

## SCHEDULES

### SCHEDULE 10

#### STOCK LENDING ARRANGEMENTS AND MANUFACTURED PAYMENTS

#### PART II

##### MANUFACTURED PAYMENTS

###### *Repeal of section 737 of the Taxes Act 1988*

- 8 Section 737 of the Taxes Act 1988 (manufactured dividends: treatment of tax deducted) shall cease to have effect.

###### *Meaning of “foreign income dividend”*

- 9 In paragraph 1(1) of Schedule 23A to that Act (interpretation of that Schedule), after the definition of “dividend manufacturing regulations” there shall be inserted the following definition—

““foreign income dividend” shall be construed in accordance with Chapter VA of Part VI;”.

###### *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—

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- (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.
- (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

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(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,

the amount of the manufactured dividend actually paid (so far as is 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—

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- (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, 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)”.

*Manufactured interest on UK securities*

- 11 (1) For paragraphs 3 and 3A of Schedule 23A to that Act (manufactured interest on UK securities) there shall be substituted the following paragraphs—

*“Manufactured interest on UK securities: general*

- 3 (1) This paragraph applies (subject to paragraph 3A below) in any case where, under a contract or other arrangements for the transfer of United Kingdom securities, one of the parties (an “interest manufacturer”)

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is required to pay to the other (“the recipient”) an amount (“the manufactured interest”) which is representative of a periodical payment of interest on the securities.

(2) For the relevant purposes of the Tax Acts, in their application in relation to the interest manufacturer—

(a) the manufactured interest shall be treated, except in determining whether it is deductible, as if it—

(i) were an annual payment to the recipient, but

(ii) were neither yearly interest nor an amount payable wholly out of profits or gains brought into charge for income tax;

(b) the gross amount of that deemed annual payment shall be taken—

(i) to be equal to the gross amount of the interest of which the manufactured interest is representative; and

(ii) to constitute income of the recipient falling within section 1A;

and

(c) an amount equal to so much of the gross amount of the manufactured interest as is not otherwise deductible shall be allowable as a deduction against the total income or, as the case may be, total profits of the interest manufacturer.

(3) For the relevant purposes of the Tax Acts, in their application in relation to the recipient and any persons claiming title through or under him—

(a) the manufactured interest shall be treated as if it were a periodical payment of interest on the securities in question; and

(b) the gross amount of that deemed periodical payment of interest shall be taken to be equal to the gross amount of the interest of which the manufactured interest is representative.

(4) Sub-paragraph (2) above shall not require any deduction of tax to be made by the interest manufacturer if—

(a) the interest manufacturer is not resident in the United Kingdom, and

(b) the manufactured interest is paid otherwise than in the course of a trade carried on by the interest manufacturer in the United Kingdom through a branch or agency.

(5) Where, in a case falling within sub-paragraph (4)(a) and (b) above, the recipient—

(a) is resident in the United Kingdom, or

(b) (without being so resident) receives the manufactured interest for the purposes of a trade carried on by him in the United Kingdom through a branch or agency,

the recipient shall be liable to account for income tax in respect of the manufactured interest.

(6) The amount of the income tax for which the recipient is liable to account under sub-paragraph (5) above is the amount equal to the income tax which the interest manufacturer, had he been resident in the United

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Kingdom, would have been required, in respect of the manufactured interest, to account for and pay by virtue of sub-paragraph (2) above.

- (7) For the purposes of sub-paragraph (2) above, if the interest manufacturer is a company which—
- (a) is not resident in the United Kingdom, but
  - (b) carries on a trade in the United Kingdom through a branch or agency,

Schedule 16 shall have effect in relation to the manufactured interest as it has effect in the case of a company which is resident in the United Kingdom but as if, in paragraph 7, the words “section 11(3)” were substituted for the words “section 7(2)”.

- (8) Where sub-paragraph (2) above has effect in the case of any manufactured interest so as to require any amount to be deducted by way of tax from the gross amount of the manufactured interest, the interest manufacturer shall, on paying the manufactured interest, provide the recipient with a statement in writing setting out—
- (a) the gross amount of the manufactured interest;
  - (b) the amount deducted by way of tax by the interest manufacturer;
  - (c) the amount actually paid by the interest manufacturer; and
  - (d) the date of the payment by the interest manufacturer.
- (9) The duty imposed by sub-paragraph (8) above shall be enforceable at the suit or instance of the recipient.
- (10) 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 interest 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 interest manufacturer.

- (11) For the purposes of this paragraph “the relevant purposes of the Tax Acts” means all the purposes of those Acts except the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships).

- (12) Without prejudice to the generality of section 80(5) of the Finance Act 1996 (matters to be brought into account only under that Chapter), this paragraph does not have effect for determining how any manufactured interest falls to be treated for any purpose in relation to a company in relation to which that interest falls to be treated in accordance with section 97 of that Act.

- (13) For the purposes of this paragraph references to the gross amount of any interest or payment are references to the amount of the interest or payment before the making of any deduction of income tax that is required to be deducted from it on its being paid or made.

*Manufactured interest on gilt-edged securities etc.*

- 3A (1) Where any manufactured interest is representative of interest on securities to which this paragraph applies—

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- (a) paragraph 3(2) above shall not require any deduction of tax to be made on the payment of that manufactured interest; and
  - (b) without prejudice to any other liability of his to income tax in respect of the manufactured interest, the recipient shall not by virtue of paragraph 3(5) above be liable to account for any income tax in respect of that manufactured interest.
- (2) This paragraph applies to—
- (a) gilt-edged securities (within the meaning of section 51A); and
  - (b) securities not falling within paragraph (a) above on which the interest is payable without deduction of tax.”
- (2) In section 737C(8) of that Act, for paragraph (a) (amount of deemed manufactured interest) there shall be substituted the following paragraph—
- “(a) the amount which by virtue of section 737A(5) is taken to be the gross amount of the deemed manufactured payment for the purposes of paragraph 3 of Schedule 23A shall be taken to be the gross amount of the deemed manufactured interest for the purposes of this section;” and in paragraph (b) for “paragraph 3 of Schedule 23A” there shall be substituted “that paragraph”.

