

## SCHEDULES.

## SEVENTH SCHEDULE

Section 51.

## PROVISIONS AS TO RELIEF FROM INCOME TAX, EXCESS PROFITS TAX AND THE NATIONAL DEFENCE CONTRIBUTION BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX.

*Interpretation.*

- 1 (1) In this Schedule, except where the context otherwise requires—
- " the United Kingdom taxes " means income tax and excess profits tax ;
  - " excess profits tax " includes the national defence contribution ;
  - " foreign income tax " means, in relation to any territory arrangements with the Government of which have effect by virtue of Part V of this Act, any tax chargeable under the laws of that territory which corresponds to income tax, being a tax for which credit may be given under the arrangements ;
  - " foreign excess profits tax " means, in relation to any territory arrangements with the Government of which have effect by virtue of Part V of this Act, any tax chargeable under the laws of that territory which corresponds to excess profits tax, being a tax for which credit may be given under the arrangements.
- (2) Where arrangements having effect by virtue of Part V of this Act provide for any tax chargeable under the laws of the territory concerned being treated as income tax or excess profits tax, that tax shall, notwithstanding anything in the preceding provisions of this paragraph, be treated as foreign income tax or foreign excess profits tax, as the case may be.
- (3) Any reference in this Schedule to foreign income tax or foreign excess profits tax shall be construed, in relation to credit to be given under any arrangements, as a reference only to the tax chargeable under the laws of the territory with the Government of which the arrangements were made.

*General.*

- 2 Subject to the provisions of this Schedule, where, under the arrangements, credit is to be allowed against any of the United Kingdom taxes chargeable in respect of any income or profits, the amount of the United Kingdom taxes so chargeable shall be reduced by the amount of the credit :
- Provided that foreign income tax shall be allowed as a credit only against income tax and foreign excess profits tax shall be allowed as a credit only against excess profits tax.

*Requirement as to residence.*

- 3 Credit shall not be allowed against income tax for any year of assessment or against excess profits tax for any chargeable accounting period unless the person in respect

of whose income or profits the tax is chargeable is resident in the United Kingdom for that year or period :

Provided that, except in so far as it relates to income tax and the national defence contribution, this paragraph shall not apply to tax in respect of the profits of a body corporate which is a subsidiary member of a group of companies for the purposes of the Fifth Schedule to the Finance Act, 1940.

*Limits on total credit—income tax.*

- 4 (1) The amount of the credit to be allowed for foreign income tax in respect of any income shall not exceed the sum which would be produced by computing the amount of that income in accordance with the Income Tax Acts, and then charging it to income tax for the year of assessment for which the credit is to be allowed, but at the following rate, that is to say—
- (a) in the case of a person whose income is chargeable to income tax at the standard rate only, a rate ascertained by dividing the income tax payable by him for the year by the amount of his total income for the year ;
  - (b) in the case of a person part of whose total income is chargeable to income tax at a rate or rates in excess of the standard rate, the sum of the following rates—
    - (i) the rate which would have been the appropriate rate in his case if his income had been chargeable at the standard rate only ; and
    - (ii) the rate ascertained by dividing the surtax payable by him for the year by the amount of his total income for the year :

Provided that where, under the arrangements, credit is not to be allowed against surtax for the year, the rate shall be calculated in all cases as in the case of persons whose incomes are chargeable to income tax at the standard rate only, and where, under the arrangements, credit is not to be allowed except against surtax for the year, the rate shall be that ascertained by dividing the surtax payable by the person in question for the year by the amount of his total income for the year.

- (2) For the purpose of determining the said rate, the tax payable by any person for any year shall be computed without regard to any relief in respect of life assurance premiums and without any reduction thereof for any credit allowed or to be allowed under any arrangements having effect by virtue of Part V of this Act, but shall be deemed to be reduced by any tax which, otherwise than under Rule 20 of the General Rules, he is entitled to charge against any other person, and the total income of any person shall be deemed to be reduced by the amount of any income the income tax upon which he is entitled to charge as aforesaid.
- 5 Without prejudice to the provisions of the last preceding paragraph, the total credit to be allowed to a person for any year of assessment for foreign income tax under all arrangements having effect by virtue of Part V of this Act shall not exceed the total income tax payable by him for that year of assessment, less any tax which, otherwise than under Rule 20 of the General Rules, he is entitled to charge against any other person.

