
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2010, Cross Heading: Schemes about deemed foreign tax. (See end of Document for details)

SCHEDULES

SCHEDULE 11

RELIEFS AND REDUCTIONS FOR FOREIGN TAX

Schemes about deemed foreign tax

4 (1) In TIOPA 2010, after section 85 insert—

“85A Section 83(2) and (4): schemes involving deemed foreign tax

- (1) This section applies to a scheme or arrangement if in relation to a claimant—
- (a) an amount (“amount X”) is treated by virtue of a provision of the Tax Acts as if it were an amount of foreign tax paid or payable by the claimant in respect of a source of income, and
 - (b) condition A or B is met.

(2) Condition A is met if, when the claimant entered into the scheme or arrangement, it could reasonably be expected that, under the scheme or arrangement, no real foreign tax would be paid or payable by a participant.

(3) Condition B is met if, when the claimant entered into the scheme or arrangement, it could reasonably be expected that, under the scheme or arrangement—

- (a) an amount of real foreign tax (“the RFT amount”) would be paid or payable by a participant, but
- (b) the effect on the foreign-tax total of the RFT amount being so paid or payable would be to increase the foreign-tax total by less than the amount allowable to the claimant as a credit in respect of amount X.

(4) In this section—

“claimant” means a person who for a chargeable period has claimed, or is in a position to claim, for any credit that under the arrangements is to be allowed for foreign tax;

“the foreign-tax total” has the meaning given by section 85(3), except that the reference to “the FT amount being paid or payable by C” must be read as a reference to “the RFT amount being paid or payable by any of them”;

“income” includes a chargeable gain;

“participant” means a person who is party to, or concerned in, the scheme or arrangement;

“real foreign tax” means—

- (a) in a case involving section 10 (accrued income profits), the foreign tax chargeable in respect of the interest on the securities, as mentioned in subsection (1)(c) of that section,

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- (b) in a case involving section 792 or 794 of CTA 2010 (manufactured overseas dividends), the foreign tax chargeable in respect of the overseas dividend of which the manufactured overseas dividend is representative, as mentioned in section 790 of that Act, and
 - (c) in any other case, the foreign tax chargeable in respect of the source of income of which the source mentioned in subsection (1)(a) is representative.”
- (2) The amendment made by this paragraph has effect in relation to amounts treated as if they were amounts of foreign tax paid or payable on or after 21 October 2009.
- (3) A corresponding amendment, having effect in relation to such amounts, is to be treated as having been made in Schedule 28AB to ICTA.

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