



# 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.

## **CHAPTER II**

### RULES GOVERNING RELIEF BY WAY OF CREDIT

#### *General*

#### **500 Interpretation of credit code**

- (1) In this Chapter, except where the context otherwise requires—
- " arrangements " means any arrangements having effect by virtue of section 497 above,
- " Commonwealth territory " means any of Her Majesty's dominions, any other country for the time being mentioned in section 1(3) of the British Nationality Act 1948, any British protectorate or protected state, and any trust territory administered by the government of any part of Her Majesty's dominions,
- " foreign tax " means, in relation to any territory arrangements with the government of which have effect by virtue of section 497 above, any tax chargeable under the laws of that territory for which credit may be allowed under the arrangements,

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" the United Kingdom taxes " means income tax and corporation tax,  
" underlying tax " means, in relation to any dividend, tax which is not chargeable in respect thereof directly or by deduction, and  
" unilateral relief " means relief under section 498 above.

- (2) For the purposes of this Chapter one company is a subsidiary of another if the other company controls, directly or indirectly, not less than 50 per cent. of the voting power in the first company.
- (3) Any reference in this Chapter to foreign tax shall be construed in relation to credit to be allowed under any arrangements as a reference only to tax chargeable under the laws of the territory with the government of which the arrangements were made.

#### **501 Relief to be given by reducing U.K. taxes by amount of credit due**

- (1) Subject to the provisions of this Chapter, where under any arrangements credit is to be allowed against any of the United Kingdom taxes chargeable in respect of any income, the amount of the United Kingdom taxes so chargeable shall be reduced by the amount of the credit.
- (2) Nothing in subsection (1) above authorises the allowance of credit against any United Kingdom tax against which credit is not allowable under the arrangements.

#### **502 Requirement as to residence**

Credit shall not be allowed under any arrangements against any of the United Kingdom taxes for any chargeable period unless the person in respect of whose income the United Kingdom tax is chargeable is resident in the United Kingdom for that period:

Provided that credit may be allowed by way of unilateral relief—

- (a) for tax paid under the law of the Isle of Man or any of the Channel Islands, if the person in question is, for the chargeable period in question, resident either in the United Kingdom or in the Isle of Man or the Channel Islands, as the case may be, and
- (b) for tax paid under the law of any territory and computed by reference to income from an office or employment the duties of which are performed wholly or mainly in that territory, against income tax chargeable under Schedule E and computed by reference to that income, if the person in question is for the year of assessment in question resident either in the United Kingdom or in that territory.

#### **503 Computation, for purposes of U.K. taxes, of income subject to foreign tax**

- (1) Where credit for foreign tax falls under any arrangements to be allowed in respect of any income, and income tax or corporation tax is payable by reference to the amount received in the United Kingdom, the amount received shall be treated for the purposes of income tax or corporation tax as increased by the amount of the foreign tax in respect of the income, including, in the case of a dividend, any underlying tax which, under the arrangements, is to be taken into account in considering whether any, and if so what, credit is to be allowed in respect of the dividend.

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- (2) Where credit for foreign tax falls under any arrangements to be allowed in respect of any income, and subsection (1) above does not apply, then, in computing the amount of the income for the purposes of income tax or corporation tax—
- (a) no deduction shall be made for foreign tax, whether in respect of the same or any other income, and
  - (b) the amount of the income shall, in the case of a dividend, be treated as increased by any underlying tax which, under the arrangements, is to be taken into account in considering whether any, and if so what, credit is to be allowed in respect of the dividend.
- (3) The amount of any income shall not be treated as increased under this section by reference to any foreign tax which, although not payable, falls to be taken into account for the purposes of credit by virtue of section 497(3) above.

