



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

137 Income tax credit etc for special withholding tax

- (1) Subsection (5) applies if each of conditions A to C is met.
- (2) Condition A is that a person—
 - (a) is liable to income tax for a tax year in respect of a payment of savings income, or
 - (b) would be liable to income tax for a tax year in respect of a payment of savings income but for any exemption or relief.
- (3) Condition B is that special withholding tax is levied in respect of the payment.
- (4) Condition C is that the person is UK resident for the tax year.
- (5) On the making of a claim, income tax (“the deemed tax”) is to be treated as having been—
 - (a) paid by or on behalf of the person for the tax year, and
 - (b) deducted at source for the tax year for the purposes of the provisions listed in subsection (7).
- (6) The amount of the deemed tax is given by section 138.
- (7) The provisions mentioned in subsection (5)(b) are—
 - section 7 of TMA 1970 (notice of liability to income tax and capital gains tax),
 - section 8 of TMA 1970 (personal return),

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section 8A of TMA 1970 (trustee's return),
 section 9 of TMA 1970 (returns to include self-assessment),
 section 59A of TMA 1970 (payments on account of income tax),
 section 59B of TMA 1970 (payments of income tax and capital gains tax), and
 section 824(3) of ICTA (repayment supplements: determination of relevant time).

138 Amount and application of the deemed tax under section 137

- (1) For the purposes of section 137, the amount of the deemed tax is—
 - (a) the amount of the special withholding tax levied (see section 137(3)), less
 - (b) any amounts of that tax that are within subsection (2).
- (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 137(2).
- (3) Subsection (4) applies if the amount of the deemed tax exceeds the amount (which may be nil) of income tax for which the person is liable for that tax year (before any set-off for the deemed tax).
- (4) So far as it would not otherwise be the case—
 - (a) the excess is to be set against any capital gains tax for which the person is liable for that tax year, and
 - (b) the person is entitled to a repayment of income tax in respect of any remaining balance of the excess.

139 Capital gains tax credit etc for special withholding tax

- (1) Subsection (6) applies if each of conditions A to D is met.
- (2) Condition A is that a person makes a disposal of assets in a tax year.
- (3) Condition B is that if a chargeable gain were to accrue on the disposal—
 - (a) the gain would accrue to the person, and
 - (b) the person would be chargeable to capital gains tax in respect of the gain.
- (4) Condition C is that—
 - (a) the consideration for the disposal consists of, or includes, an amount of savings income, and
 - (b) special withholding tax is levied in respect of the whole, or any part, of the consideration.
- (5) Condition D is that the person is resident in the United Kingdom for the tax year.
- (6) On the making of a claim, capital gains tax (“the deemed tax”) is to be—
 - (a) treated as having been paid by or on behalf of the person for the tax year, and

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(b) treated for the purposes of section 283(2) of TCGA 1992 (repayment supplements: determination of relevant time) as having been paid on the 31 January following the tax year.

(7) The amount of the deemed tax is given by section 140.

(8) For the purposes of subsection (3)(b), disregard—

(a) any deductions that are to be made from the total amount referred to in section 2(2) of TCGA 1992 (deductions for allowable losses), and

(b) section 3 of TCGA 1992 (annual exempt amount).

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—

(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).

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141 Credit under Chapter 2 of Part 2 to be allowed first

- (1) Any credit for foreign tax allowed under Chapter 2 of Part 2 against income tax or capital gains tax is to be allowed before effect is given to sections 137 to 140.
- (2) In this section “foreign tax” has the same meaning as in that Chapter (see section 21).

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