



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 7

SAVINGS INCOME: DOUBLE TAXATION ARISING FROM WITHHOLDING TAX

Introductory

^{F1}107 **Introductory**

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Textual Amendments

F1 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 62(a), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

Credit etc for special withholding tax

^{F1}108 **Income tax credit etc for special withholding tax**

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Textual Amendments

F1 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 62(a), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

F1 109 Capital gains tax credit etc for special withholding tax

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Textual Amendments

F1 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 62(a), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

F1 110 Credit under Part 18 of Taxes Act 1988 to be allowed first

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Textual Amendments

F1 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 62(a), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

Computation of income etc

F1 111 Computation of income etc subject to special withholding tax only

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Textual Amendments

F1 Ss. 107-111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 8 para. 62(a), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)

112 Computation of income etc subject to foreign tax and special withholding tax

(1) Section 795 of the Taxes Act 1988 (double taxation relief: computation of income subject to foreign tax) is amended as follows.

(2) In subsection (1) (remittance basis: grossing up) after “increased by” insert “ — (a) ” and at the end insert—

“, and

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- (b) the amount of any special withholding tax levied in respect of the income.”.
- (3) In subsection (2)(a) (other cases: no deduction for foreign tax) after “foreign tax” insert “or special withholding tax”.
- (4) After subsection (4) insert—
- “(5) In this section—
- (a) “special withholding tax” has the same meaning as in Chapter 7 of Part 3 of the Finance Act 2004 (see section 107(3) of that Act); and
- (b) references to special withholding tax are to special withholding tax in respect of which a claim has been made under that Chapter.”.
- (5) Section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12) (which applies Chapters 1 and 2 of Part 18 of the Taxes Act 1988 in relation to capital gains tax) is amended as follows.
- (6) After subsection (1) insert—
- “(1A) Subsection (1B) below applies where—
- (a) a chargeable gain accrues to a person on a disposal by him of assets in circumstances where the consideration for the disposal consists of or includes an amount of savings income, and
- (b) special withholding tax is levied in respect of the whole or any part of the consideration for the disposal.
- (1B) In section 795 of the Taxes Act, as applied by this section, for the reference in subsection (1)(b) to the amount of any special withholding tax levied in respect of the income, there shall be substituted a reference to an amount equal to—

$$\text{SWT} \times \frac{\text{GUK}}{G - \text{SWT}}$$

where—

SWT is the amount of special withholding tax levied in respect of the whole or the part of the consideration for the disposal,

GUK is the amount of the chargeable gain received in the United Kingdom, and

G is the amount of the chargeable gain accruing to the person on the disposal.

- (1C) In subsections (1A) and (1B) above “savings income” and “special withholding tax” have the same meaning as in Chapter 7 of Part 3 of the Finance Act 2004 (see section 107 of that Act); and references to special withholding tax are to special withholding tax in respect of which a claim has been made under that Chapter.”.

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Certificates to avoid levy of special withholding tax

F²113 Issue of certificate

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Textual Amendments

- F2** S. 113 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(b\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

F³114 Refusal to issue certificate and appeal against refusal

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Textual Amendments

- F3** S. 114 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(b\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

SupplementaryM

115 Supplementary

- (1) In section 792 of the Taxes Act 1988 (double taxation relief: interpretation of the credit code) in subsection (1), in the definition of “foreign tax”, at the end insert “ (other than special withholding tax within the meaning of Chapter 7 of Part 3 of the Finance Act 2004) ”.
- (2) In section 811 of the Taxes Act 1988 (deduction for foreign tax where no credit allowable) in subsection (2), at the end insert “ and to section 111 of the Finance Act 2004 (computation of income subject to special withholding tax) ”.
- (3) In section 278 of the Taxation of Chargeable Gains Act 1992 (c. 12) (allowance for foreign tax) in subsection (1), after “section 277” insert “ and to section 111 of the Finance Act 2004 (computation of chargeable gains subject to special withholding tax) ”.

F⁴(4)

Textual Amendments

- F4** S. 115(4) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 62\(c\), Sch. 10 Pt. 1](#) (with Sch. 9 paras. 1-9, 22)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)