

SCHEDULES

SCHEDULE 10

STOCK LENDING ARRANGEMENTS AND MANUFACTURED PAYMENTS

PART II

MANUFACTURED PAYMENTS

Manufactured dividends on UK equities

- 10 (1) For paragraph 2 of Schedule 23A to that Act (manufactured dividends on UK equities) there shall be substituted the following paragraphs—

“Manufactured dividends on UK equities: general

- 2 (1) This paragraph applies in any case where, under a contract or other arrangements for the transfer of United Kingdom equities, one of the parties (a “dividend manufacturer”) is required to pay to the other (“the recipient”) an amount (a “manufactured dividend”) which is representative of a dividend on the equities.
- (2) A manufactured dividend paid by a dividend manufacturer who is a company resident in the United Kingdom shall be treated for the purposes of the Tax Acts as if the amount paid were a dividend of the dividend manufacturer.
- (3) Where a manufactured dividend to which sub-paragraph (2) above does not apply is paid by any person—
- (a) an amount of tax representing the advance corporation tax that would have been payable in respect of the manufactured dividend if—
 - (i) the dividend manufacturer were a company resident in the United Kingdom, and
 - (ii) the manufactured dividend were a distribution by that company,shall be accounted for to the extent, and in the manner, specified in dividend manufacturing regulations;
 - (b) the Tax Acts shall have effect in relation to the recipient, and persons claiming title through or under him, as if the manufactured dividend were a dividend on the United Kingdom equities in question; and
 - (c) the Tax Acts shall have effect in relation to the dividend manufacturer subject to the provisions of paragraph 2A below.

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- (4) The persons who, under dividend manufacturing regulations, may be made liable to account for an amount of tax as mentioned in sub-paragraph (3)(a) above are—
- (a) the dividend manufacturer, in the case of a manufactured dividend to which sub-paragraph (5) below applies; and
 - (b) the recipient, in the case of a manufactured dividend to which that sub-paragraph does not apply.
- (5) This sub-paragraph applies to a manufactured dividend if—
- (a) the dividend manufacturer is a person resident in the United Kingdom who is not a company; or
 - (b) the following two conditions are satisfied in the case of that manufactured dividend, that is to say—
 - (i) the dividend manufacturer is a company that is not so resident but carries on a trade in the United Kingdom through a branch or agency; and
 - (ii) the requirement to pay the manufactured dividend is attributable to the carrying on of a trade carried on through that branch or agency.
- (6) Subject to paragraph 2B(2)(b) below, where—
- (a) a dividend manufacturer pays a manufactured dividend, and
 - (b) that dividend manufacturer is, in respect of that dividend, required under dividend manufacturing regulations to account for an amount of tax such as is mentioned in sub-paragraph (3)(a) above,
- the dividend manufacturer shall, on paying the manufactured dividend, provide the recipient with a statement in writing setting out the matters specified in sub-paragraph (7) below.
- (7) Those matters are—
- (a) the amount of the manufactured dividend;
 - (b) the date of the payment of the manufactured dividend; and
 - (c) the amount of the tax credit to which, by virtue of sub-paragraph (3)(b) above, the recipient or a person claiming title through or under him either—
 - (i) is entitled in respect of the manufactured dividend, or
 - (ii) would be so entitled were all the conditions of a right to a tax credit satisfied, in the case of the recipient or that person, as respects the dividend which the recipient is deemed to receive.
- (8) The duty imposed by sub-paragraph (6) above shall be enforceable at the suit or instance of the recipient.

Deductibility of manufactured payment in the case of the manufacturer

- 2A (1) Where, in the case of a manufactured dividend, the dividend manufacturer—
- (a) is resident in the United Kingdom, but
 - (b) is not a company,

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the amount of the manufactured dividend actually paid (so far as it is not otherwise deductible), together with an amount equal to the notional ACT, shall be allowable for the purposes of income tax as a deduction against the total income of the dividend manufacturer.

- (2) Where, in the case of a manufactured dividend, the dividend manufacturer is a company which is not resident in the United Kingdom, no amount at all shall be deductible, in the case of that company, in respect of the payment of that manufactured dividend.
- (3) The reference in sub-paragraph (1) above to an amount equal to the notional ACT is a reference to the amount equal to the advance corporation tax that would be payable in respect of the manufactured dividend if—
 - (a) the dividend manufacturer were a company resident in the United Kingdom, and
 - (b) the manufactured dividend were a distribution by that company.
- (4) The references in this paragraph to an amount being deductible are references to its being either—
 - (a) deductible in computing the amount of any of the dividend manufacturer's profits or gains for the purposes of income tax or corporation tax; or
 - (b) deductible for those purposes from the total income or, as the case may be, total profits of the dividend manufacturer.

Manufactured dividends representative of foreign income dividends

- 2B
- (1) Where a manufactured dividend to which paragraph 2(2) above applies is representative of a foreign income dividend, the Tax Acts shall have effect for all purposes as if—
 - (a) the deemed dividend of the dividend manufacturer were itself a foreign income dividend; and
 - (b) that foreign income dividend were one in respect of which the dividend manufacturer is not liable to make any payment of advance corporation tax.
 - (2) Where a manufactured dividend to which paragraph 2(3) above applies is representative of a foreign income dividend—
 - (a) the Tax Acts shall have effect, in relation to the recipient and any persons claiming title through or under him, as if the dividend on the United Kingdom equities which the recipient is treated as having received were a foreign income dividend;
 - (b) there shall be no requirement for any person to account for tax in respect of that manufactured dividend by virtue of paragraph 2(3)(a) above;
 - (c) any deduction made in respect of the manufactured dividend under paragraph 2A(1) above shall be made without including an amount equal to the notional ACT in the deduction; and
 - (d) the dividend manufacturer, on paying the manufactured dividend in any case falling within sub-paragraph (3) below,

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shall provide the recipient with a statement in writing setting out the matters specified in sub-paragraph (4) below.

- (3) A case falls within this sub-paragraph where, were it not for sub-paragraph (2)(a) and (b) above, the dividend manufacturer would be required to provide such a statement as is mentioned in paragraph 2(6) above.
 - (4) Those matters are—
 - (a) the amount of the manufactured dividend;
 - (b) the date on which it is paid;
 - (c) the fact that the dividend carries no entitlement to a tax credit; and
 - (d) in the case of a manufactured dividend which is representative of a qualifying distribution to which Schedule 7 to the Finance Act 1997 applies, the fact that the distribution is a foreign income dividend by virtue of paragraph 2(1) of that Schedule.
 - (5) The Board may give directions as to the form that must be taken by a statement provided for the purposes of sub-paragraph (2)(d) above.
 - (6) The duty imposed by sub-paragraph (2)(d) above shall be enforceable at the suit or instance of the recipient.”
- (2) In section 246F(4) of that Act (calculation of ACT where company receives foreign income dividend), for “paragraph 2(6)” there shall be substituted “paragraph 2B(1)”.
- (3) In paragraph 9A of Schedule 13 to that Act (exception for manufactured foreign income dividends), for “paragraph 2(2) and (6)” there shall be substituted “paragraphs 2(2) and 2B(1)”.