Rialtas na hÉireann
Government of Ireland

Participation Exemption for Foreign Dividends

Second Feedback Statement:

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Department of Finance
gov.ie/finance

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1. Introduction

The Department of Finance published the *Roadmap for the Introduction of a Participation Exemption*[1] in September 2023, which committed to the introduction of a participation exemption for foreign dividends in Finance Bill 2024, to come into effect from 1 January 2025.

The Roadmap also contained technical consultation questions on key areas of importance in the design of participation exemption measures. Responses received from stakeholders were used to inform detailed research by the Department of Finance in conjunction with Revenue in early 2024, culminating in the publication of a first Feedback Statement[2] on the participation exemption for foreign dividends on 5 April 2024.

Twenty responses were received to this consultation and have been published on the Department of Finance website[3], and officials from the Department of Finance and Revenue have been engaging with stakeholders on the issues raised. This includes three meetings of a sub-group convened from the Department's Business Tax Stakeholder Forum, the minutes of which have been published on the Department's website[4].

In line with the Roadmap, a second Feedback Statement is now being published seeking stakeholder input to further progress the work towards introducing a participation exemption. This Feedback Statement contains potential draft approaches to key elements of the legislation as well as information on some consequential amendments that may be introduced in conjunction with the participation exemption for foreign dividends.

Responses to this Feedback Statement will inform final decisions on the structure of the participation exemption for foreign dividends, and will help to prevent any lack of clarity or unintended consequences in legislation, planned for introduction in Finance Bill 2024.

[1] https://www.gov.ie/en/publication/28cbc-roadmap-for-the-introduction-of-a-participation-exemption-to-irish-corporation-tax-including-technical-consultation/
[2] https://www.gov.ie/en/press-release/a7303-minister-mcgrath-publishes-feedback-statement-on-participation-exemption-in-irish-corporate-tax-system-for-foreign-dividends/pation Exemption for Foreign Dividends. Feedback Statement: Strawman Proposal
[3] https://www.gov.ie/en/publication/ca38d-responses-to-the-first-feedback-statement-strawman-proposal-on-participation-exemption/
[4] https://www.gov.ie/en/publication/7abf9-business-tax-stakeholder-forum/

2. Responding to this Feedback Statement

2.1. Structure of Feedback Statement

This Feedback Statement continues progress towards development of a participation exemption for foreign dividends in the Irish corporation tax system. It contains draft approaches to legislation and narrative descriptions of some consequential amendments proposed to be introduced in conjunction with the participation exemption.

In developing this feedback statement, the Department has considered the valuable input we have received in response to the first Feedback Statement published in April 2024. Officials from this Department and Revenue have also reflected on consultations with taxpayers and representative bodies and have undertaken further research on participation exemptions in other jurisdictions.

2.2. Consultation Period

In view of the complexity of this project and the limited time remaining ahead of the publication of Finance Bill 2024, legislative drafting work will be continuing during the consultation period. Respondents are therefore encouraged to respond early where any issues are identified.

The consultation period will formally close at 12 noon on Thursday 5 September and submissions received after the deadline may not be considered. Any queries or requests for clarification can be directed to businesstaxpolicy@finance.gov.ie in advance of the consultation deadline.

2.3. How to Respond

The preferred means of response is by email to **businesstaxpolicy@finance.gov.ie**. Receipt of e-mail submissions will be acknowledged within 2 working days. If you do not receive an acknowledgement, please contact the Department to confirm receipt of your submission.

If it is not possible to reply by email, or if you wish to make a submission both electronically and in hard copy, submissions may also be sent by post to:

Participation Exemption Feedback Statement
Tax Division – Business Tax Policy
Department of Finance
Government Buildings
Upper Merrion Street
Dublin 2, D02 R583

Please include contact details if you are responding by post.

Please also indicate whether you are contributing to the consultation process as a professional adviser, business, representative body, in an individual capacity, as a non-governmental organisation, or in any other capacity.

2.4. Freedom of Information

Responses to this consultation are subject to the provisions of the Freedom of Information Act 2014. Parties should also note that responses to the consultation may be published on the Department of Finance's website. Parties should clearly indicate where their responses contain personal information, commercially sensitive information or confidential information which they would not wish to be released under FOI or published.

