

IT 2507 - Income tax : foreign tax credit system - foreign taxes eligible for credit against australian income tax



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TAXATION RULING NO. IT 2507

INCOME TAX : FOREIGN TAX CREDIT SYSTEM - FOREIGN TAXES
ELIGIBLE FOR CREDIT AGAINST AUSTRALIAN INCOME TAX

F.O.I. EMBARGO: May be released

REF

N.O. REF: L 87/782-4

DATE OF EFFECT: Immediate

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F.O.I. INDEX DETAIL

| REFERENCE NO: | SUBJECT REFS: | LEGISLAT. REFS: |
|---------------|---------------------|-----------------|
| I 1211455 | FOREIGN TAX CREDIT | 6AB(2) |
| | SYSTEM - CREDITABLE | 6AB(6) |
| | FOREIGN TAXES | 160AF |

PREAMBLE Taxation Ruling No. IT 2437 sets out the relevant legislative provisions and general criteria which apply in determining whether a foreign tax is a creditable tax under the general foreign tax credit system (FTCS).

2. That Ruling contains a non-exhaustive list of foreign taxes which are recognised as creditable taxes. Paragraph 7 of the Ruling foreshadows periodical updates of that list - in the form of future Rulings incorporating an updated consolidated list of creditable taxes - as a consequence of changes in other countries' taxes and as other foreign taxes are admitted as creditable taxes. This Ruling represents the first such update.

3. While the issue of this Ruling in that form will obviate the need for reference back to the list of creditable taxes contained in IT 2437, the comments in the Preamble to that Ruling concerning the relevant statutory provisions and guidelines for creditable tax determinations remain pertinent. In particular, it is emphasised that taxpayers who seek credit for foreign taxes not identified in this Ruling (or in the subsequent Rulings) should supply the following details of those taxes in the relevant income tax returns:

- . the precise title of the tax;
- . the title of the law under which the tax is imposed;
- . whether the tax is levied by a national, state or local authority and the name of that authority; and
- . a description of the nature of the tax and the basis for its implementation.

4. Decisions as to whether particular foreign taxes not included in this Ruling (or in subsequent Rulings) are creditable taxes under the FTCS will continue to be taken in National Office. Branch Offices should therefore refer enquiries received, or claims in returns, in relation to such taxes to National Office

for consideration and advice. It would also continue to assist with the processing of returns if taxpayers were to supply relevant details to National Office as soon as a liability to pay such a foreign tax becomes apparent.

RULING 5. Subject to the provisions of Division 18 of Part III of the Income Tax Assessment Act 1936, a taxpayer will be entitled to a credit against Australian tax payable on foreign income for any of the foreign taxes listed below paid in respect of that income (changes and additions to the taxes listed in IT 2437 are marked with an asterisk):

ARGENTINA

Income tax (Impuesto a las ganancias)
Tax on casual gains (Impuesto sobre los beneficios eventuales)

AUSTRIA

Income tax (Einkommensteuer)
Corporation tax (Körperschaftsteuer)
Tax on Interest Yields (Zinsertragsteuer)
Directors' tax (Aufsichtsratsabgabe)
Tax on commercial and industrial enterprises (Gewerbesteuer), only where levied on a basis other than capital or the sum of wages

BANGLADESH

Income tax

BELGIUM

Individual income tax (impôt des personnes physiques/personen belasting)
Corporate income tax (impôt des sociétés/vennootschapsbelasting)
Income tax on legal entities (impôt des personnes morales/rechtspersonenbelasting)
Income tax on non-residents (impôt des non-résidents/belasting der nietverblijfhouders)

including the prepayments, the surcharges on these taxes and prepayments, and the communal supplement to the individual income tax.

BRAZIL

Income tax (Imposto de renda)
Withholding tax on pure income, e.g. interest or dividends
Supplementary tax (Imposto suplementar), where charged on dividends or branch profits arising in Brazil
Payments to the development funds PIN and PIS (Programa

de integracao nacional/social) and MOBRAL (Fundacao
moviments brasileiro de alfabetizacao)

BRUNEI

Income tax
Petroleum income tax

BURMA

Income tax

CANADA

Federal: Income taxes imposed by the Government of
Canada

Provincial:

ALBERTA

Provincial income tax

BRITISH COLUMBIA

Provincial income tax
Mining tax
Mineral resource tax
Logging tax

MANITOBA

Provincial income tax

NEW BRUNSWICK

Provincial income tax
Mining tax

NEWFOUNDLAND

Provincial income tax
Mining tax

NOVA SCOTIA

Provincial income tax
Mining tax

ONTARIO

Provincial corporation tax on company profits
Provincial income tax on individuals
Mining tax

