



Finance Act 1961

1961 CHAPTER 36

PART II

INCOME TAX

18 Double taxation relief: provisions as to commencement of trade or source of income

- (1) Subject to the provisions of this section, credit for foreign tax paid in respect of any income arising in the years of commencement shall be allowed, in pursuance of Part XIII of the Act of 1952, against United Kingdom income tax chargeable for any year of assessment in respect of that income if it would have been so allowed but for the fact that credit for that foreign tax had been allowed against the United Kingdom income tax chargeable in respect of that income for a previous year of assessment.
- (2) The amount of credit to be allowed in respect of any income by virtue of this section for any year of assessment shall not exceed the difference between the total credit allowable against income tax in respect of that income in pursuance of the said Part XIII (whether as originally enacted or as extended by this section) for all years of assessment for which credit is so allowable and the amount of credit which was in fact so allowed in respect of that income for any earlier year or earlier years of assessment.
- (3) The total credit allowable as aforesaid in respect of any income for all those years of assessment shall be taken to be the amount of the unapplied balance of the foreign tax charged on that income (that is to say, so much of that tax as was not applied in reducing the profits tax on that income) adjusted, where the number of the United Kingdom periods of assessment exceeds the number of the foreign periods of assessment, in the proportion which the former number bears to the latter, a period for which part only of the income is charged to tax being counted not as one period but as a fraction equal to the proportion which that part of the income bears to the whole of the income.
- (4) Where the same income is charged to different foreign taxes for different foreign periods of assessment, the calculations required by the foregoing subsection for the purposes of arriving at and adjusting the unapplied balance of the foreign tax charged on that income shall be made separately in relation to each foreign tax (the amount of

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any one foreign tax applied in reducing the profits tax being taken to be an amount bearing the same proportion to the total foreign tax so applied as that one foreign tax bears to the total foreign tax) and the unapplied balance of the foreign tax or, as the case may be, that balance as adjusted shall be taken to be the aggregate of the amounts of the respective balances calculated in relation to each foreign tax in accordance with that subsection.

- (5) Where credit against income tax for any year of assessment is allowed by virtue of subsection (1) of this section in respect of any income (hereinafter referred to as the original income) and subsequently, by reason of the operation of the enactments relating to cessation, income arising in a non-basis period from the same source as the original income is not assessed to income tax, then, if the amount of credit allowed against income tax in respect of the original income in pursuance of Part XIII of the Act of 1952 (whether as originally enacted or as extended by this section) for all years of assessment for which credit is so allowable exceeds the aggregate of the following amounts, that is to say—
- (a) the amount of the credit against income tax which would have been allowed apart from the said subsection (1) for all those years in respect of the original income ; and
 - (b) the unapplied balance of the foreign tax for which credit would have been allowable against the profits tax and income tax in pursuance of Part XIII of the Act of 1952 in respect of income arising in the non-basis period from the same source as the original income, that is to say, so much of that foreign tax as was not applied in reducing the profits tax,

the person chargeable in respect of income, if any, from the same source in the year of assessment following the non-basis period shall be treated as having received in that year a payment chargeable under Case VI of Schedule D of an amount such that income tax thereon at the standard rate is equal to the excess:

Provided that any payment which any person is treated by virtue of this subsection as having received shall not on that account constitute income of his for any of the purposes of the Income Tax Acts other than this subsection and, in particular, no part thereof shall constitute profits or gains brought into charge to tax for the purposes of section one hundred and sixty-nine of the Act of 1952.

- (6) Any claim for relief by way of credit under subsection (1) of this section against income tax for any year of assessment shall be made within six years of the end of that year or, where there is more than one year of assessment in respect of which such relief may be given, within six years of the end of the later of them.

- (7) In this section—

" foreign tax " means tax under the law of a territory outside the United Kingdom ;

" non-basis period " means a period the income arising in which is, by reason only of the operation of the enactments relating to cessations, not chargeable to United Kingdom income tax for any year of assessment;

" United Kingdom period of assessment " and " foreign period of assessment ", in relation to any income, mean respectively a year or other period for which under the relevant law the income falls to be charged to the relevant tax;

" years of commencement ", in relation to income from any source, means the first three years of assessment for which income from that source falls to be assessed to income tax and also, in the case of profits or gains chargeable

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to tax under Case I or II of Schedule D, the whole of any period falling partly within those years such that the profits or gains arising in the period fall to be assessed to income tax for a year of assessment later than those years ;

references to the enactments relating to cessations are references to section one hundred and thirty of the Act of 1952 (discontinuance of trade, profession or vocation), section eighteen of the Finance Act, 1952 (cessation of income taxable under Case III, IV or V of Schedule D or of a particular source of such income) and section nineteen of the Finance Act, 1953 (change in ownership of trade, profession or vocation);

references to income arising in any year include, in relation to income the income tax on which is to be computed by reference to the amount of income received in the United Kingdom, references to income received in that year.