



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 3

DOUBLE TAXATION RELIEF FOR SPECIAL WITHHOLDING TAX

Calculation of income or gain on remittance basis where special withholding tax levied

142 Conditions for purposes of section 143

- (1) This section applies for the purposes of section 143.
- (2) Condition A is that—
 - (a) a person is liable to income tax in respect of a payment of savings income, or
 - (b) a chargeable gain accrues to a person on a disposal by the person of assets in circumstances where the consideration for the disposal consists of, or includes, an amount of savings income.
- (3) Condition B is that special withholding tax is levied in respect of—
 - (a) the payment of savings income, or
 - (b) the whole or any part of the consideration for the disposal.
- (4) Condition C is that a claim under this Part has been made in respect of the special withholding tax.
- (5) Condition D is that no credit for foreign tax in respect of the savings income or chargeable gain concerned is allowed under Chapter 2 of Part 2 (so that sections 31(2) and 32(2), which make provision similar to section 143, do not apply).

143 Taking account of special withholding tax in calculating income or gains

- (1) Subsection (2) applies if—

Status: This is the original version (as it was originally enacted).

- (a) each of conditions A to D of section 142 is met, and
 - (b) income tax is payable by reference to the amount of the savings income received in the United Kingdom.
- (2) For income tax purposes, the amount received is increased by the amount of special withholding tax—
- (a) levied in respect of it, and
 - (b) in respect of which a claim under this Part has been made.
- (3) Subsection (4) applies if—
- (a) each of conditions A to D of section 142 is met, and
 - (b) capital gains tax is payable by reference to the amount of the chargeable gain received in the United Kingdom.

- (4) For capital gains tax purposes, the amount received is increased by the amount given by—

$$\text{SWT} \times \frac{\text{GUK}}{\text{G} - \text{SWT}}$$

where—

SWT is the amount of special withholding tax—

- (a) levied in respect of the whole or the part of the consideration for the disposal, and
- (b) in respect of which a claim has been made under this Part,

GUK is the amount of the chargeable gain received in the United Kingdom, and

G is the amount of the chargeable gain accruing to the person on the disposal.

- (5) Subsection (6) applies if—
- (a) each of conditions A to D of section 142 is met, and
 - (b) neither subsection (2) nor subsection (4) applies.
- (6) In calculating—
- (a) the amount of the income for income tax purposes, or
 - (b) the amount of any chargeable gain for capital gains tax purposes,
- no deduction is to be made for special withholding tax in respect of which a claim has been made under this Part (whether special withholding tax in respect of the same, or any other, income or in respect of the same, or any other, chargeable gains).