



Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 2

DOUBLE TAXATION RELIEF

CHAPTER 3

MISCELLANEOUS PROVISIONS

Deduction for foreign tax where no credit allowed

112 Deduction from income for foreign tax (instead of credit against UK tax)

- (1) The amount of any income arising in any place outside the United Kingdom is reduced for the purposes of the Tax Acts—
 - (a) by any amount which has been paid in respect of non-UK tax on that income in the place where the income arose, or
 - (b) if subsection (2) applies, by the lesser amount mentioned in that subsection.
 - (2) This subsection applies if credit would, were it allowable in respect of the income, be reduced under section 39 (reduction by reference to accrued income losses) to the lesser amount given by section 39(5).
- [^{F1}(2A) But if X is less than Y, an amount equal to the difference between X and Y must be subtracted from the amount by which any income of a person (“the relevant income”) is reduced under subsection (1)(a).
- (2B) In subsection (2A)—
X is the amount of the relevant income that the person would (disregarding this section) be required to bring into account for income tax or corporation tax

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purposes, less any deduction that the person would be allowed to make for the amount paid in respect of non-UK tax, and

Y is the amount of the relevant income (that is to say, the amount on which the amount in respect of non-UK tax is paid).]

(3) If—

(a) income of any person (“P”) is reduced under subsection (1) by an amount paid in respect of tax on that income in the place where the income arose, and

[^{F2}(b) a tax authority makes a payment by reference to that tax, and that payment—
 (i) is made to P or a person connected with P, or
 (ii) is made to some other person directly or indirectly in consequence of a scheme that has been entered into,]

the amount of P's income is increased by the amount of the payment.

[^{F3}(3A) Subsection (3B) applies if—

- (a) the requirements of section 49A(1)(a) to (c) are met,
- (b) amounts have been paid in respect of non-UK tax on loan relationship credits falling within section 49A(1)(c) which arise in an accounting period of the relevant UK company, and
- (c) apart from subsection (3B), Z would exceed

$$R \times S$$

where—

Z is—

- i the total amount of any reductions under subsection (1) for amounts paid in respect of that non-UK tax, less
- ii the total amount of any increases under subsection (3) for payments made by reference to that non-UK tax, and
- c R and S have the same meaning as in section 49A(2).

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(3B) The total amount of the reductions under subsection (1) is to be reduced so that Z equals]

$$R \times S$$

(4) Subsection (1)—

(a) has effect subject to section 31(2)(a) (no deduction for foreign tax if credit allowed and UK tax calculated otherwise than by reference to the amount received in the United Kingdom),

[^{F4}(aa) has effect subject to section 71B(2) (reduction of foreign tax paid on profits of overseas permanent establishment),]

(b) has effect subject to section 143(5) and (6) (no deduction for special withholding tax if UK tax calculated otherwise than by reference to the amount received in the United Kingdom),

(c) does not apply to income the tax on which is to be calculated by reference to the amount of income received in the United Kingdom, and

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- (d) does not require any income to be reduced by an amount of underlying tax which, under section 60(3), is to be left out of account for the purposes of section 57.
- (5) Subsection (1) has effect for corporation tax purposes despite—
- (a) section 464(1) of CTA 2009 (matters to be brought into account in the case of loan relationships only under Part 5 of that Act), and
 - (b) section 906(1) of that Act (matters to be brought into account in respect of intangible fixed assets only under Part 8 of that Act).
- (6) In [^{F5}this section] “non-UK tax” means tax under the law of a territory outside the United Kingdom.
- (7) For the purposes of subsection (3), whether a person is connected with P is determined in accordance with section 1122 of CTA 2010.
- [^{F6}(8) In subsection (3)(b)(ii) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.]

Textual Amendments

- F1** S. 112(2A)(2B) inserted (with effect in accordance with Sch. 11 para. 7(2) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 11 para. 7\(1\)](#)
- F2** S. 112(3)(b) substituted (with effect in accordance with s. 292(8) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 292\(4\)](#)
- F3** S. 112(3A)(3B) inserted (retrospective to 1.1.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 47 paras. 14\(2\), 21](#)
- F4** [S. 112\(4\)\(aa\)](#) inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [s. 30\(4\)](#)
- F5** Words in s. 112(6) substituted (retrospective to 1.1.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 47 paras. 14\(3\), 21](#)
- F6** S. 112(8) inserted (with effect in accordance with s. 292(8) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 292\(5\)](#)

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