



# Finance Act 1966

## 1966 CHAPTER 18

### PART III

#### CORPORATION TAX ACTS

##### *Double taxation relief.*

#### **30 Unilateral relief for underlying tax etc.**

- (1) Paragraph 4 of Part I of Schedule 17 to the Income Tax Act 1952 (which as extended by section 64 of the Finance Act 1965 affords unilateral relief from income tax and corporation tax in respect of dividends paid by companies resident in the Commonwealth territories, for overseas taxation on their profits) shall be repealed as respects any dividend paid (in the sense of section 89(4) of the Finance Act 1965) after 5th April 1966, and section 64(2)(b) of the Finance Act 1965 (which provides for the prospective repeal of the said paragraph 4) shall also be repealed.
- (2) Relief from income tax for the year 1968-69 or later years of assessment, or from corporation tax for the financial year 1968 or later years, shall not be given by allowing credit under paragraph 1 of Part I of the said Schedule 17 for overseas tax on a dividend paid by a company resident in a territory outside the United Kingdom unless—
  - (a) the overseas tax is directly charged on the dividend, whether by charge to tax or deduction of tax at source or otherwise, and the whole of it represents tax which neither the company nor the recipient would have borne if the dividend had not been paid, or
  - (b) the dividend is paid to a company within paragraph 3 in the said Part I (that is to say a company resident in the United Kingdom which controls, directly or indirectly, not less than a fraction of the voting power in the company paying the dividend, the fraction being, by virtue of paragraph 4(3) of Schedule 16 to the Finance Act 1965, one-tenth as respects dividends paid by a company resident in the Commonwealth territories and one-quarter in other cases), or

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- (c) the dividend is paid to a company to which paragraph 5(1) of the said Schedule 16 (companies carrying on foreign insurance business) applies and is a dividend of the kind described in that sub-paragraph.

### **31 Transitory provisions for company dividends paid to non-residents.**

- (1) This section applies to dividends paid in the period comprising the years 1966-67 and 1967-68 to persons resident in the overseas territories with the Governments of which the double taxation agreements mentioned in Schedule 9 to this Act are made, but the Treasury may by order contained in a statutory instrument, of which a draft has been laid before and approved by the Commons House of Parliament, extend or further extend that period in relation to dividends paid to residents in any of those territories specified in the order (or in relation to dividends paid to residents in all those territories), and the period as so extended or further extended may include part only of a year of assessment.
- (2) Subject to this section and the said Schedule, the amount of income tax under Schedule F chargeable in respect of a dividend to which this section applies shall be subject to such limitation or exemption, if any, as would apply under the relevant agreement in the converse case (that is in the case of a dividend paid by a company resident in the overseas territory to a person resident in the United Kingdom, and assuming that all the circumstances of that case are the exact converse of those of the actual case) so as to afford relief from any description of tax in the overseas territory chargeable on the dividend in that converse case.
- (3) If without this subsection subsection (2) above would attach a condition making the limitation or exemption dependent on the recipient of the dividend being subject to tax where he resides in respect of the dividend, that condition shall not apply if he is not so subject to tax by reason only of a provision in an agreement having effect under section 347 of the Income Tax Act 1952 which in all or any circumstances confers exemption from all tax where he resides in respect of dividends.
- (4) Any limitation (as well as any exemption) applied by subsection (2) above to the amount of income tax under Schedule F chargeable in respect of a dividend—
- (a) shall be included in the references to exemption from income tax in section 65(5) of the Finance Act 1965 (dividend stripping, etc.), and
  - (b) where the recipient of the dividend is not subject to tax where he resides in respect of the dividend, shall for the purposes of section 23 of the Finance Act 1959 (certain transactions involving purchase and sale of securities) be included in the references to exemption from income tax in section 25(1) of that Act.
- (5) If any agreement, or any provision in an agreement, ceases to have effect, this section and Schedule 9 to this Act shall cease to have effect in relation to that agreement or that provision as respects dividends paid after the time when that agreement ceases to have effect for the purposes of income tax (other than surtax), or as the case may be as respects dividends paid after the time when that provision ceases to have effect.
- (6) If effect is given by an Order in Council to an amending agreement which, as regards dividends paid after a specified time, affords (in any circumstances) relief from income tax at the standard rate under Schedule F (other than relief corresponding to that afforded by section 227(2) of the Income Tax Act 1952) this section and Schedule 9 to this Act shall, as regards dividends paid after that time, cease to have effect in relation to the agreement which is amended.