#### **504 Limits on credit: income tax**

- (1) The amount of the credit for foreign tax which, under any arrangements, is to be allowed to a person against income tax for any year of assessment shall not exceed the difference between the amounts of income tax which would be borne by him for the year (no credit being allowed for foreign tax)—
- (a) if he were charged to tax on his total income for the year, computed in accordance with section 503 above, and
  - (b) if he were charged to tax on the same income, computed in the same way, but excluding the income in respect of which the credit is to be allowed.
- (2) Where credit for foreign tax is to be allowed in respect of income from more than one source, subsection (1) above shall be applied successively to the income from each source, but so that, on each successive application, paragraph (a) shall apply to the total income exclusive of the income to which the subsection has already been applied.
- (3) Without prejudice to subsections (1) and (2) above, the total credit for foreign tax to be allowed to a person against income tax for any year of assessment under all arrangements having effect by virtue of section 497 above shall not exceed the total income tax payable by him for that year of assessment, less any income tax which he is entitled to charge against any other person.

#### **505 Limit on credit: corporation tax**

The amount of the credit for foreign tax which, under any arrangements, is to be allowed against corporation tax in respect of any income shall not exceed the corporation tax attributable to that income.

*Underlying tax on dividends*

#### **506 Computation of underlying tax**

- (1) Where, in the case of any dividend, arrangements provide for underlying tax to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes in respect of the dividend, the tax to be taken into account by virtue of that provision shall be so much of the foreign tax borne on the

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relevant profits by the body corporate paying the dividend as is properly attributable to the proportion of the relevant profits represented by the dividend.

- (2) For the purposes of subsection (1) above, 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, and
  - (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 paragraph (a) or (c) above, the total dividend exceeds the profits available for distribution of the period mentioned in the said paragraph (a) or (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 section) 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.

- (3) Profits treated as relevant for the purposes of paragraph 9 of Schedule 16 to the Income Tax Act 1952 (which this section re-enacts), and profits deemed by virtue of that paragraph to be profits previously so treated, shall be deemed for the purposes of this section to be profits previously treated as relevant for the purposes of this section.

#### **507 Extension of relief to certain dividends not covered by arrangements where paid between related companies**

- (1) Where—
- (a) arrangements provide, in relation to dividends of some classes but not in relation to dividends of other classes, that underlying tax is to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes 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, or 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, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

- (2) Where any arrangements contain a provision which.—
- (a) applies to any company which controls, directly or indirectly, not less than a stated fraction of the voting power of a company resident in a specified territory outside the United Kingdom, and
  - (b) in allowing credit against United Kingdom tax on dividends paid to any such company by the company so resident, authorises account to be taken of tax payable by the company so resident in respect of the profits out of which the dividends were paid,

then, subject to subsection (3) below, credit shall be allowed under the arrangements as if the provision treated the subsidiary of a company which owns, directly or indirectly, the stated fraction of the voting power of a company resident in the specified territory

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as if that subsidiary also owned that fraction of the voting power of the company so resident.

- (3) Subsections (1) and (2) above have no application to unilateral relief; and credit shall not be allowable in the case of the same income both by virtue of the said subsection (2) and by way of unilateral relief.

**508 Extension of relief to U.K. and third country taxes where dividends paid between related companies**

- (1) Where a dividend is paid by a company resident in a territory outside the United Kingdom 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, then, for the purpose of allowing credit under any arrangements against corporation tax in respect of the dividend, any United Kingdom income tax or corporation tax payable by the first-mentioned company in respect of its profits, and any tax so payable under the law of any territory outside the United Kingdom, shall be taken into account as if it were tax payable under the law of the first-mentioned territory.
- (2) In relation to dividends paid by a company resident in a Commonwealth territory, subsection (1) above shall have effect for the purposes of unilateral relief with the substitution of " 10 per cent. " for " 25 per cent. ".

