130. (Deleted by Act 693 of 2009)

History

Section 130 is deleted by Act 693 of 2009 s38, has effect for the year of assessment 2009 and subsequent years of assessment. The section previously read:

"(1) There shall be allowed a relief to an individual who is a citizen but not resident for the basis year for a year of assessment by reason of his employment which is exercise outside Malaysia in the public services or the service of a statutory authority.

(2) The relief shall be such relief as will reduced the amount of tax chargeable on him in respect of his chargeable income for that year of assessment to an amount which bears the same proportion to the amount of tax which would be so chargeable if he were resident for the basis year and the tax will charge on his aggregate income as the amount of his total income bears to the amount of his aggregate income.

(3) An individual claiming relief under this section shall make his claim in the prescribed form and shall furnish such further particulars as the Director General may require.

(4) In this section, "aggregate income", in relation to
an individual claiming relief under this section for a year of assessment, means his total income, accruing in or derived from Malaysia or elsewhere, computed in accordance with the provisions of this Act;

Provided that where section 45(2) applies in arriving at the aggregate income the reference to total income shall include the total income of the wife who elects or the husband who elects, as the case may be."

History.

Subsection 130(4) is amended in the proviso by Act 608 of 2000 s22, by substituting for the words "of the individual" the words "who elects or the husband who elects, as the case may be.", with effect from year of assessment 2001.

History.

Section 130 substituted by Act 591 of 1998 s9, shall have effect for the year of assessment 1999 and subsequent years of assessment.

Section 130 formerly read:

" 130. Non-resident citizen relief.

(1) Subject to this section-

(a) an individual who is not resident for the basis year for a year of assessment but is a citizen at any time in that basis year shall be allowed such relief (if any) as will reduce the amount of tax chargeable on him in respect of his chargeable income for that year of assessment to an amount which bears the same proportion to the amount of tax which would be so chargeable if-(i) he were resident for that basis year; and

(ii) the tax were charged on his aggregate income reduced by any deductions which would be allowed under any provision of sections 46 to 50, as the amount of his total income bears to the amount of his aggregate income;

(b) an individual who is neither resident for that basis year not a citizen at any time in that basis year shall, if the tax chargeable on him in respect of his chargeable income for that year of assessment is attributable in whole or in a part to a
pension, be entitled to relief similar to that conferred by paragraph (a), but as if-

(i) the reference in that paragraph to the amount of tax chargeable on him in respect of his chargeable income for that year of assessment were a reference to tax chargeable in respect of the pension, the amount of that last mentioned tax being taken to be an amount which bears the same proportion to the amount of the tax chargeable on his chargeable income for that year as the amount of his statutory income for that year in respect of the pension bears to the amount of the aggregate of his statutory income for that year from each of his sources; and

(ii) the reference in that paragraph to his total income were a reference to such proportion of that total income as the amount of his statutory income for that year in respect of the pension bears to the amount of the aggregate of his statutory income for that year from each of his sources; and

(c) an individual who is neither resident for that basis year nor a citizen at any time in that basis year shall, if the tax chargeable on him in respect of his chargeable income for that year of assessment is attributable in whole or in part to income in respect of gains or profits from an employment and to income in respect of a pension from his former employer (or from an approved scheme) in relation to that employment, be entitled to relief similar to that conferred by paragraph (a), but as if-

(i) the reference in that paragraph to the amount of tax chargeable on him in respect of his chargeable income for that year of assessment were a reference to tax payable in
respect of gains or profits from that employment and the income in respect of that pension, the amount of that last mentioned tax being taken to be an amount which bears the same proportion to the amount of the tax chargeable on his chargeable income for that year as the amount of the aggregate of his statutory income for that year in respect of the income in respect of gains or profits from that employment and the income in respect of that pensions bears to the amount of the aggregate of his statutory income for that year from each of his sources; and

(ii) the reference in that paragraph to his total income were a reference to such proportion of that total income as the amount of the aggregate of his statutory income for that year in respect of income in respect of gains or profits from that employment and the income in respect of that pension bears to the amount of the aggregate of his statutory income for that year from each of his sources:

Provided that, where paragraph (c) applies to an individual and to a pension and other income of his in relation to that year of assessment, paragraph (b) shall not apply to him in relation to that pension and that year.