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- (7) In determining for the purposes of section 347(4) of the Income Tax Act 1952 (under which effect may be given to double taxation agreements giving retrospective relief) whether retrospective provisions are provisions for relief the relief afforded by this section, and the withdrawal of that relief by virtue of the last foregoing subsection in consequence of the amendment of the relevant agreement, shall be disregarded.
- (8) The obligations as to secrecy imposed by the Income Tax Acts and the Corporation Tax Acts upon persons employed in relation to Inland Revenue shall not prevent the disclosure to the authorised officer of the Government of an overseas territory which is a party to any of the double taxation agreements mentioned in Schedule 9 to this Act of such facts as may be necessary to enable the proper relief to be given under this section.
- (9) The powers of making regulations conferred by section 351 of the Income Tax Act 1952 shall be exercisable for the purpose of carrying out the provisions of this section, and the provisions of double taxation agreements as applied by this section, as they are exercisable for the purpose of carrying out the provisions of section 347 of that Act, and of arrangements having effect thereunder.
- (10) Effect shall be given to the relief afforded by this section on a claim to which section 9 of the Income Tax Management Act 1964 shall apply, but subject to any provisions made pursuant to the last foregoing subsection for the payment of dividends without deduction of all or any tax.
- (11) In this section and in Schedule 9 to this Act—
- (a) in relation to a dividend paid to a person resident in an overseas territory " the overseas territory " means that territory and " the relevant agreement " means the double taxation agreement in the Order in Council mentioned in Schedule 9 to this Act which concerns that overseas territory with any amendments to which effect is given by any subsequent Order in Council made before or after the passing of this Act,
  - (b) references to residence shall be construed in accordance with the relevant agreement,
- and section 89(4) of the Finance Act 1965 shall apply to determine for the purposes of this section and Schedule 9 to this Act the date when any dividend chargeable to income tax under Schedule F is paid.

## **32 Transitory provisions for interest and royalties paid to non-residents.**

- (1) This section applies to any payments to a person resident in an overseas territory made in the period comprising the financial years 1966 and 1967, but the Treasury may by order contained in a statutory instrument, of which a draft has been laid before and approved by the Commons House of Parliament, extend or further extend that period in relation to residents in an overseas territory specified in the order (or residents in all overseas territories) and the period as so extended or further extended may include part only of a financial year.
- (2) In Schedule 11 to the Finance Act 1965 (which defines company distributions) neither—
- (a) paragraph 1(1)(d)(iv) (which, as amended by this Act, relates to interest, etc., in respect of securities held by a company which is not resident in the United Kingdom and is in the same group of companies as the paying company), nor
  - (b) paragraph 9(1)(c) (royalties paid by a close company to a participator),

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shall apply to any such payment if, under an existing double taxation agreement, the recipient is entitled to relief (whether by way of exemption from tax, or by virtue of a limitation on the rate of tax) from income tax (not including surtax) chargeable in the United Kingdom on that payment.

- (3) Subsection (2) above shall not apply to any payment to a company more than fifty per cent. of the voting power in which is controlled, directly or indirectly, by a person or persons resident in the United Kingdom.
- (4) In this section "existing double taxation agreement" means any arrangements having effect by virtue of section 347 of the Income Tax Act 1952, being arrangements specified in an Order in Council under that section of which the draft was approved by the Commons House of Parliament before 1st January 1966, together with any other such arrangements, whenever made, providing for their modification in any respect; but any arrangements taking effect under the said section 347 after the passing of this Act and modifying an existing double taxation agreement in any respect may exclude the provisions of this section as they apply in relation to that agreement, and the exclusion shall be as respects payments, or a specified description of payments, made after the date specified in the arrangements, which may be a date before or after the making of the arrangements.
- (5) In this section "overseas territory", in relation to an existing double taxation agreement, means the territory (other than the United Kingdom) to which the agreement applies.

### **33 Transitory provisions for double taxation agreements having retrospective effect.**

- (1) Any arrangements to which effect is given under section 347 of the Income Tax Act 1952 by virtue of an Order in Council made in pursuance of an Address presented to Her Majesty by the Commons House of Parliament before 1st January 1968 may include a provision which withdraws relief from corporation tax afforded by provisions of an existing double taxation agreement concerning interest or royalties notwithstanding that the relief so withdrawn is for periods which include periods before the making of the arrangements.
- (2) In this section "existing double taxation agreement" means any arrangements to which effect has been given under the said section 347 by virtue of an Order in Council made before the passing of this Act.
- (3) This section applies in relation to corporation tax for the financial years 1964 and 1965 or for any later financial year.

### **34 Regulations relating to double taxation relief.**

- (1) In section 351(1)(c) of the Income Tax Act 1952 (which authorises the making of the necessary adjustments in respect of income tax deductible from any periodical payment where the tax has not been, but ought to have been, deducted) the word "periodical" (in the expression "periodical payment") shall cease to have effect.
- (2) The giving of relief under Part XIII of the Income Tax Act 1952 (double taxation relief), or under this Act, in respect of income tax under Schedule F by authorising, pursuant to regulations under the said section 351, the making of distributions of amounts exceeding what would otherwise be distributed shall not affect the provisions of section 47(2) of the Finance Act 1965 (which determine the amount of income tax

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under Schedule F chargeable in respect of any distribution), and references in that subsection to the amount of the distribution shall be taken as references to that amount, apart from any increase made in pursuance of such regulations.