**509 U.K. insurance companies trading overseas**

- (1) Subject to subsection (2) below, where a company resident in the United Kingdom is charged to tax under Case I of Schedule D in respect of any insurance business carried on by it, and that business or any part of it is carried on through a branch or agency in a territory outside the United Kingdom, then, in respect of dividends referable to that business which are paid to the company by companies resident in that territory, any tax payable by those companies in respect of their profits under the law of that or any other territory outside the United Kingdom, and any United Kingdom income tax or corporation tax so payable, shall, in considering whether any, and if so what, credit is to be allowed under any arrangements, be taken into account as tax so payable under the law of the first-mentioned territory is taken into account in a case falling within section 506 above.
- (2) Credit shall not be allowed to a company by virtue of subsection (1) above for any financial year in respect of a greater amount of dividends paid by companies resident in any overseas territory than is equal to any excess of the relevant fraction of the company's total income in that year from investments (including franked investment income and group income) so far as referable to the said business over the amount of the dividends so referable which are paid to it in the year by companies resident in that territory and in respect of which credit may, apart from the said subsection (1), be allowed to it for underlying tax.
- (3) For the purposes of subsection (2) above "the relevant fraction " is, in relation to any overseas territory, the fraction of which the numerator is the company's local, and the denominator the company's total, premium income in the financial year so far as referable to the said business, and premium income shall be deemed to be local premium income in so far as it consists of premiums under contracts entered into at



or through a branch or agency in that territory by persons not resident in the United Kingdom.

*Miscellaneous rules*

**510 Relief against income tax in respect of income arising in years of commencement**

- (1) Subject to the provisions of this section, credit for overseas tax paid in respect of any income arising in the years of commencement shall be allowed under this Part of this Act against United Kingdom income tax chargeable for any year of assessment in respect of that income if it would have been so allowed but for the fact that credit for that overseas tax had been allowed against the United Kingdom income tax chargeable in respect of that income for a previous year of assessment.
- (2) The amount of credit to be allowed in respect of any income by virtue of this section for any year of assessment shall not exceed the difference between—
  - (a) the total credit allowable against income tax in respect of that income under this Part of this Act (including this section) for all years of assessment for which credit is so allowable, and
  - (b) the amount of credit which was in fact so allowed in respect of that income for any earlier year or years of assessment.
- (3) The total credit allowable as aforesaid in respect of any income for all those years of assessment shall be taken to be the amount of the overseas tax charged on that income, adjusted where the number of the United Kingdom periods of assessment exceeds the number of the foreign periods of assessment, in the proportion which the former number bears to the latter, a period for which part only of the income is charged to tax being counted not as one period but as a fraction equal to the proportion which that part of the income bears to the whole of the income.
- (4) Where the same income is charged to different overseas taxes for different foreign periods of assessment, subsection (3) above, so far as it relates to the adjustment of overseas tax, shall be applied separately to each of the overseas taxes, and the total credit allowable shall be the aggregate of those taxes after the making of any adjustments in accordance with that subsection as so applied.
- (5) Where credit against income tax for any year of assessment is allowed by virtue of subsection (1) above in respect of any income (hereafter referred to as "the original income"), and subsequently, by reason of the enactments relating to cessation, income arising in a non-basis period from the same source as the original income is not assessed to income tax, then, if the amount of credit allowed against income tax in respect of the original income under this Part of this Act (including this section) for all years of assessment for which credit is so allowable exceeds the aggregate of the following amounts—
  - (a) the amount of the credit against income tax which would have been allowed apart from subsection (1) above for all those years in respect of the original income, and
  - (b) the amount of the overseas tax for which, under this Part of this Act, credit would have been allowable against income tax in respect of income arising in the non-basis period from the same source as the original income,the person chargeable in respect of income (if any) from the same source in the year of assessment following the non-basis period shall be treated as having received in

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that year a payment chargeable under Case VI of Schedule D of an amount such that income tax thereon at the standard rate is equal to the excess:

Provided that any payment which any person is treated by virtue of this subsection as having received shall not on that account constitute income of his for any of the purposes of the Income Tax Acts other than this subsection, and, in particular, no part thereof shall constitute profits or gains brought into charge to income tax for the purposes of section 52 of this Act.

- (6) Any claim for relief by way of credit under subsection (1) above against income tax for any year of assessment shall be made within six years of the end of that year, or, where there is more than one year of assessment in respect of which such relief may be given, within six years of the end of the later of them.

