Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 2

DOUBLE TAXATION RELIEF

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DOUBLE TAXATION RELIEF BY WAY OF CREDIT

Limit on, and reduction of, credit against income tax

36 Amount of limit

(1) This section is about the amount of credit allowed under section 18(2) against a person's income tax for any tax year.

(2) The amount of credit in respect of income from any particular source must not exceed the difference between—

(a) the amount of income tax to which the person would be liable for the tax year if the person were charged to income tax on—

$$TI - X$$

and

(b) the amount of income tax to which the person would be liable for the tax year if the person were charged to income tax on—

$$TI - (X + C)$$

(3) If credit is allowed (whether or not under the same tax-relief arrangements) in respect of income from more than one source, apply subsection (2) successively to the income from each source, taking the sources in the order which will result in the greatest reduction in the person's income tax liability for the tax year.

(4) In subsection (2)—

TI is the person's total income for the tax year,

X is the income (if any) to which subsection (2) has already been applied, and

C is the income in respect of which the credit is to be allowed.

(5) The rules for calculating an amount of income tax under subsection (2) are—

(a) the calculation is to be made in accordance with sections 31 and 32, and

(b) no credit is to be allowed for foreign tax, and

(c) no reduction is to be made under section 26 of FA 2005 (trusts for the benefit of a vulnerable beneficiary), but

(d) any other income tax reduction under the Income Tax Acts is to be made.

(6) See section 29(2) and (3) of ITA 2007 (tax reductions limited by reference to tax liability) for further limits on the total amount of credit for foreign tax to be allowed to a person against income tax.

(7) For the purposes of subsection (3) the following are "tax-relief arrangements"—

(a) double taxation arrangements, and

(b) unilateral relief arrangements for a territory outside the United Kingdom.

37 Credit against tax on trade income: further rules

(1) Apply section 36(2) in accordance with subsections (2) to (5) if the tax against which the credit is to be allowed is income tax on trade income.

(2) Treat the reference to income from any particular source as a reference to trade income arising out of a transaction, arrangement or asset.

(3) C is the income arising out of the transaction, arrangement or asset in connection with which the credit arises.

(4) In calculating an amount of income tax under section 36(2) deduct, from the income arising out of the transaction, arrangement or asset in connection with which the credit arises, deductions which would be allowed in a calculation of the taxpayer's liability in respect of that income.

(5) Treat section 36(3) as referring—

(a) to trade income instead of income, and

(b) to a transaction, arrangement or asset instead of a source.

(6) In subsection (4) "deductions" includes a just and reasonable apportionment of deductions that relate—

(a) partly to the income arising out of the transaction, arrangement or asset in connection with which the credit arises, and

(b) partly to other matters.

(7) In this section "trade income" means income chargeable to tax under—

(a) Chapter 2 or 18 of Part 2 of ITTOIA 2005 (trade profits and post-cessation receipts), or
(b) Chapter 3 or 10 of Part 3 of ITTOIA 2005 (profits of property businesses and post-cessation receipts).

38 Credit against tax on royalties: further rules

(1) Subsection (2) applies if—
(a) the arrangements are double taxation arrangements, and
(b) royalties, as defined in the arrangements, are paid in respect of an asset in more than one foreign jurisdiction.

(2) For the purposes of section 36(2)—
(a) royalty income arising in more than one foreign jurisdiction in a tax year in respect of the asset is to be treated as a single item of income, and
(b) credits available for foreign tax in respect of the royalty income are to be aggregated accordingly.

(3) In this section "foreign jurisdiction" means a jurisdiction outside the United Kingdom.

39 Credit reduced by reference to accrued income losses

(1) Subsection (5) applies if each of conditions A to C is met.

(2) Condition A is that a person is entitled under section 18(2) to credit against income tax.

(3) Condition B is that the income tax is calculated by reference to income consisting of interest in respect of which the person is entitled under section 679 of ITA 2007 (no income tax on interest so far as matched by accrued income losses) to an exemption from liability to income tax.

(4) Condition C is that—
(a) the arrangements are unilateral relief arrangements for a territory outside the United Kingdom and the credit is allowed as a result of section 9, or
(b) the arrangements are double taxation arrangements and the credit is allowed as a result of the inclusion in the arrangements of any provision corresponding to that section.

(5) The amount of the credit is to be reduced to the amount given by—

$$\frac{I - E}{I} \times C$$

where—
I is the amount of the interest,
E is the amount of the exemption, and
C is the amount the credit would be apart from this subsection.

(6) Expressions used in this section and in Chapter 2 of Part 12 of ITA 2007 (accrued income profits) have the same meaning in this section as in that Chapter.

Changes to legislation:
There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Cross Heading: Limit on, and reduction of, credit against income tax.