



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

Schemes and arrangements designed to increase relief: anti-avoidance

85 Section 83(2) and (4): schemes about effect of paying foreign tax

- (1) This section applies to a scheme or arrangement if, under the scheme or arrangement, the condition in subsection (2) is met in relation to a person (“C”) who for a chargeable period has claimed, or is in a position to claim, any credit that under the arrangements is to be allowed for [^{F1}in respect of the payment of an amount of foreign tax (“the FT amount”)].
- [^{F2}(2) The condition is that, when C entered into the scheme or arrangement, it could reasonably be expected that the effect on the foreign-tax total of the FT amount being paid or payable would be to increase that total by less than amount X.]
- (3) In [^{F3}subsection (2)]—
 - “the foreign-tax total” means the amount found by—
 - (a) totalling the amounts of foreign tax paid or payable by the participants in respect of the transaction or transactions forming part of the scheme or arrangement, and

Changes to legislation: There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 85. (See end of Document for details)

(b) taking into account any reliefs that arise to the participants, including any reliefs arising to any one or more of the participants as a consequence of [^{F4}the FT amount being paid or payable ^{F5}...], and
 “amount X” means the amount allowable to C as a credit in respect of the payment of the FT amount.

(4) In subsection (3)—

“participant” means a person who is party to, or concerned in, the scheme or arrangement, and

“reliefs” means reliefs, deductions, reductions or allowances against or in respect of any tax.

(5) In subsection (1) so far as it relates to capital gains tax “chargeable period” means tax year (see section 288(1ZA) of TCGA 1992).

Textual Amendments

- F1** Words in s. 85(1) substituted (with effect in accordance with Sch. 11 para. 5(3) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 11 para. 5\(1\)\(a\)](#)
- F2** S. 85(2) substituted (with effect in accordance with Sch. 11 para. 5(3) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 11 para. 5\(1\)\(b\)](#)
- F3** Words in s. 85(3) substituted (with effect in accordance with Sch. 11 para. 5(3) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 11 para. 5\(1\)\(c\)\(i\)](#)
- F4** Words in s. 85(3) substituted (with effect in relation to amounts of foreign tax payable on or after 21.10.2009 in accordance with [Sch. 11 para. 3](#) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 11 para. 2\(3\)](#)
- F5** Words in s. 85(3) omitted (with effect in accordance with Sch. 11 para. 5(3) of the amending Act) by virtue of [Finance Act 2010 \(c. 13\)](#), [Sch. 11 para. 5\(1\)\(c\)\(ii\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 85.