- (7) In this section—

" overseas tax " means tax under the law of a territory outside the United Kingdom,

" non-basis period " means a period the income arising in which is, by reason only of the operation of the enactments relating to cessations, not chargeable to United Kingdom income tax for any year of assessment,

" United Kingdom period of assessment " and " foreign period of assessment ", in relation to any income, mean respectively a year or other period for which under the relevant law the income falls to be charged to the relevant tax,

" years of commencement ", in relation to income from any source, means the first three years of assessment for which income from that source falls to be assessed to income tax, and also, in the case of profits or gains chargeable to tax under Case I or Case II of Schedule D, the whole of any period falling partly within those years such that the profits or gains arising in the period fall to be assessed to income tax for a year of assessment later than those years,

references to the enactments relating to cessations are references to sections 118, 121, 124 and 154 of this Act, and

references to income arising in any year include, in relation to income the income tax on which is to be computed by reference to the amount of income received in the United Kingdom, references to income received in that year.

## **511 Elections against credit**

Credit shall not be allowed under any arrangements against the United Kingdom taxes chargeable in respect of any income of any person if he elects that credit shall not be allowed in respect of that income.

## **512 Time limit for claims etc.**

- (1) Subject to subsection (2) below and section 510(6) above, any claim for an allowance under any arrangements by way of credit for foreign tax in respect of any income shall be made not later than six years from the end of the chargeable period for which the income falls to be charged to income tax or corporation tax, or would fall so to be charged if any income tax or corporation tax were chargeable in respect thereof.
- (2) 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 Tax Acts

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.

## CHAPTER III

### OTHER PROVISIONS

#### **513 Relief under agreements with Republic of Ireland**

- (1) The repeals effected by this Act shall not affect the confirmation by any enactment of any agreement in force at the passing of this Act between the United Kingdom and the Republic of Ireland, and accordingly, subject to subsection (2) below, the agreement of 14th April 1926 set out in Part I of Schedule 12 to this Act, as modified by the agreements of 25th April 1928, 4th April 1959 and 23rd June 1960 there set out, shall, for any year of assessment for which, under the law of the Republic of Ireland, it has effect with respect to exemption and relief from Republic of Ireland income tax, have effect with respect to exemption or relief to be granted from United Kingdom income tax.
- (2) In paragraph (1) of the Article substituted for Article 2 of the said agreement of 1926 by Article 2 of the said agreement of 1928, the references to section 27 of the Finance Act 1920 shall be taken to be references to that section as set out in Part II of the said Schedule 12 with amendments made therein by subsequent enactments and certain omissions and adaptations of provisions and phrases which have become inapt or unnecessary, or are unnecessary, inapplicable or unsuitable in the case of the Republic of Ireland.
- (3) For the purpose of giving effect to the agreements to which this section applies, the Income Tax Acts, in relation to—
  - (a) persons resident in the United Kingdom, whether or not also resident in the Republic of Ireland, and
  - (b) persons entrusted with payment to persons so resident, and
  - (c) claims by persons resident in the Republic of Ireland,shall, for any year for which the said agreements are in force, have effect subject to the provisions of Part III of the said Schedule 12.
- (4) The deduction to be given to an individual under section 22 of this Act (reduced rate relief) shall not, where relief is given under section 27 of the Finance Act 1920 as set out in Part II of the said Schedule 12, be less than it would have been if that relief had not been given.
- (5) The power to make regulations conferred by subsection (7) of the said section 27 as so set out shall be deemed for the purposes of section 1 of the Statutory Instruments Act 1946 to be a power conferred by an Act passed after the commencement of that Act, and shall be exercisable by statutory instrument.
- (6) For the purpose of carrying out any obligation of the Government of the United Kingdom under Article 2 of the said agreement of 1960, Her Majesty may by Order in Council direct that any provisions of the Income Tax Acts specified in the Order (being provisions affecting in any way exemptions from income tax of persons resident in

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the United Kingdom) shall not affect, and be deemed not to have affected, exemptions from income tax which persons enjoy as not resident in the United Kingdom but resident in the Republic of Ireland.

- (7) Nothing in this section or the said Schedule 12 applies for the purposes of corporation tax.

