



# Taxation (International and Other Provisions) Act 2010

## 2010 CHAPTER 8

### PART 3

#### DOUBLE TAXATION RELIEF FOR SPECIAL WITHHOLDING TAX

##### *Credit etc for special withholding tax*

#### **140 Provisions about the deemed tax under section 139**

- (1) For the purposes of section 139, the amount of the deemed tax is—
  - (a) the amount of the special withholding tax levied (see section 139(4)(b)), less
  - (b) any amounts of that tax that are within subsection (2) or (3).
- (2) An amount of special withholding tax levied is within this subsection if—
  - (a) the person has obtained relief from double taxation in respect of that special withholding tax under the law of a territory outside the United Kingdom, and
  - (b) the person was resident in that territory, or was under any double taxation arrangements treated as being resident in that territory, in the tax year mentioned in section 139(2).
- (3) An amount of special withholding tax levied is within this subsection if by reference to that amount of that tax—
  - (a) there is that amount of deemed tax under section 137(5), or
  - (b) there would be that amount of deemed tax under section 137(5) on the making of a claim.
- (4) Subsection (5) applies if the amount of the deemed tax exceeds the amount (which may be nil) of capital gains tax for which the person is liable for that tax year (before any set-off for the deemed tax).
- (5) So far as it would not otherwise be the case—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the excess is to be set against any income tax for which the person is liable for that tax year, and
  - (b) the person is entitled to a repayment of capital gains tax in respect of any remaining balance of the excess.
- (6) For the purposes of the provisions listed in subsection (7) in relation to the person for that tax year, references in those provisions to income tax deducted at source for that tax year include the deemed tax.
- (7) Those provisions are—
- section 7 of TMA 1970 (notice of liability to income tax and capital gains tax),
  - section 8 of TMA 1970 (personal return),
  - section 8A of TMA 1970 (trustee's return),
  - section 9 of TMA 1970 (returns to include self-assessment), and
  - section 59B of TMA 1970 (payments of income tax and capital gains tax).