2.5. Next Steps

The Department of Finance will carefully consider the responses to this Feedback Statement and may invite key stakeholders to meet with them and with Revenue officials, by video conference or in person as appropriate.

3. Background

Ireland currently operates a worldwide corporate tax regime. A worldwide regime considers all profits, both domestic and foreign source, of a resident entity to be within scope of taxation. Worldwide systems generally allow double tax relief for foreign tax paid on foreign source profits, up to the amount of domestic tax payable on the same income – this often referred to as a 'tax and credit' approach.

Therefore, a domestic tax charge generally only arises on such profits to the extent the domestic tax liability exceeds the foreign tax already paid on the same profits. The detail of Ireland's double tax relief provisions is largely contained in Schedule 24 of the Taxes Consolidation Act 1997.

Fully-territorial regimes focus on the taxation of income and gains in the relevant territory only and exempt the foreign source profits of resident entities. There are relatively few fully-territorial regimes globally. However, there are many jurisdictions, including most EU and OECD member states that have adopted a limited territoriality in their corporate tax codes, through the exemption method of double taxation relief.

This 'Participation Exemption' approach to relief for foreign taxation typically extends to dividends from foreign direct investments and gains from disposals of such investments, and is often complemented by an exemption for foreign branch profits.

Following on from a recommendation from the Coffey Review[5], the Corporation Tax Roadmap[6] (2018) contained a commitment to consider moving to a territorial regime for corporation tax. Work on this proposal was initially delayed by the commencement of the second OECD BEPS process, which resulted in the Two Pillar agreement signed in October 2021. Following this, a public consultation[7] was held in 2022 seeking stakeholder input on the possibility of moving to a territorial system of taxation.

Consultation responses universally favoured moves to introduce territorial elements to the Irish corporation tax system. Feedback received indicated that our worldwide system puts Ireland at a competitive disadvantage in attracting multi-national investment. It was commonly noted that, while little or no incremental tax is payable in Ireland on foreign taxed income due to our comparatively low corporation tax rate, the complexity and administrative burden of engaging with the double tax relief provisions of Schedule 24 are a significant deterrent.

The Minster for Finance committed in his Budget 2023 speech to commence work on options for a move towards a territorial tax system, resulting in the publication of a Roadmap for the introduction of a participation exemption in September 2023. This Roadmap committed to the

[5] https://www.gov.ie/en/publication/fa53d4-review-of-irelands-corporation-tax-code/
[6] https://assets.gov.ie/4158/101218132506-74b4db520e844588b3d116067cec9784.pdf
[7] https://www.gov.ie/en/consultation/8c3af-public-consultation-on-a-territorial-system-of-taxation/

introduction of a foreign dividend exemption in Finance Bill 2024, and to continuing policy consideration of the merits of a foreign branch exemption.

The design of a participation exemption for foreign dividends requires a broad range of policy choices, such as: what companies may be in scope; the level of ownership relationship required; what types of dividends or distributions may be in scope; potential transitional provisions from the existing tax-and-credit regime; administrative provisions; consequential amendments etc.

In order to better inform consideration of these elements within the context of a regime as a whole, a Strawman proposal was published in the first Feedback Statement[8] in April this year, setting out a hypothetical regime and inviting comments from stakeholders. The following chapter provides a high-level summary of the responses received to the Strawman proposal.

[8] https://www.gov.ie/en/consultation/c98da-feedback-statement-on-participation-exemption-in-irish-corporate-tax-system-for-foreign-dividends/

4. Consideration of Responses to First Feedback Statement

The first Feedback Statement, published in April 2024, contained a Strawman proposal for the key building blocks of a foreign dividend participation exemption. The Strawman proposal set out a hypothetical example for how an exemption might work in Ireland, to allow detailed consideration of each element to take place within the context of an overall system.

4.1. Common Themes

A number of common themes were raised in responses to the Strawman proposal, including:

- Proposals for a wider geographic scope for the relief, including consideration of whether a wider scope could be achieved with appropriate safeguards;
- Discussion of the merits of an opt-in or opt-out approach, and the level of optionality to be available in the regime;
- Potential approaches to important definitions, such as:
    - distributions in scope of the exemption,
    - shareholdings to be considered for the purposes of establishing participation;
    - participations in scope of the exemption, having regard to differing corporate structures worldwide;
- Administrative considerations relevant to the filing and amending of returns.