PRINCE EDWARD ISLAND

Provincial income tax

QUEBEC

Provincial corporation tax on company profits
Provincial income tax on individuals
Mining tax
Logging tax

SASKATCHEWAN

Provincial income tax
Mining royalty tax

CHILE

Income tax (Impuesto a la renta)
Additional tax (Impuesto adicional)
Additional tax (Tasa adicional)

CHINA

Individual income tax
Income tax concerning joint ventures with Chinese and
foreign investment
Income tax concerning foreign enterprises
Local income tax

COOK ISLANDS

* Income tax (including withholding tax)

CYPRUS

Income tax
Special contributions under Law 55 of 1974 and
subsequent annual extensions

CZECHOSLOVAKIA

Tax on profits (Dan ze zisku)
Artists' tax (Dan z prijmu literarni a
umelecke cinnosti)

DENMARK

Income taxes to the State and to the municipalities
(indkomstskatterne til staten og til kommunerne)

FINLAND

State income tax
Communal tax
Church tax
Tax withheld at source from non-residents'
income

FRANCE

Income tax and corporation tax including any
withholding tax, prepayment (precompte) or advance
payment with respect to the aforesaid taxes.

FRENCH POLYNESIA (TAHITI)

Corporation tax (Impot sur les benefices
des societes)

Territorial solidarity tax (Prelevement territorial de solidarite)
Extraordinary solidarity tax (Prelevement exceptionnel de solidarite)

FIJI

Income tax (including basic tax and normal tax)
Non-resident dividend withholding tax
Interest withholding tax
Royalty withholding tax
Dividend tax
Land sales tax

GERMAN DEMOCRATIC REPUBLIC

Corporation tax (korperschaftsteuer)
Trade tax (Gewerbsteuer) to the extent that it is computed by reference to trading profits
Wages tax (Lohnsteuer)

GERMANY (FEDERAL REPUBLIC)

Income tax (Einkommensteuer) including the surcharge (Erganzungsabgabe) thereon
Corporation tax (korperschaftsteuer) including the surcharge (Erganzungsabgabe) thereon
Trade tax (Gewerbsteuer) only where it is levied on a basis other than capital or pay-roll

GHANA

* Income tax

GREECE

Income tax, including schedular or analytical tax

HONG KONG

Tax on earnings, profits and interest, comprising:
- salaries tax
- profits tax
- interest tax

HUNGARY

Income taxes (a jovedelemadok)
Profit taxes (a nyeresegadok)
Enterprises special tax (a vallalati kulonado)
Contribution to communal development (a kozsegfejlesztési hozzájárulás)
Levy on dividends and profit distributions of commercial companies (a kereskedelmi társaságok osztalek és nyereség kifizetéseit utáni illeték)

INDIA

Income tax, including any surcharge thereon
Income tax and super tax levied by States on
agricultural income
Surtax imposed on chargeable profits of companies

INDONESIA

Income tax (pajak pendapatan)
Company tax (pajak perseroan)
Withholding tax on interest, dividends and royalties
(pajak atas bunga, dividen dan royalty)

IRELAND

Income tax
Corporation tax
Capital gains tax

ISRAEL

Income tax (including capital gains tax)
Company tax
Tax on gains from the sale of land under the
Land Appreciation Tax Law

ITALY

Individual income tax (Imposta sul reddito delle
persone fisiche)
Corporate income tax (Imposta sul reddito delle
persone giuridiche) even if they are collected
by withholding taxes at source
Local tax on income (Imposta locale sui redditi)
Communal tax on capital appreciation of real property
(Imposta comunale sull'incremento di valore degli
imm (INVIM)), where charged on a capital gain also
chargeable in Australia.

