

SCHEDULES

SCHEDULE 27

Section 81.

DOUBLE TAXATION RELIEF

Computation of income subject to foreign tax

- 1 (1) Section 795 of the Taxes Act 1988 is amended as follows.
- (2) In subsection (2)(b) (dividend to be treated as increased by any underlying tax taken into account in determining credit to be allowed in respect of the dividend) after “increased by” insert “—(i)” and after “in respect of the dividend” add—
- “, and
- (ii) any underlying tax which, by virtue of section 799(1)(b) or section 799(1B)(b), does not fall to be so taken into account”.
- (3) After subsection (3) insert—
- “(3A) The amount of any income or gain shall not be increased under subsection (2) (b)(i) above by so much of any underlying tax—
- (a) as represents an increase under section 801(4B); or
- (b) as represents relievable underlying tax (within the meaning of sections 806A to 806J) arising in respect of another dividend and treated as underlying tax under those sections.”.
- (4) This paragraph has effect in relation to dividends paid on or after 31st March 2001 by a company resident outside the United Kingdom to a company resident in the United Kingdom (whenever any such dividend as is mentioned in section 801(2) or (3) of the Taxes Act 1988 was paid).

Restriction of relief for underlying tax

- 2 (1) Section 799 of the Taxes Act 1988 (computation of underlying tax) is amended as follows.
- (2) For subsection (1A) (the formula for restricting the amount of underlying tax in respect of which credit relief may be given) substitute—

“(1A) The formula is—

$$(D + U) \times M\%$$

where—

D is the amount of the dividend;

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U is the amount of underlying tax that would fall to be taken into account as mentioned in subsection (1) above, apart from paragraph (b) of that subsection; and

M% is the maximum relievable rate;

and for the purposes of this subsection the maximum relievable rate is the rate of corporation tax in force when the dividend was paid.”.

(3) After subsection (1A) insert—

“(1B) Where, under any arrangements, a company makes a claim for an allowance by way of credit in accordance with this Chapter—

- (a) the claim may be so framed as to exclude such amounts of underlying tax as may be specified for the purpose in the claim; and
- (b) any amounts of underlying tax so excluded shall be left out of account for the purposes of this section.”.

(4) This paragraph has effect in relation to any claim for an allowance by way of credit made on or after 31st March 2001 in respect of a dividend paid by a company resident outside the United Kingdom to a company resident in the United Kingdom, unless the dividend was paid before that date.

(5) In determining, for the purpose of any such claim made on or after that date, the underlying tax of any such third, fourth or successive company as is mentioned in section 801(2) or (3) of the Taxes Act 1988, this paragraph shall be taken to have had effect at the time the dividend paid by that company was paid.

Credit for underlying tax: UK company related through overseas company

3 (1) Section 801 of the Taxes Act 1988 (dividends paid between related companies: relief for UK and third country taxes) is amended as follows.

(2) In subsection (2) (underlying tax in relation to dividend received by overseas company from third company etc) for “subject to subsection (4)” substitute “subject to subsections (4) to (4D)”.

(3) After subsection (4) (limitations to which subsections (2) and (3) are subject) insert—

“(4A) If, in the application of section 799(1)(b) by subsection (2) or (3) above in relation to a dividend paid by a company resident in the United Kingdom—

- (a) the amount given by the formula in section 799(1A), exceeds
- (b) the value of U in that formula,

subsection (4B) below shall apply.

(4B) Where this subsection applies, in the application (otherwise than by subsection (2) or (3) above) of subsection (1) of section 799 in relation to the dividend mentioned in that subsection (“the Case V dividend”), the amount of foreign tax which by virtue of the provision made by the arrangements mentioned in that subsection would fall to be taken into account under this Part in respect of the Case V dividend—

- (a) apart from this subsection, and
- (b) after applying paragraphs (a) and (b) of that subsection,

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shall be increased by an amount of underlying tax equal to the appropriate portion of the amount of the excess described in subsection (4A) above in relation to the dividend paid by the company resident in the United Kingdom.

(4C) Subsection (6) of section 806B (meaning of “appropriate portion”), as read with subsections (7) and (10) of that section, shall have effect for the purposes of subsection (4B) above as it has effect for the purposes of subsection (5) of that section (but taking the references in subsection (10) of that section to the Case V dividend as references to the Case V dividend within the meaning of subsection (4B) above).

(4D) Subsections (4A) to (4C) above shall be ignored in determining for the purposes of subsection (2) or (3) above the extent to which any underlying tax paid by a company would be taken into account under this Part if the dividend in question had been paid by a company resident outside the United Kingdom to a company resident in the United Kingdom.”.

(4) This paragraph has effect in relation to any claim for an allowance by way of credit made on or after 31st March 2001 in respect of a dividend paid by a company resident outside the United Kingdom to a company resident in the United Kingdom, unless the dividend was paid before that date.

(5) In determining, for the purpose of any such claim made on or after that date, the underlying tax of any such third, fourth or successive company as is mentioned in section 801(2) or (3) of the Taxes Act 1988, this paragraph shall be taken to have had effect at the time the dividend paid by that company was paid.

Dividends that give rise to eligible unrelieved foreign tax

4 (1) Section 806A of the Taxes Act 1988 (eligible unrelieved foreign tax) is amended as follows.