Many of the considerations raised were technical in nature and there were also useful discussions on a number of points relating to the structure of the relief, as follows:

4.2. Geographic scope

With regard to geographical scope of relief, it was noted that double tax relief for foreign dividends under Schedule 24 currently does not have a geographical limitation. However, consideration is also required of the EU Code of Conduct Guidance, which indicates that foreign dividend exemption regimes may be harmful where profits giving rise to dividends have been taxed at a significantly lower level and have not been subjected to effective anti-abuse provisions or countermeasures.

It was noted that the objective of the introduction of a participation exemption for foreign dividends is a simplification of the highly complex rules in Schedule 24. In support of a simplified system that nonetheless has a wide geographic scope, stakeholders pointed to the introduction of the Pillar Two GloBE rules, now in effect in Ireland. Pillar Two provides for a 15% minimum effective tax rate, on a jurisdiction by jurisdiction basis, for corporate groups with an annual turnover of a least €750m. The rules operate by means of a top-up tax calculated on a jurisdictional basis, collected by a group parent company, or by other members of the corporate group. Therefore, notwithstanding the fact that the rules are currently

operational only in the EU and a small number of other large jurisdictions, their manner of operation means that subsidiaries of Irish entities will be in scope of the rules from end-2024 at the latest (when the backstop Under-Taxed Profits Rule (UTPR) comes into general effect).

A factor to be considered in relation to Pillar Two is that the rules specify that, in order for a jurisdiction's rules to meet a qualifying standard, they must not provide any benefits that are related to the rules. Discussions are still ongoing at OECD working parties to agree interpretative guidance for this rule. Furthermore, companies outside the scope of Pillar Two must also be considered.

On balance, having considered these issues and the stated goals of achieving a broad participation exemption but one that is simple and straightforward to operate, the geographic scope of the participation exemption currently remains at EU/EEA and tax treaty partner source jurisdictions. It is noted that the existing tax-and-credit relief under Schedule 24 will remain available to foreign dividends outside scope of the exemption.

4.3. Elections, default positions and minimum terms

A second structural issue that received significant discussion was the Strawman's proposal that the exemption would operate on an opt-in basis; with an election that would apply for a minimum period of three years.

Stakeholders proposed that exemption should be by default unless the company opts out, and that there should not be a minimum 3-year election period. Stakeholders, including those representing SME businesses, were strongly of the view that smaller businesses were more likely to be disadvantaged by an opt-in approach as they may not have the knowledge to claim the exemption in time. It was noted that, for the majority of cases, the exemption should provide a significant benefit in terms of administrative simplification.

The interaction of a multi-year election with existing provisions in legislation that allow taxpayers to self-correct returns within four years where they become aware of an error or mistake was also raised.

Stakeholders also commented on the Strawman proposal that, where a company elects in to the regime, the exemption must apply in respect of all in-scope dividends in the relevant periods. Responses proposed that companies should be allowed to elect to claim the exemption on a dividend-by-dividend basis, or a subsidiary-by-subsidiary basis, rather than for all in-scope dividends in a given year. An example was provided of one jurisdiction whose participation exemption for foreign dividends allows a dividend-by-dividend approach. It is understood however that there are specific anti-avoidance protections attached to that approach, which would not accord with our objective of developing a simple regime. Furthermore, it is an approach that is not commonly seen in other jurisdictions.

Having considered these views, a revised approach is now proposed, whereby a taxpayer would claim the participation exemption on the company's annual corporation tax return. A company would have the right to choose, each year, whether to claim the exemption or not. If the exemption is claimed, it must be claimed in respect of all qualifying dividends received in the relevant accounting period. If the company chooses not to claim the exemption, the dividends will be subject to tax and will be entitled to double tax relief under Schedule 24 where available, under the current rules.

5. Draft Approaches to Key Elements of Legislation

Commencement date: This section shall apply as respects a relevant distribution made by a relevant subsidiary on or after 1 January 2025.