JAPAN

Income tax
Corporation tax
Enterprise tax, so far as payable on profits or
income
Local (prefectural or municipal) inhabitant taxes, so
far as payable on profits, income or chargeable
gains from sources in Japan

JERSEY

* Income tax

KENYA

Income tax

REPUBLIC OF KIRIBATI

- * Income tax

REPUBLIC OF KOREA

Income tax
Corporation tax
Inhabitant tax
Defence tax, where charged by reference to income
tax or corporation tax

LIBERIA

- * Income tax

LUXEMBOURG

Income tax on individuals (Impot sur le revenu
des personnes physiques)
Tax on fees of directors of companies (Impot sur les
tantiemes)
Corporation tax (Impot sur le revenu des collectivites)
Tax on the total amount of wages and salaries (Impot
commercial communal Y compris limpot sur le total des
salaries), except in so far as it is computed on a
basis other than profits

MACAU

Complementary tax on income (Imposto comp-
lementar de rendimentos)

MALAYSIA

Income tax and excess profit tax
Supplementary income taxes (i.e. tin profits tax,
development tax and timber profits tax)
Petroleum income tax
Real property gains tax

MALTA

Income tax, including prepayments of tax, whether
made by deduction at source or otherwise

MEXICO

Income tax
Federal District tax on income from capital (Impuesto
sobre productos de capitales)
Federal District surcharge, in so far as charged
on the tax above

MONACO

Tax on profits (Impot sur les benefices)

NETHERLANDS

Income tax (Inkomstenbelasting)
Wages tax (Loonbelasting)
Corporation tax (vennootschapsbelasting)
Dividend tax (Dividend belasting)

NEW ZEALAND

Income tax
Excess retention tax
* Non-resident withholding tax

NIGERIA

* Personal income tax

NIUE

* Income tax

NORWAY

National tax on income (Inntektsskatt til staten)
County municipal tax on income (Inntektsskatt til fylkeskommunen)
Municipal tax on income (Inntektsskatt til kommunen)
National contributions to the Tax Equalisation Fund (Felleskatt til Skattefordelingsfondet)
National tax relating to income from the exploration for and the exploitation of submarine petroleum resources and activities and work relating thereto, including pipeline transport of petroleum produced (Skatt til staten vedrorende inntekt og formue i forbindelse med undersokelse etter og utnyttelse av undersjoiske petroleumsforekomster og dertil knyttet virksomhet og arbeid, herunder rorledningstransport av utvunnet petroleum)
National dues on remuneration to non-resident artistes (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet)
Seamen's tax (Sjomanntskatt)

PAKISTAN

Income tax
Super tax

PAPUA NEW GUINEA

The Income tax imposed under the law of Papua New Guinea, including:

- . salary or wages tax;
- . additional profits tax upon taxable additional profits

- from mining operations;
- . additional profits tax upon taxable additional profits from petroleum operations;
- . specific gains tax upon taxable specific gains; and
- . dividend withholding tax upon taxable dividend income.

PHILIPPINES

Income tax imposed by the Government of the Republic of the Philippines

POLAND

Income tax (podatek dochodowy)
 Tax on wages and salaries (podatek ad wynagrodzen)
 Surcharge on the income tax or on the tax on wages or salaries (podatek wyrownawczy)

PORTUGAL

Agricultural tax (Imposto sobre a industria agricola)
 Industrial tax (Contribuicao industrial)
 Tax on income from capital (Imposto de capitais)
 Professional tax (Imposto profissional)
 Complementary tax (Imposto complementar)
 Tax on capital gains (Imposto de mais-valias)
 Any surcharges on the preceding taxes

ROMANIA

Tax on incomes derived by individuals and corporate bodies (Impozitul pe veniturile realizate de persoane fizice si juridice)
 Tax on the profits of joint companies constituted with the participation of some Romanian economic organisations and some foreign partners (Impozitul pe beneficiile societatilor mixte constituite cu participare romana si straina)
 Tax on income realised from agricultural activities (Impozitul pe veniturile realizate din activitati agricole)

SINGAPORE

Income tax

SOLOMON ISLANDS

Income tax

SOUTH AFRICA

Normal tax (the general income tax)
 Non-resident shareholders' tax
 Undistributed profits tax
 Non-residents' tax on interest
 * Non-residents' tax on royalties

SPAIN

- Individual income tax (Impuesto sobre la renta de las personas fisicas)
- Company tax (Impuesto sobre sociedades)
- Local taxes on income
- * Chamber of Commerce surcharge based on admissible taxes

SRI LANKA

- Income tax

SWEDEN

- State income tax including sailors' tax and coupon tax
- Tax on undistributed profits of companies and the tax on distribution in connection with reduction of share capital or the winding-up of a company
- Tax on public entertainers
- Communal income tax

SWITZERLAND

- The Federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits and other items of income)

TAIWAN

- Business income tax
- Personal income tax
- Withholding tax on interest
- Withholding tax on dividends

THAILAND

- Income tax
- Petroleum income tax

TURKEY

- Income tax, including withholding or "stoppage" tax where charged on net profits
- Corporation tax, where charged on net profits

