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

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	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 (Korperschaftsteuer) Tax on Interest Yields (Zinserstragsteuer) 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 (impot des personnes
 physiques/personen belasting)
Corporate income tax (impot des societes/
 vennootschapsbelasting)
Income tax on legal entities (impot des
 personnes morales/rechtspersonenbelasting)
Income tax on non-residents (impot des
 non-residents/belasting der nietverb lijfhouders)

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

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

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

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

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

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Corporation tax (korperschaftsteuer)
Trade tax (Gewerbesteuer) to the extent that it is
computed by reference to trading profits
Wages tax (Lohnsteuer)
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GERMANY (FEDERAL REPUBLIC)

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

GHANA

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* Income tax
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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 kozsegfejlesztesi hozzajarulas)
Levy on dividends and profit distributions of
 commercial companies (a kereskedelmi tarsasagok
 osztalek es nyereseg kifizetesei utani illetek)

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 complementar 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 (Fellesskatt 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 (Sjomannsskatt)

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 (Impoz itul 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

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Individual income tax (Impuesto sobre la renta de las
  personas fisicas)
Company tax (Impuesto sobre sociedades)
Local taxes on income
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* 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

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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
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              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
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      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
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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
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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, Cincinatti, 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
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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
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passenger and cargo transport

COMMISSIONER OF TAXATION 10 November 1988