Chapter 2 of Part 35 of the Principal Act is amended by the insertion of the following section after section XXX:

Participation exemption for certain foreign distributions

xxxx. (1) In this section –

'EEA Agreement' means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

'EEA state' means a state which is a contracting party to the EEA Agreement;

'listed territory' has the same meaning as in section 835YA subject to the modification that references to 'an accounting period beginning' shall be read as references to 'the making of a distribution';

'parent company' in relation to a relevant subsidiary, means a company which holds a relevant participation in the relevant subsidiary within the meaning of subsection (2) and–

(a) is resident in the State, or

(b) not being resident in the State, is, by virtue of the law of an EEA state, resident for the purposes of tax in that EEA state and –

(i) is subject to tax imposed in the EEA state which corresponds to corporation tax in the State in respect of profits, without the possibility of being exempt or an option of being exempt, and

(ii) is within the charge to corporation tax in the State in respect of a relevant distribution made by the relevant subsidiary;

'profits' has the meaning assigned to it by section 21B(1)(a);

'relevant distribution' means a dividend paid, or other distribution made, out of profits in respect of a relevant subsidiary's share capital other than redeemable share capital, that constitutes income in the hands of the recipient for the purposes of corporation tax,

but without prejudice to the generality of the foregoing, does not include –

(a) a distribution that has been, or may be, in any accounting period, deducted for the purposes of tax in any territory outside the State under the law of that territory,

(b) a distribution in a winding up,

(c) any interest or other income from debt claims providing rights to participate in a company's profits,

(d) any amount considered to be interest equivalent within the meaning of section 835AY, or

(e) any dividend paid or other distribution made by an offshore fund within the meaning of section 743;

'relevant subsidiary' means a company which –

(a) is subject to a tax imposed in a relevant territory which corresponds to corporation tax in the State in respect of profits, without the possibility of being exempt or an option of being exempt, and

(b) is, by virtue of the law of a relevant territory, resident for the purposes of tax in a relevant territory at the date of making a relevant distribution and was so resident throughout the period out of the profits of which that relevant distribution was made, and

for the purposes of determining the period out of the profits of which a relevant distribution is made, subparagraphs (iii) and (iv) of section 21B(1)(b) shall apply with any necessary modifications as if references in those subparagraphs to a dividend paid by a company were references to a relevant distribution made by a relevant subsidiary;

'relevant territory' means –

(a) an EEA state other than the State,

(b) not being a territory referred to in paragraph (a), a territory with the government of which arrangements having the force of law by virtue of section 826(1) have been made, or

(c) not being a territory referred to in paragraph (a) or (b), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law,

but does not include a listed territory;

(2) (a) For the purposes of this section, a parent company shall be regarded as having a relevant participation in a relevant subsidiary where the parent company directly or indirectly holds ordinary share capital that is not redeemable, in the relevant subsidiary, by virtue of which it –

(i) owns not less than 5 per cent of the relevant subsidiary's ordinary share capital,

(ii) is beneficially entitled to not less than 5 per cent of the profits available for distribution to equity holders of the relevant subsidiary, and

(iii) would be beneficially entitled on a winding up to not less than 5 per cent of the assets of the relevant subsidiary available for distribution to equity holders.

(b) For the purposes of paragraph (a) –

(i) subsections (2) to (10) of section 9 shall apply with any necessary modifications,

(ii) a holding of ordinary share capital in a relevant subsidiary shall not be determined by reference to any share capital –

(I) held through an intermediary company that is not resident, by virtue of the law of a relevant territory, for the purposes of tax in that relevant territory,

(II) owned directly in a company if a profit on a sale of the shares would be treated as a trading receipt of its trade, or

(III) owned indirectly and which is owned directly by a company for which a profit on the sale of the shares would be a trading receipt, and

(iii) sections 413 to 419 shall apply with any necessary modifications as they apply for the purposes of Chapter 5 of Part 12 but –

(I) without regard to paragraph (c) of section 411(1) in so far as it relates to those sections,

(II) as if subparagraph (ii) of section 413(3)(b) were deleted, and

(III) as if "In this Chapter, "the relevant accounting period" means the accounting period current at the time in question." were substituted for section 419(1).

(3) (a) Subject to subsection (8), where in an accounting period—

(i) a relevant subsidiary makes a relevant distribution to a parent company, and

(ii) subject to paragraph (b), the parent company would, but for this section, be chargeable to corporation tax in respect of the relevant distribution under Case III of Schedule D,

then, except where otherwise provided by the Corporation Tax Acts, corporation tax shall not be chargeable on the relevant distribution nor shall the relevant distribution be taken into account in computing income for corporation tax.