#### **514 Relief under agreements about shipping, air transport and agency profits**

- (1) If Her Majesty in Council is pleased to declare—

- (a) that any profits or gains arising from the business of shipping or from the business of air transport which are chargeable to United Kingdom income tax are also chargeable to income tax payable under the law in force in any territory outside the United Kingdom, and
- (b) that arrangements, as specified in the declaration, have been made with the government of that territory with a view to the granting of relief in cases where such profits and gains are chargeable both to United Kingdom income tax and to the income tax payable in that territory,

then, unless and until the declaration is revoked by Her Majesty in Council, the arrangements specified therein shall, so far as they relate to the relief to be granted from United Kingdom tax, have effect as if enacted in this Act, but only if and so long as the arrangements, so far as they relate to the relief to be granted from the income tax payable in the said territory, have the effect of law in that territory.

In this subsection " the business of shipping" means the business carried on by an owner of ships, and " the business of air transport" means the business carried on by an owner of aircraft, and for the purpose of these definitions " owner" includes any charterer.

- (2) If Her Majesty in Council is pleased to declare—

- (a) that any profits or gains arising directly or indirectly to a person resident in any territory outside the United Kingdom through an agency in the United Kingdom, or to a person resident in the United Kingdom through an agency in any such territory, are chargeable both to United Kingdom income tax and to income tax payable under the law in force in that territory, and
- (b) that arrangements, as specified in the declaration, have been made with the government concerned with a view to the granting of relief from such double taxation,

then, unless and until the declaration is revoked by Her Majesty in Council, the arrangements specified therein shall, so far as they relate to the relief to be granted from United Kingdom tax, have effect as if enacted in this Act, but only if and so long as the arrangements, so far as they relate to the relief to be granted from the income tax payable in the said territory, have the effect of law in that territory:

Provided that no arrangements made under this subsection shall exempt from United Kingdom tax any profits or gains which either—

- (i) arise from the sale of goods from a stock in the United Kingdom, or
- (ii) accrue to a person resident in the United Kingdom, or
- (iii) accrue to a person not resident in the United Kingdom directly or indirectly through any branch or management in the United Kingdom, or through any agency in the United Kingdom where the agent has, and habitually exercises, a general authority to negotiate and conclude contracts.

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- (3) Any declaration made by Her Majesty in Council under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) In this section, and in any arrangements made under any earlier enactment corresponding to this section, references to income tax include references to corporation tax; and any reference in any such arrangements to British income tax shall be deemed for the purposes of this section to be a reference to United Kingdom income tax.

### **515 Postponement of capital allowances to secure double taxation relief**

- (1) Where a person chargeable to tax in respect of a trade under Case I of Schedule D is liable to overseas tax in respect of any income arising from the trade, being overseas tax for which relief may be given by way of credit, repayment or set-off under the preceding provisions of this Part of this Act, and the conditions specified in subsection (2) below are satisfied, he may, in claiming the relief in respect of that income, claim a postponement under this section of the relevant capital allowances operating to reduce that income for the purposes of tax for any chargeable period.
- (2) The said conditions are—
  - (a) that the law under which the overseas tax is chargeable provides for deductions or allowances to be given corresponding to capital allowances, but on a different basis such that they operate to reduce the income in question (if at all) to a less extent than the capital allowances to which the claim relates, but are calculated to operate to a greater extent than the corresponding capital allowances to reduce income arising subsequently, and
  - (b) that the relief falling to be given as aforesaid in respect of the income in question is less than it would be if the capital allowances to which the claim relates operated to reduce the income to the same extent only as the deductions or allowances so provided for.
- (3) Where a person claims a postponement under this section of capital allowances for any chargeable period, then, for the purpose of making the assessment for that period, the amount of those allowances shall be reduced by such amount as may be necessary to secure that they operate to reduce the income only to the extent mentioned in subsection (2) (b) above (or such less amount as the claimant may require), and, for the purpose of making the assessment for the following period, that amount shall be added to the amount of the allowances for that period, and shall be deemed to be part of those allowances or, if there are no such allowances for that period, shall be deemed to be the allowances for that period.
- (4) For the purposes of any claim under this section there shall be taken into account such only of the relevant capital allowances, and the deductions or allowances operating to reduce the income in question for purposes of the overseas tax, as are calculated to give relief in respect of the same expenditure or the same assets.
- (5) In this section " overseas tax " means tax chargeable under the laws of any territory outside the United Kingdom, and " relevant capital allowances ", in relation to any trade, means capital allowances falling to be made in taxing the trade; and the reference in subsection (1) above to tax for a chargeable period shall be construed, in relation to corporation tax, as referring to the tax for any financial year which is chargeable in respect of that period.

