Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

PART 2

DOUBLE TAXATION RELIEF

CHAPTER 2

DOUBLE TAXATION RELIEF BY WAY OF CREDIT

Credits where same income charged to income tax in more than one tax year

24 Claw-back of relief under section 22(2)

(1) Subsections (4) and (5) apply if—

(a) credit against income tax for any tax year is allowed under section 22(2) in respect of any income ("the original income"), and

(b) the original income, or any part of it, contributes to an amount which, under section 205 or 220 of ITTOIA 2005, is deducted in calculating profits of a later tax year ("the later year").

(2) For the purposes of subsections (4) and (5), amount A is the difference between—

(a) the amount of the credit which, as a result of the application of sections 18(2) and 22(2) and subsection (5) of this section, has been allowed against income tax in respect of so much of the original income as contributes as mentioned in subsection (1), and

(b) the amount of the credit which, ignoring sections 22 and 23 and this section, would have been allowed under section 18(2) against income tax in respect of so much of the original income as contributes as mentioned in subsection (1).

(3) For the purposes of subsections (4) and (5), amount B is the amount of credit which, on the assumption that no amount were deducted under section 205 or 220 of ITTOIA 2005, would be allowable under section 18(2) against income tax in respect of income arising in the later year from the same source as the original income.

(4) If amount A exceeds amount B—

(a) no credit is allowed for income arising from that source in the later year,

(b) an amount of income tax equal to the excess is charged for the later year, and

(c) the liable person is liable for the tax.

(5) If amount B exceeds amount A, the liable person is allowed for the later year an amount of credit equal to the excess.

(6) In subsections (4) and (5) "the liable person" means the person liable for income tax charged on the income (if any) arising in the later year from the same source as the original income.

(7) For the purposes of subsections (1) to (6), it is to be assumed that, where an amount is deducted under section 220 of ITTOIA 2005, each of the overlap profits added together at Step 1 of the calculation in subsection (3) of that section contributes to that amount in the proportion which that overlap profit bears to the total that is the result of that Step.

(8) In this section—

(a) "overlap profit" has the same meaning as in Chapter 15 of Part 2 of ITTOIA 2005 (see section 204 of that Act), and

(b) references to income arising in any year include income received in the year that is income on which income tax is to be calculated by reference to the amount of income received in the United Kingdom.