(2) At the end of subsection (5) (cases where an amount of eligible unrelieved foreign tax arises: Case B: restriction by the mixer cap) add—

“But if that is so in any case by reason only of the mixer cap restricting the amount of underlying tax that is treated as mentioned in subsection (2) or (3) of section 801 in the case of a dividend paid by a company resident in the United Kingdom, the case does not fall within Case B.”.

(3) The amendment made by this paragraph has effect in relation to—

- (a) dividends arising on or after 31st March 2001 to companies resident in the United Kingdom from companies resident outside the United Kingdom, and
- (b) foreign tax in respect of such dividends,

(whenever the dividend mentioned in the amendment was paid).

The amounts that are eligible unrelieved foreign tax

5 (1) Section 806B (determination of the amounts that are eligible unrelieved foreign tax) is amended as follows.

(2) For subsections (3) to (6) (amounts of eligible unrelieved foreign tax in Case B) substitute—

“(3) In Case B, the amount (if any) by which—

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- (a) the aggregate of the upper rate amounts falling to be brought into account for the purposes of this paragraph by virtue of subsection (4) or (5) below, exceeds
 - (b) the amount of tax to be taken into account as mentioned in section 799(1) in the case of the Case V dividend, before any increase under section 801(4B),
- shall be an amount of eligible unrelieved foreign tax.
- (4) In the case of the Case V dividend (but not any lower level dividend), the upper rate amount to be brought into account for the purposes of subsection (3)(a) above—
- (a) in a case where the mixer cap does not restrict the amount of tax to be taken into account as mentioned in section 799(1) (before any increase under section 801(4B)) in the case of that dividend, is that amount of tax; or
 - (b) in a case where the mixer cap restricts the amount of tax to be so taken into account in the case of that dividend, is the greater amount that would have been so taken into account if, in the application of the formula in section 799(1A) in the case of that dividend (but not any lower level dividend) M% had, in relation to—
 - (i) so much of D as does not represent any lower level dividend, and
 - (ii) so much of U as is not underlying tax attributable to any lower level dividend,
 been the upper percentage.
- (5) In the case of any dividend (the “relevant dividend”) received as mentioned in subsection (2) or (3) of section 801 which is a lower level dividend in relation to the Case V dividend, the upper rate amount to be brought into account for the purposes of subsection (3)(a) above—
- (a) in a case where the mixer cap does not restrict the amount of underlying tax that is treated as mentioned in subsection (2) or (3), as the case may be, of section 801 in the case of the relevant dividend, is the appropriate portion of that amount of underlying tax;
 - (b) in a case where—
 - (i) the relevant dividend was paid by a company resident in the United Kingdom, and
 - (ii) the mixer cap restricts the amount of underlying tax that is treated as mentioned in subsection (2) or (3), as the case may be, of section 801 in the case of that dividend,
 is the appropriate portion of that restricted amount of underlying tax; or
 - (c) in a case where—
 - (i) the relevant dividend was paid by a company resident outside the United Kingdom, and
 - (ii) the mixer cap restricts the amount of underlying tax that is treated as mentioned in subsection (2) or (3), as the case may be, of section 801 in the case of that dividend,
 is the appropriate portion of the greater amount of tax that would have been so treated if, in the application of the formula in

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section 799(1A) in the case of that dividend (but not any other dividend) M% had, in relation to so much of D as does not represent any lower level dividend, and so much of U as is not underlying tax attributable to any lower level dividend, been the upper percentage.

- (6) For the purposes of subsection (5) above, the “appropriate portion” of any amount there mentioned in the case of a dividend is found by multiplying that amount by the product of the reducing fractions for each of the higher level dividends.”.
- (3) In subsection (9) (disregard of sections 806C and 806D for purpose of determining certain amounts in subsections (2)(b), (3)(b) or (5)(b)) for “(3)(b) or (5)(b)” substitute “(4)(b) or (5)(c)”.
- (4) The amendments made by this paragraph have effect in relation to—
- (a) dividends arising on or after 31st March 2001 to companies resident in the United Kingdom from companies resident outside the United Kingdom, and
 - (b) foreign tax in respect of such dividends,
- (whenever any such dividend as is mentioned in section 801(2) or (3) of the Taxes Act 1988 was paid).

Underlying tax excluded from claim not to be allowed under section 811

- 6 (1) Section 811 of the Taxes Act 1988 (deduction for foreign tax where no credit allowable) is amended as follows.
- (2) In subsection (2) (miscellaneous provisions relating to the application of subsection (1))—
- (a) omit “and” immediately preceding paragraph (b);
 - (b) insert “and” at the end of that paragraph; and
 - (c) insert the following paragraph at the appropriate place—
 - “(d) shall not require any income to be treated as reduced by an amount of underlying tax which, by virtue of section 799(1B)(b), falls to be left out of account for the purposes of section 799;”.
- (3) This paragraph has effect in relation to income arising on or after 31st March 2001.

Relief for non-resident persons with branches or agencies in the UK

- 7 (1) The amendments made by paragraph 4 of Schedule 30 to the Finance Act 2000 (c. 17) shall have effect, and be taken always to have had effect, in accordance with the following provisions of this paragraph.
- (2) In sub-paragraph (14) of that paragraph (which provides for the amendments to have effect in relation to accounting periods ending on or after 21st March 2000) for “accounting periods” substitute “chargeable periods”.
- (3) That paragraph shall be taken to have been originally enacted as so amended.