Taxation (International and Other Providers) Act 2010

2010 CHAPTER 8

PART 2

DOUBLE TAXATION RELIEF

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DOUBLE TAXATION RELIEF BY WAY OF CREDIT

Allocation of deductions etc to profits for purposes of section 42

52 General deductions

(1) Subsection (2) applies for the purposes of section 42 if in the accounting period there is any amount ("the deduction") that for corporation tax purposes is deductible from, or otherwise allowable against, profits of more than one description.

(2) The company may allocate the deduction in such amounts, and to such of its profits for the period, as it thinks fit.

53 Earlier years' non-trading deficits on loan relationships

(1) Subsection (2) applies for the purposes of section 42 if an amount ("the deficit") is carried forward to the period under section 457(1) of CTA 2009 (non-trading deficits on loan relationships set against profits of subsequent years).

(2) The deficit can be allocated only to the company's non-trading profits for the period, but the company may allocate the deficit to such of those profits, and in such amounts, as the company thinks fit.

(3) In this section “non-trading profits” has the meaning given by section 457(5) of CTA 2009.

54 Non-trading debits on loan relationships

(1) Subsection (2) applies for the purposes of section 42 if the company has at least one non-trading credit for the period that is eligible for double taxation relief.

(2) That much of the company’s non-trading debits for the period as is given by the formula—

$$TNTD - (CB + CF + GR)$$

may be allocated by the company to such of its profits for the period, and in such amounts, as the company thinks fit, but this is subject to subsection (4).

(3) Subsection (4) applies for the purposes of section 42 if—

(a) the company has at least one non-trading credit for the period that is eligible for double taxation relief, and

(b) the company sets the whole or part of XS against profits of the period in pursuance of a current-year provision or claim.

(4) So much of the company’s non-trading debits as is equal to that amount of XS must be allocated to the profits against which that amount of XS is set in pursuance of the current-year provision or claim.

(5) In this section, if the company has a non-trading deficit (“D”) on its loan relationships for the period—

CB is so much of D as is the subject of a carry-back claim,

CF is so much of D as is carried forward to a subsequent accounting period in accordance with a carry-forward provision,

GR is so much of D as is surrendered as group relief under section 99 of CTA 2010, and

if

$$D > CB + CF + GR$$

then XS is so much of D as is given by the formula—

$$D - (CB + CF + GR)$$

(6) For the purposes of subsections (1) and (3), a non-trading credit relating to an item is “eligible for double taxation relief” if there is in respect of that item an amount of foreign tax for which, under the arrangements, credit is allowable against United Kingdom tax calculated by reference to that item.

(7) In this section—

“carry-back claim” means a claim—

(a) under section 389(1) of CTA 2009 (insurance companies: carry-back, to earlier accounting periods, of non-trading deficit on loan relationships), or

(b) under section 459(1)(b) of CTA 2009 (carry-back: other companies),

“carry-forward provision” means—

(a) section 391 of CTA 2009 (insurance companies), or

(b) section 457(1) of CTA 2009 (other companies), "current-year provision or claim" means—

(a) section 388(1) of CTA 2009 (insurance companies: non-trading deficit on loan relationships set against current year's profits), or

(b) a claim under section 459(1)(a) of CTA 2009 (other companies: setting of deficit against current year's profits),

"non-trading credit" means a non-trading credit for the purposes of Part 5 of CTA 2009 (loan relationships),

"non-trading debit" means a non-trading debit for the purposes of that Part, and

"TNTD" is the total amount of the company's non-trading debits for the period.

55 Current year's non-trading deficits on loan relationships

(1) Subsection (5) applies for the purposes of section 42 if conditions A and B are met.

(2) Condition A is that the company—

(a) has no non-trading credits for the period, or

(b) has non-trading credits for the period but none of those credits is eligible for double taxation relief.

(3) For the purposes of subsection (2)(b), a non-trading credit relating to an item is "eligible for double taxation relief" if there is in respect of that item an amount of foreign tax for which, under the arrangements, credit is allowable against United Kingdom tax calculated by reference to that item.

(4) Condition B is that an amount ("the deficit") is set against any of the company's profits for the period—

(a) under section 388(1) of CTA 2009 (insurance company's non-trading deficit on loan relationships set against current year's profits), or

(b) under section 459(1)(a) of CTA 2009 (other company's non-trading deficit on loan relationships set against current year's profits).

(5) The deficit can be allocated only to profits against which the deficit is set under section 388(1) or 459(1)(a) of CTA 2009.

(6) In this section "non-trading credit" means a non-trading credit for the purposes of Part 5 of CTA 2009 (loan relationships).

56 Non-trading debits on intangible fixed assets

(1) Subsection (2) applies for the purposes of section 42 if the company has at least one non-trading credit for the period that is eligible for double taxation relief.

(2) That much of the company's non-trading debits for the period as is given by the formula—

$$\mathrm{TNTD} - \mathrm{CF}$$

may be allocated by the company to such of its profits for the period, and in such amounts, as the company thinks fit.

(3) In subsection (2)—

TNTD is the total amount of the company's non-trading debits for the period, and

CF is the amount (if any) carried forward to the next accounting period under section 753(3) of CTA 2009 (carry forward of non-trading loss so far as neither subject to a claim to set it against profits of current period nor surrendered by way of group relief).

(4) For the purposes of subsection (1), a non-trading credit relating to an item is "eligible for double taxation relief" if there is in respect of that item an amount of foreign tax for which, under the arrangements, credit is allowable against United Kingdom tax calculated by reference to that item.

(5) In this section—

"non-trading credit" means a non-trading credit for the purposes of Part 8 of CTA 2009 (intangible fixed assets), and

"non-trading debit" means a non-trading debit for the purposes of that Part.