



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 2

DOUBLE TAXATION RELIEF

CHAPTER 2

DOUBLE TAXATION RELIEF BY WAY OF CREDIT

Tax underlying dividend treated as underlying tax paid by dividend's recipient

64 Meaning of “dividend-paying chain” of companies

- (1) For the purposes of sections 65, 67 and 70 there is a dividend-paying chain if—
 - (a) condition A is met, and
 - (b) one of conditions B to D is met.
- (2) Condition A is that a company (“the second company”) pays a dividend to another company (“the first company”).
- (3) Condition B is that there is a third company which is a 10% associate of, and pays a dividend to, the second company.
- (4) Condition C is that there is a succession of companies consisting of—
 - (a) a third company which is a 10% associate of, and pays a dividend to, the second company, and
 - (b) a fourth company which is a 10% associate of, and pays a dividend to, the third company.
- (5) Condition D is that there is a succession of companies consisting of—

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- (a) a third company which is a 10% associate of, and pays a dividend to, the second company, and
 - (b) two or more companies (the fourth and fifth companies, and so on) each of which is a 10% associate of, and pays a dividend to, the company above it in the succession.
- (6) For the purposes of this section, a company (“X”) is a 10% associate of another company (“H”) if H—
- (a) controls directly or indirectly, or
 - (b) is a subsidiary of a company which controls directly or indirectly, at least 10% of the voting power in X or at least 10% of the ordinary share capital of X.
- (7) For the purposes of subsection (6), a company (“S”) is a subsidiary of another company (“P”) if P controls, directly or indirectly, at least 50% of the voting power in S.

65 Relief for underlying tax paid by company lower in dividend-paying chain

- (1) Subsection (4) applies if conditions E and F are met.
- (2) Condition E is that there is a dividend-paying chain (see section 64) in which—
- (a) the first company is the recipient company mentioned in section 63, and
 - (b) the second company is the overseas company mentioned in that section.
- (3) Condition F is that there is underlying tax, payable by a company (“L”) lower in the chain than the second company, that would be taken into account under this Part if—
- (a) the dividend paid by L to the company (“K”) above L in the chain had been paid—
 - (i) by a company resident outside the United Kingdom to a company resident in the United Kingdom, and
 - (ii) at the time when the dividend paid by the second company is received by the first company, and
 - (b) double taxation arrangements had provided for the underlying tax to be taken into account.
- (4) The underlying tax is to be treated—
- (a) for the purposes of section 63(5), and
 - (b) for the purposes of subsection (3),
- as tax paid by K in respect of its profits, but see section 66 (limitations).
- (5) In applying section 63 for the purpose of deciding whether condition F is met, read section 63(2) as if “ , or at least 10% of the ordinary share capital of, ” were inserted after “at least 10% of the voting power in”.
- (6) Section 58 (first method of calculating amount of underlying tax to be taken into account) does not apply for the purposes of subsections (3) and (4) unless the company referred to in subsection (2)(a) is resident in the United Kingdom and, even if that company is resident in the United Kingdom, section 58 applies for those purposes only—
- (a) if K and L are not resident in the same territory, or
 - (b) in such other cases as may be prescribed by regulations made by the Treasury.

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- (7) Section 61 (second method of calculation) applies for the purposes of subsections (3) and (4) if section 58 does not apply for those purposes.

66 Limitations on section 65(4)

- (1) Section 65(4) is subject to the limitations set out in subsections (2) and (3).
- (2) No tax is to be taken into account in respect of a dividend paid by a company resident in the United Kingdom except—
- (a) corporation tax, and
 - (b) any tax for which the company is entitled to credit under this Part.
- (3) No tax is to be taken into account in respect of a dividend paid by a company resident outside the United Kingdom to another such company unless it could have been taken into account, under the provisions of this Part other than section 65(4), had the other company been resident in the United Kingdom.

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