



Finance (No. 2) Act 1945

1945 CHAPTER 13

PART V

RELIEF FROM DOUBLE TAXATION.

51 Agreements for relief from double taxation of income.

- (1) If His 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, excess profits tax or the national defence contribution 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, excess profits tax and the national defence contribution so far as they provide for relief from tax, or for charging the income arising from sources in the United Kingdom to persons not resident in the United Kingdom, determining the income to be attributed to such persons and their agencies, branches or establishments in the United Kingdom, or determining the income to be attributed to persons resident in the United Kingdom who have special relationships with persons not so resident.
- (2) On the making of an Order in Council under this section with respect to any arrangements relating to a Dominion as defined for the purposes of section twenty-seven of the Finance Act, 1920 (which provides for relief in respect of Dominion income tax), the said section twenty-seven shall cease to have effect as respects that Dominion except in so far as the arrangements otherwise provide.
- (3) Where any arrangements having effect by virtue of this section relate to any territory with respect to which an Order in Council is in force under section thirty of the Finance Act, 1940 (which provides for relief in respect of excess profits tax in His Majesty's dominions outside the United Kingdom), then, except in so far as the arrangements otherwise provide, no relief shall be granted under that section against excess profits tax or the national defence contribution chargeable for any chargeable accounting period to which the arrangements apply or, where the arrangements apply to part only of a chargeable accounting period, against such part of the excess profits tax or the

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national defence contribution chargeable for that chargeable accounting period as is proportionate to the length of that part thereof.

- (4) The provisions of the Seventh Schedule to this Act shall have effect 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.
- (5) Where, under any arrangements which have effect by virtue of this section, relief may be given either in the United Kingdom or in the territory with the Government of which the arrangements are made in respect of any income, and it appears that the assessment to income 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 additional 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 additional 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.

52 Deduction of income tax from dividends.

- (1) This section applies to any dividend payable more than two months after the passing of this Act, being a dividend from which deduction of tax is authorised by Rule 20 of the General Rules, and in this section the expression " the company " means a body of persons paying a dividend to which this section applies.
- (2) Subsection (5) of section twenty-seven of the Finance Act, 1920 (which limits the rate at which tax may be deducted from dividends) shall not apply to any dividend to which this section applies, and the amount of tax which is authorised by Rule 20 of the General Rules to be deducted from any such dividend shall be determined without taking into account any reduction, by reason of double taxation relief, of the United Kingdom income tax payable directly or by deduction by the company, but—
 - (a) notwithstanding anything in the Income Tax Acts, no relief or repayment in respect of the tax deducted or authorised to be deducted from any such dividend shall be allowed at a rate exceeding the rate (hereinafter referred to as " the net United Kingdom rate ") of the United Kingdom income tax payable directly or by deduction by the company after taking double taxation relief into account; and
 - (b) where the United Kingdom income tax payable directly or by deduction by the company is affected by double taxation relief, the particulars to be given by the company in the statement required by section thirty-three of the Finance Act, 1924, shall (in addition to the particulars required to be given apart from this section) include particulars of the net United Kingdom rate.
- (3) Where a dividend to which this section does not apply has been paid, whether before or after the passing of this Act, and any double taxation relief would have fallen to be taken into account in relation to that dividend if this section had applied thereto, that relief shall, unless it is relief which has been taken into account for the purposes of subsection (5) of the said section twenty-seven, be taken into account as far as possible

in determining the net United Kingdom rate in relation to the first dividend payable by the company to which this section applies, and any part of that relief which cannot be so taken into account shall as far as possible be taken into account in relation to the next succeeding dividend, and so on.

- (4) Where the whole or any part of any annual payment is payable out of a dividend to which this section applies, and the rate of relief or repayment allowable in respect of the tax deducted or authorised to be deducted from the dividend is affected by double taxation relief, the annual payment, or that part thereof, as the case may be, shall be deemed to be paid out of profits or gains not brought into charge to tax and Rule 21 of the General Rules shall apply accordingly, but the tax chargeable under the said Rule on the person making the payment shall be reduced by an amount equal to tax on the payment or part of the payment at the net United Kingdom rate applicable to the dividend.
- (5) In this section the expression " double taxation relief " means any credit for foreign income tax which is allowable against United Kingdom income tax by virtue of arrangements having effect under this Part of this Act and any relief allowable under the provisions of section twenty-seven of the Finance Act, 1920, including any credit or relief which has been taken into account for the purposes of determining the net United Kingdom rate applicable to any dividends received by the company.

53 Power to make regulations.

The Commissioners of Inland Revenue may from time to time make regulations generally for carrying out the preceding provisions of this Part of this Act 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;
- (b) for prescribing the principles upon which the net United Kingdom rate is to be determined for the purposes of the last preceding section; and
- (c) for authorising, in cases where tax deductible from any periodical payment has, in order to comply with any such arrangements, not been deducted and it is discovered that the arrangements do 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.

54 Agreements for relief from double estate duty.

- (1) If His 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 estate duty payable under the laws of the United Kingdom and any duty of a similar character imposed under the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall, notwithstanding anything in any enactment, have effect so far as they provide for relief from estate duty, or for determining the place where any property is to be treated as being situated for the purposes of estate duty.
- (2) Where arrangements have effect by virtue of this section—
 - (a) subsection (4) of section seven of the Finance Act, 1894 (which provides for relief in respect of duty payable in a foreign country) shall not have effect in

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relation to duty to which the arrangements apply chargeable under the laws of the territory concerned; and

- (b) if the territory concerned is one to which section twenty of the Finance Act, 1894, applies, no allowance shall be made under that section in respect of duty to which the arrangements apply chargeable under the laws of that territory.
- (3) Any arrangements to which effect is given under this section may include provision for relief from duty in the case of deaths occurring before the passing of this Act or before the making of the arrangements and provisions as to property which is not itself subject to double duty, and the provisions of this section shall have effect accordingly.
- (4) Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall, as respects estate duty payable under the laws of Northern Ireland, have power to make laws for purposes similar to the purposes of this section.

55 Disclosure of information.

- (1) Where any arrangements have effect by virtue of this Part of this Act, the obligation as to secrecy imposed by any enactment shall not prevent the Commissioners of Inland Revenue or any authorised officer of the Commissioners of Inland Revenue 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.
- (2) Where a person beneficially entitled to the income from any securities, as defined by section eighteen of the Finance Act, 1939 (which empowers the Special Commissioners to obtain information as to income from securities) is resident in a territory to which arrangements with respect to income tax which have effect under this Part of this Act relate, subsection (5) of that section shall not exempt any bank from the duty of disclosing to the Special Commissioners particulars relating to the income of that person.

56 Supplementary.

- (1) Any Order in Council made under this Part of this Act may be revoked by a subsequent Order in Council, and any such revoking Order may contain such transitional provisions as appear to His Majesty to be necessary or expedient.
- (2) Before any Order proposed to be made under this Part of this Act is submitted to His Majesty in Council, a draft thereof shall be laid before the Commons House of Parliament, and the Order shall not be so submitted unless an Address is presented to His Majesty by that House praying that the Order be made.