



Income and Corporation Taxes Act 1970

1970 CHAPTER 10

PART XVIII

DOUBLE TAXATION RELIEF

CHAPTER II

RULES GOVERNING RELIEF BY WAY OF CREDIT

Underlying tax on dividends

506 Computation of underlying tax

- (1) Where, in the case of any dividend, arrangements provide for underlying tax to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes in respect of the dividend, the tax to be taken into account by virtue of that provision shall be so much of the foreign tax borne on the relevant profits by the body corporate paying the dividend as is properly attributable to the proportion of the relevant profits represented by the dividend.
- (2) For the purposes of subsection (1) above, the relevant profits are—
 - (a) if the dividend is paid for a specified period, the profits of that period,
 - (b) if the dividend is not paid for a specified period, but is paid out of specified profits, those profits, and
 - (c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable:

Provided that if, in a case falling under paragraph (a) or (c) above, the total dividend exceeds the profits available for distribution of the period mentioned in the said paragraph (a) or (c), as the case may be, the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of

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this section) as is equal to the excess; and for the purposes of this proviso, the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

- (3) Profits treated as relevant for the purposes of paragraph 9 of Schedule 16 to the Income Tax Act 1952 (which this section re-enacts), and profits deemed by virtue of that paragraph to be profits previously so treated, shall be deemed for the purposes of this section to be profits previously treated as relevant for the purposes of this section.

507 Extension of relief to certain dividends not covered by arrangements where paid between related companies

- (1) Where—

- (a) arrangements provide, in relation to dividends of some classes but not in relation to dividends of other classes, that underlying tax is to be taken into account in considering whether any, and if so what, credit is to be allowed against the United Kingdom taxes in respect of the dividends, and
- (b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls directly or indirectly, or is a subsidiary of a company which controls directly or indirectly, not less than 25 per cent. of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

- (2) Where any arrangements contain a provision which.—

- (a) applies to any company which controls, directly or indirectly, not less than a stated fraction of the voting power of a company resident in a specified territory outside the United Kingdom, and
- (b) in allowing credit against United Kingdom tax on dividends paid to any such company by the company so resident, authorises account to be taken of tax payable by the company so resident in respect of the profits out of which the dividends were paid,

then, subject to subsection (3) below, credit shall be allowed under the arrangements as if the provision treated the subsidiary of a company which owns, directly or indirectly, the stated fraction of the voting power of a company resident in the specified territory as if that subsidiary also owned that fraction of the voting power of the company so resident.

- (3) Subsections (1) and (2) above have no application to unilateral relief; and credit shall not be allowable in the case of the same income both by virtue of the said subsection (2) and by way of unilateral relief.

508 Extension of relief to U.K. and third country taxes where dividends paid between related companies

- (1) Where a dividend is paid by a company resident in a territory outside the United Kingdom to a company resident in the United Kingdom which either—

- (a) controls directly or indirectly, or
- (b) is a subsidiary of a company which controls directly or indirectly,

not less than 25 per cent. of the voting power in the company paying the dividend, then, for the purpose of allowing credit under any arrangements against corporation tax in

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respect of the dividend, any United Kingdom income tax or corporation tax payable by the first-mentioned company in respect of its profits, and any tax so payable under the law of any territory outside the United Kingdom, shall be taken into account as if it were tax payable under the law of the first-mentioned territory.

- (2) In relation to dividends paid by a company resident in a Commonwealth territory, subsection (1) above shall have effect for the purposes of unilateral relief with the substitution of " 10 per cent. " for " 25 per cent. ".

509 U.K. insurance companies trading overseas

- (1) Subject to subsection (2) below, where a company resident in the United Kingdom is charged to tax under Case I of Schedule D in respect of any insurance business carried on by it, and that business or any part of it is carried on through a branch or agency in a territory outside the United Kingdom, then, in respect of dividends referable to that business which are paid to the company by companies resident in that territory, any tax payable by those companies in respect of their profits under the law of that or any other territory outside the United Kingdom, and any United Kingdom income tax or corporation tax so payable, shall, in considering whether any, and if so what, credit is to be allowed under any arrangements, be taken into account as tax so payable under the law of the first-mentioned territory is taken into account in a case falling within section 506 above.
- (2) Credit shall not be allowed to a company by virtue of subsection (1) above for any financial year in respect of a greater amount of dividends paid by companies resident in any overseas territory than is equal to any excess of the relevant fraction of the company's total income in that year from investments (including franked investment income and group income) so far as referable to the said business over the amount of the dividends so referable which are paid to it in the year by companies resident in that territory and in respect of which credit may, apart from the said subsection (1), be allowed to it for underlying tax.
- (3) For the purposes of subsection (2) above "the relevant fraction " is, in relation to any overseas territory, the fraction of which the numerator is the company's local, and the denominator the company's total, premium income in the financial year so far as referable to the said business, and premium income shall be deemed to be local premium income in so far as it consists of premiums under contracts entered into at or through a branch or agency in that territory by persons not resident in the United Kingdom.