(b) A relevant distribution referred to in paragraph (a)(ii) shall not include a relevant distribution where the amount on which the parent company is chargeable to tax under Case III of Schedule D is computed in accordance with the provisions applicable to Case I of that Schedule.

(4) Subsection (3) shall apply only in respect of a relevant distribution made to a parent company where the parent company holds a relevant participation in the relevant subsidiary concerned for an uninterrupted period of not less than 12 months that includes the date on which the relevant distribution is made by the relevant subsidiary.

(5) (a) Subsection (3) shall not apply to an arrangement, or part of an arrangement, which—

(i) has been put in place for the main purpose of, or one of the main purposes of which is, obtaining a tax advantage, and

(ii) is not genuine having regard to all the facts and circumstances.

(b) For the purposes of paragraph (a)(ii), an arrangement shall be regarded as not genuine to the extent that it is not put into place for valid commercial reasons which reflect economic reality.

(6) Without prejudice to the generality of any other provision of the Tax Acts, where in any case a parent company is not chargeable to corporation tax on a relevant distribution, that parent company shall not be entitled to a deduction, reduction, credit or other relief for tax paid under the laws of a relevant territory in respect of that relevant distribution.

(7) Subsection (3) shall not apply to a relevant distribution made to –

(a) an assurance company taxable in accordance with the provisions of Chapters 1 and 3 of Part 26,

(b) an undertaking for collective investment, within the meaning of section 738, which is a company, or

(c) an investment undertaking, within the meaning of section 739B, which is a company.

(8) (a) Subsection (3) shall not apply in respect of a relevant distribution made by a relevant subsidiary to a parent company unless the parent company makes a relevant claim for the accounting period in which the relevant distribution is made.

(b) In this subsection, a "relevant claim" in relation to an accounting period means a claim by a parent company that subsection (3) shall apply in respect of all relevant distributions made to the parent company by its relevant subsidiaries in the accounting period.

(c) A relevant claim for an accounting period shall be made by a parent company in the return required to be delivered under Part 41A in respect of the accounting period.

6. Consequential Considerations

The introduction of a participation exemption for foreign dividends will require a number of consequential amendments to other provisions in the Taxes Acts. It has also been noted that there are other provisions in the Taxes Acts where a decision may be made not to make an amendment and this, in itself, is of note to taxpayers.

Stakeholders should note that work is ongoing in this area and the text below should not be assumed to provide a full list of all provisions in the Taxes Acts that may require consideration. However, the provisions below are noted for the information of taxpayers, and feedback on these provisions is invited. It is also requested that, if stakeholders are of the view that any other consequential provisions not listed here may need consideration, they should highlight same in their responses to the Feedback Statement.

6.1. Controlled Foreign Companies (CFC) / Undistributed income

Ireland introduced Controlled Foreign Company Rules in Finance Act 2018 as part of the transposition of the Anti-Tax Avoidance Directives. Section 835Q of the Taxes Consolidation Act (TCA) 1997 sets out the rules for determining the treatment of undistributed income of the CFC for the purposes of applying a CFC charge. A surcharge may be applied where profits have not been distributed to a parent company in Ireland, or in an EU Member State which imposes a tax on the distribution. The latter condition reflects the potential for foreign dividend participation exemptions to apply in other EU Member States.

It is proposed that this provision would be updated in conjunction with the introduction of a participation exemption for foreign dividends to include a similar stipulation as to taxation where the dividend is paid to an Irish company in order for the undistributed income of the CFC to be reduced.

(z) in section 835Q(4), by the substitution of the following paragraph for paragraph (c):

"(c)(i) where subparagraph (i) of paragraph (a) applies, as has been subject to tax in the relevant Member State referred to in that subparagraph, or

(ii) where subparagraph (ii) of paragraph (a) applies, a relevant claim in respect of an accounting period has not been made under section xxxx."

6.2. Dividends paid out of foreign profits

Where a dividend is paid from one Irish company to another, known as franked investment income, corporation tax does not generally apply. Section 129A of the TCA 1997 disallows this relief in a situation where the paying company has moved its residence into Ireland and the profits paid as dividends were earned by the paying company while it was resident outside the State.