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- (6) This section applies (with any necessary adaptations) in relation to a profession, employment, vocation or office, and in relation to the occupation of woodlands the profits or gains of which are assessable under Schedule D, as it applies in relation to a trade.

#### **516 Deduction for foreign tax where no credit allowable**

- (1) For the purposes of the Tax Acts, the amount of any income arising in any place outside the United Kingdom shall, subject to subsection (2) below, be treated as reduced by any sum which has been paid in respect of tax on that income in the place where the income has arisen (that is to say, tax payable under the law of a country outside the United Kingdom).
- (2) Subsection (1) above—
- (a) shall not apply to income the tax on which is to be computed by reference to the amount of income received in the United Kingdom, and
  - (b) shall not affect the proviso to section 27(2) of this Act (computation of personal reliefs for non-residents by reference to total income, including income not taxed in United Kingdom),
- and this section has effect subject to section 503(2) above (no deduction for foreign tax if credit allowable therefor).

#### **517 Power to make regulations for carrying out s. 497**

- (1) The Board may from time to time make regulations generally for carrying out the provisions of section 497 above or any arrangements having effect thereunder, and may in particular by those regulations provide—
- (a) for securing that relief from taxation imposed by the laws of the territory to which any such arrangements relate does not enure to the benefit of persons not entitled thereto, and
  - (b) for authorising, in cases where tax deductible from any payment has, in order to comply with any such arrangements, not been deducted, and it is discovered that the arrangements did not apply to that payment, the recovery of the tax by assessment on the person entitled to the payment or by deduction from subsequent payments.

The power conferred by this subsection to make regulations shall be exercisable by statutory instrument.

- (2) The giving of relief under this Part of this Act in respect of income tax under Schedule F by authorising, pursuant to regulations under subsection (1) above, the making of distributions of amounts exceeding what would otherwise be distributed shall not affect the provisions of paragraph 2 of Schedule F (which determines the amount of income tax under that Schedule chargeable in respect of any distribution), and references in the said paragraph 2 to the amount of the distribution shall be taken as references to that amount apart from any increase made in pursuance of such regulations.

#### **518 Disclosure of information**

- (1) Where, under the law in force in any territory outside the United Kingdom, provision is made for the allowance, in respect of the payment of United Kingdom income tax or

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

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corporation tax, of relief from tax payable under that law, the obligation as to secrecy imposed by the Tax Acts upon persons employed in relation to Inland Revenue shall not prevent the disclosure to the authorised officer of the government of the territory in question of such facts as may be necessary to enable the proper relief to be given under the law thereof.

Section 498(6) above shall apply to the interpretation of this subsection as it applies to the interpretation of that section.

- (2) Where any arrangements have effect by virtue of section 497 above, the obligation as to secrecy imposed by any enactment shall not prevent the Board, or any authorised officer of the Board, from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed under the arrangements.
- (3) Where a person beneficially entitled to income from any securities as defined by section 24 of the Taxes Management Act 1970 (information as to income from securities) is resident in a territory to which arrangements having effect under the said section 497 with respect to income tax or corporation tax relate, subsection (3) of the said section 24 shall not exempt any bank from the duty of disclosing to the Board particulars relating to the income of that person.
- (4) The obligation as to secrecy imposed by any enactments with regard to income tax or corporation tax shall not prevent the disclosure, to any authorised officer of any country to which a declaration under section 514 above relates, of such facts as may be necessary to enable relief to be duly given in accordance with the arrangements specified in the declaration.