*Repeal of paragraph 5 of Schedule 23A*

- 12 Paragraph 5 of Schedule 23A to that Act (dividends and interest passing through the market) shall cease to have effect.

*Consequential amendments in Schedule 23A*

- 13 (1) In sub-paragraph (1) of paragraph 8 of Schedule 23A to that Act (power to modify provisions of Schedule), for “paragraphs 2 to 5 above” there shall be substituted “paragraphs 2 to 4 above”.
- (2) In sub-paragraph (2) of that paragraph (powers with respect to accounts and records, returns, accounting for tax etc.), for the words after paragraph (d) there shall be substituted—
- “by persons by or to whom manufactured dividends, manufactured interest or manufactured overseas dividends are paid.”
- (3) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(2A) Dividend manufacturing regulations with respect to any liability to account for tax may contain any of the following, that is to say—
  - (a) provision for computing the amounts to be accounted for;
  - (b) provision, in relation to the determination of the amount to be paid on any occasion, for setting other amounts against the amounts to be accounted for;
  - (c) provision as to the liabilities against which amounts accounted for are to be, or are not to be, set for the purposes of income tax or corporation tax;
  - (d) provision modifying, or applying (with or without modifications), any enactments contained in the Tax Acts.”

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*Amendments of Taxes Management Act 1970*

- 14 (1) Section 21 of the Taxes Management Act 1970 (information about a market maker's business) shall be amended as follows.
- (2) For subsection (1) there shall be substituted the following subsection—
- “(1) The Board may exercise the powers conferred by this section as respects, and in connection with, any business consisting in or involving dealings in securities; and for the purposes of this section it shall be immaterial whether those dealings are or, as the case may be, were—
- (a) on behalf of persons other than the person carrying on the business;
- (b) by that person on his own behalf; or
- (c) a mixture of the two.”
- (3) In subsection (2)—
- (a) for the word “transactions”, in the first place where it occurs, there shall be substituted “securities transactions”; and
- (b) for “market maker” there shall be substituted “person”.
- (4) In subsection (3), for “transactions in the course of” there shall be substituted “securities transactions in the course of any business of a person other than the broker which is”.
- (5) For subsection (4) there shall be substituted the following subsections—
- “(4) Where a person (“the recipient”) who is not a broker has directly or indirectly received from another person any payment which—
- (a) is made by that other person in the course of a business within subsection (1) above, and
- (b) is a payment treated by that other person as made in respect of interest on securities,
- the Board may by notice in writing require the recipient to state, within a time specified in the notice, whether the amount received is in whole or in part received on behalf of, or for payment on to, a third person and (if it is) to furnish the name and address of that third person.
- (4A) Where a person (“the payer”) has directly or indirectly paid to another person any sum which—
- (a) constitutes a receipt by that other person in the course of a business within subsection (1) above, and
- (b) is a receipt treated by that other person as accruing in respect of interest on securities,
- the Board may by notice in writing require the payer to state, within a time specified in the notice, whether the amount paid is in whole or in part received from, or paid on account of, a third person and (if it is) to furnish the name and address of that third person.”
- (6) In subsection (5)—
- (a) for “whether brokers or market makers or not” there shall be substituted “at all”; and
- (b) for “transactions” there shall be substituted “securities transactions”.
- (7) After that subsection there shall be inserted the following subsection—



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“(5A) Where it appears to the Board that a person may have incurred a liability to pay or account for tax under Schedule 23A to the principal Act (manufactured payments), the Board may by notice served on that person require him, within such period (not being less than 28 days) as may be specified in the notice, to provide the Board with information which—

- (a) is available to that person; and
- (b) is or may be relevant to whether that person has incurred such a liability, or to the extent of such a liability.”

(8) For subsection (7) there shall be substituted the following subsection—

“(7) In this section—

“broker” means any person who is a member of a recognised investment exchange, within the meaning of the Financial Services Act 1986;

“interest” includes dividends;

“securities” includes shares and stock; and

“securities transaction” means—

- (a) any transaction in securities;
- (b) any transaction under which a payment which is representative of any interest on a security has been, is to be or may be made; or
- (c) the making or receipt of such a payment.”

#### *Repeal of powers to modify information provisions*

- 15 Paragraphs 7 and 9 of Schedule 18 to the Finance Act 1986 (which contain powers to modify section 21 of the Taxes Management Act 1970) shall cease to have effect.

#### *Commencement*

- 16 (1) Subject to the following provisions of this paragraph, this Part of this Schedule has effect in relation to any payment of a manufactured dividend or manufactured interest which is a payment made on or after such day as the Treasury may by order made by statutory instrument appoint.
- (2) Paragraph 14 above has effect (instead of in accordance with sub-paragraph (1) above but subject to sub-paragraph (3) below) for the purpose of conferring powers for obtaining information about—
- (a) transactions entered into on or after such day as the Treasury may by order made by statutory instrument appoint; and
  - (b) payments made on or after that day (whether under such transactions or under transactions entered into before that day).
- (3) Nothing in this Part of this Schedule shall affect the exercise, at any time on or after the day appointed under sub-paragraph (2) above, of the powers conferred apart from this Schedule by—
- (a) section 21 of the Taxes Management Act 1970, or by any regulations modifying that section, or
  - (b) section 737(8) of the Taxes Act 1988,

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for obtaining information about transactions entered into, or payments made, before that day.