It is proposed that an amendment may be made modify this restriction in a situation where the dividends paid were earned by the paying company while it was resident outside the State. For example, where the company would have qualified for the participation exemption on the basis of geographical scope had the dividend been paid on the day before becoming Irish tax resident, the anti-avoidance rule would not apply.

6.3. Unit trusts / Undertakings for collective investment

Section 738 of the TCA 1997 sets out the taxation regime for non-IFSC collective investment vehicles and applies to undertakings for collective investment authorised before 25 May 1993. Under the provisions of section 738 the franked investment exemption does not apply to distributions received by such as collective investment vehicle that is a company.

It may be necessary to amend section 738 to provide for a similar exclusion from the participation exemption in similar circumstances.

6.4. Purchase and sale of securities

Part 28 of the TCA 1997 governs the purchase and sale of securities, including stocks and shares. Consideration is ongoing in relation to the potential need for required amendments to ensure the provisions continue to operate as normal in conjunction with the introduction of the participation exemption.

6.5. Taxation of shares issued in place of cash dividends

The tax treatment of dividends on shares (scrip dividends) issued in place of cash dividends, at the option of the shareholder is set out in section 816 of the TCA 1997. Different treatment applies depending on whether the scrip dividend is issued by a non-resident company, a quoted Irish resident company or an unquoted Irish resident company.

This section may require amendment to ensure a consistent application of rules following the introduction of the participation exemption, and consideration of options is ongoing.

6.6. Transfer Pricing – arrangements between 'qualifying persons'

Section 835E of the TCA 1997 provides for an exclusion from transfer pricing rules for certain domestic non-trading transactions, subject to certain conditions including a requirement that both the supplier and acquirer in relation to the arrangement are chargeable to tax within the State on the profits, gains or losses arising from the transaction.

In determining whether the exclusion applies, consideration is given to whether any profits, gains or losses arising from the acquirer's relevant activities are chargeable to tax under Schedule D (or would be if there were any), or would be chargeable to corporation tax but for the section 129 exemption respect of franked investment income.

It is being considered whether an amendment to section 835E(2) may be required, to introduce a reference to the new foreign dividend participation exemption.

6.7. Treatment of dividends on certain preference shares

Certain preference shares may have characteristics of debt as well as equity. For this reason, there are protections in the Taxes Acts (including section 138 TCA 1997) against the use of certain artificial preference share arrangements where what is in reality loan interest is instead paid as preference share dividends. Where the preference shares are quoted on a stock exchange in the State, or are unquoted but carry similar rights as to dividends and capital as such quoted preference shares, then the restriction does not apply.

The potential to include a similar restriction on qualification for the participation exemption for foreign dividends is under consideration.

6.8. Related provisions where no amendment may be made

The following are some sections / Parts of the TCA 1997 that may interact with or be impacted by the introduction of a participation exemption, but at present it is not anticipated that legislative amendments to these provisions will be necessary. It is again noted that this should not be assumed to be a comprehensive listing, as further work is ongoing in this area.

- **Section 83 – Expenses of management of investment companies**

Section 83 allows a deduction for certain expenses of management incurred by investment companies. Allowable expenses are restricted by reference to certain exempt income. It is proposed that no amendment will be made to section 83, with the result that management expenses may be restricted where the company qualifies for and claims the foreign dividend participation exemption.

- **Section 21B - Tax Treatment of Certain Dividends**

This provision relates to portfolio dividends. It is currently not anticipated that changes to this legislation will be required.

- **Section 434 – Close company surcharge**

It is currently not anticipated that specific provision will be made for foreign dividends subject to the participation exemption in legislation relating to the close company surcharge. As a result, foreign dividends received will continue to be treated as they currently are for the purposes of surcharge calculations.

- **Part 26 – Life Assurance Companies and Part 27 – Unit Trusts and Offshore Funds**

These Parts of the Taxes Act contain specific provisions relating to the taxation of life assurance companies, unit trusts and offshore funds. It currently not anticipated that changes to this legislation will be required.

- **Schedule 24 – Relief from Income Tax and Corporation Tax by means of credit in respect of Foreign Tax**

It is currently not expected that changes will be introduced to Schedule 24 provisions for double tax relief in conjunction with the introduction of the foreign divided participation exemption.

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