



# Corporation Tax Act 2009

## 2009 CHAPTER 4

### PART 18

#### UNREMITTABLE INCOME

##### **1274 Unremittable income: introduction**

- (1) This Part applies if—
  - (a) a company is liable for corporation tax on income arising in a territory outside the United Kingdom, and
  - (b) the income is unremittable.
- (2) For the purposes of this Part, income is unremittable if conditions A and B are met.
- (3) Condition A is that the income cannot be transferred to the United Kingdom by the company which is liable for corporation tax in respect of the income because of—
  - (a) the laws of the territory where the income arises,
  - (b) executive action of its government, or
  - (c) the impossibility of obtaining there currency that could be transferred to the United Kingdom.
- (4) Condition B is that the company which is liable for corporation tax in respect of the income has not realised it outside that territory for an amount in sterling or in another currency which the company is not prevented from transferring to the United Kingdom.

##### **1275 Claim for relief for unremittable income**

- (1) If a company liable for corporation tax on unremittable income makes a claim for relief under this section in respect of that income, it is not taken into account for corporation tax purposes.
- (2) Subsection (1) is subject to section 1276.

*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: Corporation Tax Act 2009, Part 18 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) No claim under this section may be made in respect of any income so far as an ECGD payment has been made in relation to it.
- (4) In subsection (3) “ECGD payment” means a payment made by the Export Credits Guarantee Department under an agreement entered into as a result of arrangements made under—
  - (a) section 2 of the Export and Investment Guarantees Act 1991 (c. 67) (insurance in connection with overseas investment), or
  - (b) section 11 of the Export Guarantees and Overseas Investment Act 1978 (c. 18).
- (5) A claim under this section must be made before the expiry of 2 years after the end of the accounting period in which the income arises.

### **1276 Withdrawal of relief**

- (1) This section applies if—
  - (a) a claim under section 1275 has been made in relation to any income, and
  - (b) either—
    - (i) the income ceases to be unremittable, or
    - (ii) an ECGD payment is made in relation to it.
- (2) In this section “ECGD payment” has the meaning given by section 1275(4).
- (3) If income ceases to be unremittable, the income is treated as arising on the date on which it ceases to be unremittable.
- (4) If an ECGD payment is made in relation to income, the income is treated, to the extent of the payment, as arising on the date on which the ECGD payment is made.
- (5) The income treated as arising under subsection (3) or (4), and any tax payable in respect of it under the law of the territory where it arises, are taken into account for corporation tax purposes at their value at the date on which the income is treated as arising.
- (6) Subsections (3) to (5) do not apply so far as the income has already been treated as arising as a result of this section.

### **1277 Income charged on withdrawal of relief after source ceases**

- (1) This section applies if—
  - (a) income is treated as arising as a result of section 1276, and
  - (b) at the time it is so treated the company which would have become liable for corporation tax as a result of that section—
    - (i) has permanently ceased to carry on the trade or property business from which the income arises, or
    - (ii) in the case of income from another source, has ceased to possess that source.
- (2) In the case of income from a trade—
  - (a) the income is treated as a post-cessation receipt for the purposes of Chapter 15 of Part 3 (trading income: post-cessation receipts), but

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- (b) in the application of that Chapter to that income, section 189 (extent of charge to tax) is omitted.
- (3) In the case of income from a property business—
  - (a) the income is treated as a post-cessation receipt from a UK property business for the purposes of Chapter 9 of Part 4 (property income: post-cessation receipts), but
  - (b) in the application of that Chapter to that income, section 281 (extent of charge to tax) is omitted.
- (4) In the case of income from another source, the income is taxed as if the company continued to possess that source.

### **1278 Valuing unremittable income**

- (1) If no claim is made under section 1275 in relation to unremittable income arising in a territory outside the United Kingdom, the amount of the income to be taken into account for corporation tax purposes is determined as follows.
- (2) If the currency in which the income is denominated has a generally recognised market value in the United Kingdom, the amount is determined by reference to that value.
- (3) In any other case, the amount is determined according to the official rate of exchange of the territory where the income arises.

**Status:**

Point in time view as at 01/04/2009.

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