



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 2

DOUBLE TAXATION RELIEF

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DOUBLE TAXATION RELIEF BY WAY OF CREDIT

Limits on credit: general rules

33 Limit on credit: minimisation of the foreign tax

- (1) The credit under section 18(2) must not exceed the credit which would be allowed had all reasonable steps been taken—
 - (a) under the law of the non-UK territory, and
 - (b) under double taxation arrangements made in relation to that territory, to minimise the amount of tax payable in that territory.
- (2) The steps mentioned in subsection (1) include—
 - (a) claiming, or otherwise securing the benefit of, reliefs, deductions, reductions or allowances, and
 - (b) making elections for tax purposes.
- (3) For the purposes of subsection (1), any question as to the steps which it would have been reasonable for a person to take is to be determined on the basis of what the person might reasonably be expected to have done in the absence of relief under this Part.

34 Reduction in credit: payment by reference to foreign tax

- (1) Subsection (2) applies if—
 - (a) credit for foreign tax is to be allowed to a person (“P”) under the arrangements, and
 - (b) a payment is made by a tax authority to P, or any person connected with P, by reference to the foreign tax.
- (2) The amount of that credit is to be reduced by an amount equal to that payment.
- (3) Whether a person is connected with P is determined in accordance with section 1122 of CTA 2010.

35 Disallowed credit: use as a deduction

- (1) Subsection (2) applies if the application of section 36(2) or 42(2) prevents an amount of credit for foreign tax from being allowable against income tax or corporation tax.
- (2) The taxpayer’s income is to be treated as reduced by the amount of the disallowed credit.
- (3) Subsection (4) applies if the application of section 40(2) prevents an amount of credit for foreign tax from being allowable against capital gains tax.
- (4) The taxpayer’s chargeable gains are to be treated as reduced by the amount of the disallowed credit.
- (5) Subsection (2) or (4) applies only so far as the amount of disallowed credit does not exceed the amount of any loss attributable to the income or gain in respect of which the foreign tax was paid.
- (6) For the purposes of subsection (5), payment of the foreign tax is to be taken into account despite section 31(2).