



# Income and Corporation Taxes Act 1970

## 1970 CHAPTER 10

### PART XVIII

#### DOUBLE TAXATION RELIEF

### CHAPTER I

#### THE PRINCIPAL RELIEFS

#### **497 Relief by agreement with other countries**

- (1) If Her Majesty by Order in Council declares that arrangements specified in the Order have been made with the government of any territory outside the United Kingdom with a view to affording relief from double taxation in relation to income tax or corporation tax and any taxes of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, then, subject to the provisions of this Part of this Act, the arrangements shall, notwithstanding anything in any enactment, have effect in relation to income tax and corporation tax in so far as they provide—
  - (a) for relief from income tax, or from corporation tax in respect of income, or
  - (b) for charging the income arising from sources in the United Kingdom to persons not resident in the United Kingdom, or
  - (c) for determining the income to be attributed—
    - (i) to persons not resident in the United Kingdom and their agencies, branches or establishments in the United Kingdom, or
    - (ii) to persons resident in the United Kingdom who have special relationships with persons not so resident.
- (2) The provisions of Chapter II below shall apply where arrangements which have effect by virtue of this section provide that tax payable under the laws of the territory concerned shall be allowed as a credit against tax payable in the United Kingdom.

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- (3) For the purposes of this section and, subject to section 503(3) below, of the said Chapter II in its application to relief under this section, any amount of tax which would have been payable under the law of a territory outside the United Kingdom but for a relief to which this subsection applies given under the law of that territory shall be treated as having been payable; and references in this section and that Chapter to double taxation, to tax payable or chargeable, or to tax not chargeable directly or by deduction shall be construed accordingly.

This subsection applies to any relief given with a view to promoting industrial, commercial, scientific, educational or other development in a territory outside the United Kingdom, being a relief with respect to which provision is made in the arrangements in question for double taxation relief.

- (4) Except in the case of a claim for an allowance by way of credit in accordance with Chapter II below, a claim for relief under subsection (1)(a) above shall be made to the Board.
- (5) Where, under any arrangements which have effect by Kingdom or in the territory with the government of which the virtue of this section, relief may be given, either in the United arrangements are made, in respect of any income, and it appears that the assessment to income tax or corporation tax made in respect of the income is not made in respect of the full amount thereof, or is incorrect having regard to the credit, if any, which falls to be given under the arrangements, any such assessments may be made as are necessary to ensure that the total amount of the income is assessed, and the proper credit, if any, is given in respect thereof, and, where the income is entrusted to any person in the United Kingdom for payment, any such assessment may be made on the recipient of the income under Case VI of Schedule D.
- (6) Any arrangements to which effect is given under this section may include provision for relief from tax for periods before the passing of this Act, or before the making of the arrangements, and provisions as to income which is not itself subject to double taxation, and the preceding provisions of this section shall have effect accordingly.
- (7) Any Order in Council made under this section may be revoked by a subsequent Order in Council, and any such revoking Order may contain such transitional provisions as appear to Her Majesty to be necessary or expedient.
- (8) Before any Order proposed to be made under this section is submitted to Her Majesty in Council, a draft thereof shall be laid before the House of Commons, and the Order shall not be so submitted unless an Address is presented to Her Majesty by that House praying that the Order be made.
- (9) Notwithstanding section 501(2) below, any arrangements made in relation to the profits tax under section 347 of the Income Tax Act 1952 (which this section re-enacts) or any earlier enactment corresponding to the said section 347 shall, except in so far as arrangements made after the passing of the Finance Act 1965 provide otherwise, have effect in relation to corporation tax and income chargeable thereto as they are expressed to have effect in relation to the profits tax and profits chargeable thereto (with the substitution of accounting periods for chargeable accounting periods), and not as they have effect in relation to income tax.

## **498 Unilateral relief**

- (1) To the extent appearing from the following provisions of this section, relief from income tax and corporation tax in respect of income shall be given in respect of tax payable under the law of any territory outside the United Kingdom by allowing the last-mentioned tax as a credit against income tax or corporation tax, notwithstanding that there are not for the time being in force any arrangements under section 497 above providing for such relief:

Provided that the said relief shall not be given in respect of tax payable under the law of the Republic of Ireland.

- (2) The said relief (hereafter referred to as " unilateral relief ") shall be such relief as would fall to be given under Chapter II below if arrangements with the government of the territory in question containing the provisions specified in subsections (3) and (4) below were in force by virtue of the said section 497, but subject to any particular provision made with respect to unilateral relief in that Chapter; and any expression in that Chapter which imports a reference to relief under arrangements for the time being having effect by virtue of the said section 497 shall be deemed to import also a reference to unilateral relief.
- (3) Credit for tax paid under the law of the territory outside the United Kingdom and computed by reference to income arising in that territory shall be allowed against any United Kingdom income tax or corporation tax computed by reference to that income (profits from, or remuneration for, personal or professional services performed in that territory being deemed for this purpose to be income arising in that territory):

Provided that—

- (a) where the territory is the Isle of Man or any of the Channel Islands, the limitation to income arising in the territory shall not apply,
- (b) where arrangements with the government of the territory are for the time being in force by virtue of section 497 above, credit for tax paid under the law of the territory shall not be allowed by virtue of this subsection in the case of any income if any credit for that tax is allowable under those arrangements in respect of that income, and
- (c) credit shall not be allowed by virtue of this subsection for overseas tax on a dividend paid by a company resident in the territory unless—
- (i) the overseas tax is directly charged on the dividend, whether by charge to tax, 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
- (ii) the dividend is paid to a company within subsection (4) below, or
- (iii) the dividend is paid to a company to which section 509(1) below applies, and is a dividend of the kind described in that subsection.
- (4) Where a dividend paid by a company resident in the territory is paid to a company resident in the United Kingdom which either—
- (a) controls directly or indirectly, or
- (b) is a subsidiary of a company which controls directly or indirectly, not less than 25 per cent. of the voting power in the company paying the dividend, or not less than 10 per cent. of the voting power if the territory is one of the Commonwealth territories, any tax in respect of its profits paid under the law of the

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territory by the company paying the dividend shall be taken into account in considering whether any, and if so what, credit is to be allowed in respect of the dividend.

In this subsection references to the Commonwealth territories, and to one company being a subsidiary of another, are to be construed in accordance with section 500 below.

- (5) Where unilateral relief may be given in respect of any income, and it appears that the assessment to income tax or corporation tax made in respect of the income is not made in respect of the full amount thereof, or is incorrect having regard to the credit, if any, which falls to be given by way of unilateral relief, any such assessments may be made as are necessary to ensure that the total amount of the income is assessed, and the proper credit, if any, is given in respect thereof, and, where the income is entrusted to any person in the United Kingdom for payment, any such assessment may be made on the recipient of the income under Case VI of Schedule D.
- (6) In this section, and in Chapter II below in its application to unilateral relief, references to tax payable or paid under the law of a territory outside the United Kingdom include only references to taxes which are charged on income and correspond to income tax or corporation tax in the United Kingdom, but, for this purpose, tax under the law of any such territory shall not be treated as not corresponding to income tax or corporation tax by reason only that it is payable under the law of a province, state or other part of a country, or is levied by or on behalf of a municipality or other local body.

#### **499 Application to corporation tax on chargeable gains**

The provisions of this Chapter and of Chapter II below, so far as they are applicable to capital gains tax by virtue of section 39(1) of the Finance Act 1965, shall have effect in relation to corporation tax in respect of chargeable gains as they have effect in relation to capital gains tax.