(1A) For the purposes of computing the relief in subparagraph (a), (b) or (c), as the case may be, in subsection (1), the statutory income, total income or aggregate income referred to therein shall be deemed to include any pension exempt under paragraph 30 of Part I of Schedule 6.

(2) In computing for the purposes of subsection (1) the amount of tax which would be chargeable for a year of assessment on an individual in the circumstances mentioned in paragraph (a) (i) and (ii) of that subsection, the reference
in paragraph (a) (ii) of that subsection to sections 46 to 50 shall not be taken as including a reference to section 48 (3) in relation to a child of the individual or a wife of his unless:

(a) the wife was resident and the individual was a citizen at some time in the basis year for that year of assessment; and

(b) if the individual had been resident for the basis year for that year of assessment, section 50 would have applied to him in relation to that wife for that year of assessment.

(3) An individual claiming relief under this section for a year of assessment shall make his claim in the prescribed form within seven years after the end of the basis year for that year of assessment and shall furnish such further particulars (if any) as the Director General, after the receipt of the claim, may require. (4) Subject to the following subsections, where a claim for relief has been made under this section for a year of assessment, the Director General—

(a) if he is satisfied that the amount of the claim should be allowed, shall admit the claim; and

(b) if he is not so satisfied, shall—

(i) determine the claim in such amount of relief as he thinks fit or refuse to admit the claim; and

(ii) give the claimant notice of the amount so determined and of his refusal to admit the claim as desired or, as the case may be, of his refusal to admit the claim,

and, where any such notice is given, the provisions of this Act relating to appeals against assessments (with any necessary modifications) apply as if that notice were a notice of assessment.

(5) Where the amount of a claim for relief under this section has been admitted, determined without appeal or finally determined on appeal, the amount of any relief allowed under this section in respect of the claim shall be repaid to the claimant by the Director General, whether by set off or otherwise.

(6) Notwithstanding the foregoing subsections, if
before the making of an assessment on an individual for a year of assessment he has claimed relief under this section for that year in an amount computed by reference to an amount of tax which he calculates will be chargeable (apart from the relief so claimed), the Director General when making an assessment on him for that year may compute the amount of the relief by reference to the tax chargeable on his chargeable income for that year as shown by the assessment and shall indicate in the notice of that assessment the amount of that tax on that chargeable income, together with the amount to be set off against that tax in respect of the relief claimed (as computed by the Director General) and the amount of tax remaining after the set off; and following the service of the notice of that assessment-

(a) if there is no appeal therefrom, the amount of the relief so set off and of the tax payable after the set off of that relief shall be final and conclusive for all purposes of this Act; and

(b) if there is an appeal therefrom, the amount of the chargeable income, the tax chargeable thereon, the amount of relief to be given by way of set off and the amount of tax payable under the assessment shall be finally determined on the appeal.

(7) Where after any relief has been allowed for a year of assessment on a claim made under this section the Director General discovers that the amount allowed is excessive or insufficient, the Director General may take action under section 91 or make such repayment of tax as appears to him necessary to correct the excess or insufficiency, as the case may be.

(8) In this section-

"aggregate income", in relation to an individual claiming relief under this section for a year of assessment, means subject to subsection (1A) his total income, accruing in or derived from Malaysia or elsewhere, computed in accordance with the provisions of this Act:

Provided that where section 45 (2) applies in arriving at the aggregate income the reference to total income shall include the total income of the wife of the individual;
"pensions" means any pension, annuity or periodical payment derived from Malaysia and payable-

(a) in respect of services rendered in exercising a former employment in Malaysia or in any territory comprised in Malaysia on 1st January 1968; or

(b) pursuant to the rules or other provisions of an approved scheme.

(9) (Repealed by Act 451 of 1991)."

Paragraph 130(2)(a) substituted by Act 451 of 1991 s22(a), shall have effect for the year of assessment 1991 and subsequent years of assessment.

Paragraph 130(2)(a) formerly read:
"(a) section 45(2)(e) applies to the individual and that wife for that year of assessment; and".

Subsection 130(8) amended by Act 451 of 1991 s22(b), by substituting for the words "such total income of the wife or the husband as the case may be" the words "the total income of the wife", shall have effect for the year of assessment 1991 and subsequent years of assessment.

Subsection 130(9) deleted by Act 451 of 1991 s22(c ), shall have effect for the year of assessment 1991 and subsequent years of assessment.

Subsection 130(9) formerly read:
" (9) This section shall not apply to excess profit tax charged under section 3A.".