TUVALU

- Income tax

UNITED KINGDOM

- Income tax (including surtax)
- Corporation tax
- Capital gains tax

UNITED STATES OF AMERICA

Federal : Federal income taxes imposed by the Internal Revenue Code, but excluding the accumulated earnings tax and the personal holding company tax

* Contributions under the Federal Insurance Contributions Act (FICA)

State or other : As detailed below, but note that any state or other tax which may be construed as a unitary tax (as defined by subsection 6AB(6) of the Australian Income Tax Assessment Act) is not creditable

ALABAMA

Income tax on individuals
General income tax

ALASKA

General income tax

ARIZONA

General income tax

ARKANSAS

Income tax

CALIFORNIA

Bank and corporation income tax
* Bank and corporation franchise tax
Excise (income) tax, except where it represents a minimum levy
Personal income tax
Insurance companies tax on marine insurance companies

COLORADO

General income tax
Excise (income) tax

CONNECTICUT

Corporation business tax where it is charged on income

DELAWARE

Corporation income tax
Personal income tax

DISTRICT OF COLUMBIA

Individual and corporate income tax

FLORIDA

Corporation income tax

GEORGIA

General income tax

HAWAII

General income tax

IDAHO

General income tax

ILLINOIS

Income tax

Corporate replacement income tax (personal
property replacement tax)

IOWA

General income tax

KANSAS

Income tax

KENTUCKY

General income tax

LOUISIANA

General income tax

MAINE

Corporate income tax

Personal income tax

MARYLAND

Income tax

MASSACHUSETTS

Corporate excise (income) tax, where charged
on net income

Personal income tax

MICHIGAN

Income tax

Single business tax

MINNESOTA

Income tax

MISSOURI

Income tax

MONTANA

Corporate income tax (licence)

Personal income tax

NEBRASKA

Personal income tax

NEW HAMPSHIRE

Business profits tax

NEW JERSEY

Corporation franchise tax except where it represents
a minimum levy or is charged on amounts other than
net income
Insurance companies tax on marine insurance companies
Personal income tax

NEW MEXICO
Income tax

NEW YORK CITY
Earnings tax on non-residents where it is charged on
salaries
Financial corporation tax where it is charged on
income
General corporate (income) tax, where charged on net
income
Personal income tax on residents where it is charged
on salaries

NEW YORK STATE
Personal income tax
Unincorporated business tax
* Corporation franchise tax where it is charged on the
basis of net income. Where charged on a basis other
than net income, credit is allowable up to the amount of
tax that equates with the amount of tax that would
have been payable if the net income basis had applied

NORTH CAROLINA
General income tax
Financial institutions excise tax, except where it
represents a minimum levy

NORTH DAKOTA
General income tax

OHIO
Corporation franchise tax when charged on net
income
Income tax (Canton, Cincinnati, Cleveland,
Columbus and Toledo)
Net profits tax (Cleveland)

OKLAHOMA
General income tax

OREGON
Corporate (excise) income tax
Personal income tax

PENNSYLVANIA
Corporate net income tax except where it is charged
on amounts other than net income
Personal income tax
Philadelphia net profits and wages tax
Philadelphia city tax

RHODE ISLAND

Business corporate tax where charged on net income

SOUTH CAROLINA

Income tax

TENNESSEE

Corporate excise (income) tax

UTAH

Corporation franchise tax when charged on net income

VERMONT

Corporate income tax

Personal income tax

VIRGINIA

Direct corporate income tax

Personal income tax

WISCONSIN

Corporate franchise tax

Income tax

U.S.S.R.

Income tax on foreign legal persons

Income tax on the population

WESTERN SAMOA

Income tax

YUGOSLAVIA

Tax on income of a basic organisation of
associated labour

Tax on a worker's personal income

Tax on personal income derived from

independent exercise of agricultural activity

Tax on personal income derived from independent

exercise of economic activity

Tax on personal income derived from independent

exercise of professional activity

Tax on personal income derived from copyrights,

patents and technical innovations

Tax on revenue derived from capital and capital

rights

Tax on total revenue of citizens

Tax on income of a foreign person engaged in

economic and professional activities

Tax on compensation obtained by a foreign

person from investments in a domestic organisation
of associated labour

Tax on income of a foreign person carrying out

investment projects

Tax on revenue of a foreign person carrying on

passenger and cargo transport

COMMISSIONER OF TAXATION

10 November 1988