

PART 35 Double Taxation Relief

CHAPTER 1 Principal reliefs

Agreements for relief from double taxation. ITA67 s361; FA74 s86 and Sch2 Ptl; CTA76 s22(2), s23(1) and s166(1) and Sch4 Ptl; FA83 s47(4) 826.—(1) Where the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to affording relief from double taxation in respect of—

(a) income tax;

(b) corporation tax in respect of income and chargeable gains;

(c) any taxes of a similar character imposed by the laws of the State or by the laws of that territory; and that it is expedient that those arrangements should have the force of law, then, subject to this section and sections 168 and 833 to 835, the arrangements shall, notwithstanding any enactment other than section 168, have the force of law.

(2) Schedule 24 shall apply where arrangements which have the force of law by virtue of this section provide that tax payable under the laws of the territory concerned shall be allowed as a credit against tax payable in the State.

(3) Any arrangements to which the force of law is given under this section may include provision for relief from tax for periods before the passing of this Act or before the making of the arrangements and provisions as to income or chargeable gains which is or are not subject to double taxation, and subsections (1) and (2) shall apply accordingly.

(4) For the purposes of subsection (1), arrangements made with the head of a foreign state shall be regarded as made with the government of that state.

(5) Any order made under this section may be revoked by a subsequent order, and any such revoking order may contain such transitional provisions as appear to the Government to be necessary or expedient.

(6) Where an order is proposed to be made under this section, a draft of the order shall be laid before Dáil Éireann and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.

(7) Where any arrangements have the force of law by virtue of this section, the obligation as to secrecy imposed by any enactment shall not prevent the Revenue Commissioners or any authorised officer of the Revenue Commissioners from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed under the arrangements.

(8) The necessary apportionments as respects corporation tax shall be made where arrangements having the

force of law by virtue of this section apply to the unexpired portion of an accounting period current at a date specified by the arrangements, and any such apportionment shall be made in proportion to the number of months or fractions of months in the part of the relevant accounting period before that date and in the remaining part of the relevant accounting period respectively.

(9) The Revenue Commissioners may from time to time make regulations generally for carrying out the provisions of this section or any arrangements having the force of law under this section and may in particular, but without prejudice to the generality of the foregoing, by those regulations provide—

(a) for securing that relief from taxation imposed by the laws of the territory to which any such arrangements relate does not enure to the benefit of persons not entitled to such relief, and

(b) for authorising, in cases where tax deductible from any periodical payment has, in order to comply with any such arrangements, not been deducted and it is discovered that the arrangements do not apply to that payment, the recovery of the tax by assessment on the person entitled to the payment or by deduction from subsequent payments.