



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 2

DOUBLE TAXATION RELIEF

CHAPTER 1

DOUBLE TAXATION ARRANGEMENTS AND UNILATERAL RELIEF ARRANGEMENTS

Unilateral relief arrangements

16 Rule 8: credit for underlying tax on dividend paid by exchanged associate

- (1) This section applies for the purposes of section 12(1).
- (2) Credit under section 9 for overseas tax on a dividend paid by a company (“P”) resident in the territory is allowed if each of conditions A to C is met.
- (3) Condition A is that—
 - (a) the recipient of the dividend is a company resident in the United Kingdom, or
 - (b) the recipient is a company resident outside the United Kingdom but the dividend forms part of the profits of a permanent establishment of the recipient in the United Kingdom.
- (4) Condition B is that the recipient—
 - (a) directly or indirectly controls, or
 - (b) is a subsidiary of a company which directly or indirectly controls, less than 10% of the voting power in P.

Status: This is the original version (as it was originally enacted).

- (5) If condition B is met, in subsection (6) “the held percentage” means the voting power in P which is directly or indirectly controlled by—
- (a) the recipient, or
 - (b) a company of which the recipient is a subsidiary.
- (6) Condition C is that—
- (a) the held percentage has been acquired in exchange for voting power in another company (“X”),
 - (b) before the exchange, the recipient—
 - (i) directly or indirectly controlled, or
 - (ii) was a subsidiary of a company which directly or indirectly controlled, at least 10% of the voting power in X,
 - (c) the recipient shows that the exchange (and any reduction after the exchange) —
 - (i) could not have been prevented by any reasonable endeavours on the part of the recipient, a parent or an associate, and
 - (ii) was due to a cause or causes not reasonably foreseeable by the recipient, a parent or an associate when control of the relevant voting power was acquired, and
 - (d) the recipient shows that no reasonable endeavours on the part of the recipient, a parent or an associate could have restored, or (as the case may be) increased, the held percentage to at least 10%.
- (7) For the purposes of subsection (6) a company is an “associate” if—
- (a) the company is neither the recipient nor a parent,
 - (b) before the exchange, the voting power in X that is in question was controlled otherwise than directly by the recipient, and
 - (c) the company is relevant for determining whether, before the exchange, the recipient—
 - (i) indirectly controlled, or
 - (ii) was a subsidiary of a company which directly or indirectly controlled, at least 10% of the voting power in X.
- (8) In subsections (6) and (7) “parent” means a company of which the recipient is a subsidiary.
- (9) In subsection (6) “the relevant voting power” means—
- (a) the voting power in X as a result of which relief was due under section 14 before the exchange, or
 - (b) if control of the whole of that voting power was not acquired at the same time, that part of the voting power of which control was last acquired.
- (10) For the purposes of this section, the recipient is a subsidiary of another company if the other company controls, directly or indirectly, at least 50% of the voting power in the recipient.