

CHAPTER 2 Miscellaneous

Relief to certain companies liable to foreign tax. CTA76 s163 830.—(1) In this section—

“accounting period” includes a part of an accounting period;

“external tax” means a tax chargeable and payable under the law of the territory in which the paying company is resident, being a territory to which this section applies, and which corresponds to Irish corporation tax or income tax or both of those taxes, but a tax payable under the law of a province, state or other part of a country, or which is levied by or on behalf of a municipality or other local body, shall for the purposes of this subsection be deemed not to correspond to those taxes.

(2) This section shall apply to every territory other than—

(a) Northern Ireland and Great Britain,

(b) the United States of America, and

(c) a territory with the Government of which arrangements are for the time being in force by virtue of section 826.

(3) Where a company (in this section referred to as “the investing company”) has paid by deduction or otherwise, or is liable to pay, by reference to any part of its income arising in a territory to which this section applies, tax for any accounting period and it is shown to the satisfaction of the Revenue Commissioners that—

(a) that part of the investing company's income consists of a dividend or interest paid to it by a company resident in the territory (in this section referred to as “the paying company”) not less than 50 per cent of the voting power in which is controlled directly or indirectly by the investing company,

(b) that dividend or interest arose from the investment in the paying company by the investing company, whether by means of loan or otherwise, of a sum or sums representing—

(i) profits the Irish tax referable to which was reduced to nil under—

(I) Part III of the Finance (Miscellaneous Provisions) Act, 1956 ,

(II) Chapter IV of Part XXV of the Income Tax Act, 1967 , or

(III) Part IV of the Corporation Tax Act, 1976 ,

(ii) such proportion of profits the Irish tax referable to which was reduced otherwise than to nil under those provisions as is equal to the proportion by which that Irish tax has been so reduced, or

(iii) profits arising from exempted trading operations which by virtue of—

(I) Parts I and II of the Finance (Miscellaneous Provisions) Act, 1958 ,

(II) Chapter I of Part XXV of the Income Tax Act, 1967 , or

(III) Part V of the Corporation Tax Act, 1976 ,

were not, in relation to the company by which such operations were carried on, taken into account for any purpose of—

(A) the Income Tax Acts,

(B) Part V of the Finance Act, 1920 , and the enactments amending or extending that Part, or

(C) the Corporation Tax Acts,

and

(c) the investing company has paid external tax in the territory in respect of that part of its income,

then, the Revenue Commissioners may grant to the investing company in respect of that accounting period such relief as is just with a view to affording relief in respect of the double taxation of that part of the investing company's income, but not exceeding the lesser of—

(aa) 50 per cent of the total of the corporation tax which but for this section would be payable by the investing company in respect of that part of its income, and

(bb) the amount of the external tax paid or payable in the territory in respect of that part of its income after deduction of any relief to which the company may be entitled in that territory.

(4) (a) External tax paid by the paying company in respect of its profits shall be taken into account in considering whether any, and if so what, relief ought to be allowed in respect of a dividend paid by the paying company to the investing company, and for the purposes of this section (other than this subsection) such tax or the appropriate part of such tax shall be regarded as external tax paid by the investing company.

(b) Paragraph 8 of Schedule 24 shall apply for the purpose of ascertaining the amount of the external tax paid by the paying company which is to be taken into account in relation to any dividend paid by the paying company to the investing company as it applies to the computation of foreign tax to be taken into account for the purposes of that paragraph.

(5) (a) Nothing in this section shall authorise the granting of relief under this section to any company in respect of any accounting period to such an extent as would reduce the aggregate amount (computed after deduction of any relief to which the company may be entitled in the territory) of the corporation tax and external tax payable by such company in respect of any part of its income of the kind described in subsection

(3)(a) arising in a territory to which this section applies below the amount of corporation tax which would be payable by the company in respect of that part of its income if that part of its income had arisen in the State and had been liable in the hands of the investing company to corporation tax.

(b) In computing for the purposes of paragraph (a) the amount of corporation tax which would be so payable by the company in respect of that part of its income if that part had arisen in the State—

(i) no deduction for external tax shall be made from that part of its income, and

(ii) where pursuant to subsection (4) external tax paid by the paying company is regarded as external tax paid by the investing company, that part of the investing company's income shall be treated as increased by the amount of the external tax which is so regarded.

(6) Relief under this section shall be given as a credit against corporation tax chargeable by reference to the part of the investing company's income referred to in subsection (3)(a).

(7) (a) Any claim for relief under this section shall be made in writing to the inspector not later than 6 years from the end of the accounting period to which it relates.

(b) An appeal to the Appeal Commissioners shall lie on any question arising under this section in the like manner as an appeal would lie against an assessment to corporation tax, and the provisions of the Tax Acts relating to appeals shall apply accordingly.