credit falls to be given.