*Limit on total credit—excess profits tax.*

- 6 The amount of the credit to be allowed against excess profits tax for foreign excess profits tax on any profits shall not exceed the excess profits tax attributable to those profits.

*Effect on computation of income of allowance of credit.*

- 7 (1) Where credit falls to be given against income tax on any income for foreign income tax, the following provisions of this paragraph shall have effect as respects the computation, for the purposes of the United Kingdom taxes, of the amount of that income.
- (2) Where the income tax payable depends on the amount received in the United Kingdom, the said amount shall be deemed to be increased by the amount of the credit.
- (3) Where the last preceding sub-paragraph does not apply—
- (a) no deduction shall be made in respect of foreign income tax (Whether in respect of the same or any other income) ; and
  - (b) where the income includes a dividend and under the arrangements foreign income tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend, the amount of the income shall be increased by the amount of the foreign income tax not so chargeable which falls to be taken into account in computing the amount of the credit; but
  - (c) notwithstanding anything in the preceding provisions of this sub-paragraph, where the amount of the credit is reduced by the operation of paragraph 4 of this Schedule, the amount of the income shall be reduced by the same amount.
- (4) In relation to the computation of the total income of a person for the purpose of determining the rate mentioned in paragraph 4 of this Schedule, the preceding provisions of this paragraph shall have effect subject to the following modifications—
- (a) for the reference in sub-paragraph (2) to the amount of the credit there shall be substituted a reference to the amount of the foreign income tax in respect of the income (in the case of a dividend, foreign income tax not chargeable directly or by deduction in respect of the dividend being left out of account) ; and
  - (b) paragraphs (b) and (c) of sub-paragraph (3) shall not apply,
- and subject to those modifications, shall have effect in relation to all income in the case of which credit falls to be given for foreign income tax under any arrangements for the time being in force by virtue of Part V. of this Act.

- 8 Where credit for foreign excess profits tax falls to be given against excess profits tax in respect of any profits, no deduction for foreign excess profits tax (whether in respect of the same or any other profits) shall be made in computing the amount of the profits for the purposes of excess profits tax :

Provided that this paragraph shall not apply to so much of any foreign excess profits tax as is, by virtue of paragraph 6 of this Schedule, not to be allowed as a credit.

*Special provisions as to dividends.*

- 9 Where, in the case of any dividend, foreign income tax not chargeable directly or by deduction in respect of the dividend is, under the arrangements, to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend, the foreign income tax not so chargeable

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

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which is to be taken into account shall be that borne by the body corporate paying the dividend upon the relevant profits insofar as it is properly attributable to the proportion of the relevant profits which is represented by the dividend.

The relevant profits 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 ;
- (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 :

Provided that if, in a case falling under sub-paragraph (a) or sub-paragraph (c) of this paragraph, the total dividend exceeds the profits available for distribution of the period mentioned in the said sub-paragraph (a) or the said sub-paragraph (c), as the case may be, 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 for the purposes of this paragraph) as is equal to the excess ; and for the purposes of this proviso 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.

10 Where—

- (a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign income tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against income tax 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, not less than one half 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.

*Miscellaneous.*

11 Credit shall not be allowed under the arrangements against the income tax or excess profits tax chargeable in respect of the income or profits of any person for any year of assessment or chargeable accounting period if he elects that credit shall not be allowed in the case of his income or profits for that year or period.

12 Subject to the provisions of the next following paragraph, any claim for an allowance by way of credit shall be made to the Surveyor not later than six years from the end of the year of assessment or chargeable accounting period, as the case may be, and, if the surveyor objects to any such claim, it shall be heard and determined by the Special Commissioners as if it were an appeal to them against an assessment under Schedule D, and the provisions of the Income Tax Acts relating to the statement of a case for the opinion of the High Court on a point of law shall, with the necessary modifications, apply accordingly.

13 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 Income

Tax Acts or in the enactments relating to excess profits tax 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.