
STATUTORY INSTRUMENTS

1993 No. 2004

INCOME TAX

**The Income Tax (Manufactured
Overseas Dividends) Regulations 1993**

<i>Made</i>	- - - -	<i>9th August 1993</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th August 1993</i>
<i>Coming into force</i>	- -	<i>1st October 1993</i>

The Treasury, in exercise of the powers conferred on them by paragraphs 1(1)(1), 4(6) to (8) and 8 of Schedule 23A to the Income and Corporation Taxes Act 1988(2), hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Income Tax (Manufactured Overseas Dividends) Regulations 1993 and shall come into force on 1st October 1993.

Interpretation

2. In these Regulations unless the context otherwise requires—

“approved manufactured overseas dividend” means any manufactured overseas dividend which is not an unapproved manufactured payment;

“approved United Kingdom collecting agent” means a person who is resident in the United Kingdom or, if not so resident, is carrying on a trade in the United Kingdom through a branch or agency and who, as part of the Board’s approval of an arrangement under regulation 7(1) (c) or (2)(c), or regulation 8(1)(e), of the Income Tax (Stock Lending) Regulations 1989(3), is approved by the Board as authorised to collect and forward manufactured overseas dividends;

“approved United Kingdom intermediary” means an overseas dividend manufacturer who is resident in the United Kingdom or, if not so resident, is carrying on a trade in the United

(1) See the definitions of “dividend manufacturing regulations” and “prescribed”.
(2) 1988 c. 1. Schedule 23A was inserted by section 58(2) of, and paragraph 1 of Schedule 13 to, the Finance Act 1991 (c. 31), and was brought into effect, so far as it relates to manufactured dividends on United Kingdom equities, on 26th February 1992 by S.I. 1992/173 (C.3); so far as it relates to manufactured interest on United Kingdom securities, on 30th June 1992 by S.I. 1992/1346 (C.44); and so far as it relates to manufactured overseas dividends on overseas securities, on 21st April 1993 by S.I. 1993/933 (C.17).
(3) S.I. 1989/1299; relevant amending instruments are S.I. 1990/2552 and 1993/2003.

Kingdom through a branch or agency and who is an approved intermediary within the meaning of regulation 7(3) of the Income Tax (Stock Lending) Regulations 1989;

“the Board” means the Commissioners of Inland Revenue;

“chargeable period” means–

- (a) as respects a company, its accounting period for the purposes of corporation tax;
- (b) as respects any other person, the period which–
 - (i) where the person in question pays a manufactured overseas dividend in a period for which he draws up accounts and at a time prior to the end of a chargeable period, begins at the beginning of that period of account, or
 - (ii) where the person in question pays a manufactured overseas dividend in a period for which he draws up accounts but after the end of a chargeable period which has ended during that period of account, begins immediately following the end of that chargeable period, or
 - (iii) where the person in question pays a manufactured overseas dividend in a period for which he does not draw up accounts, begins on the date of the payment, and
 - (iv) ends at the expiration of 12 months from the beginning of the period, or at the end of the period for which the person in question draws up accounts, or at the end of a period for which he does not draw up accounts, whichever first occurs;

“the Double Taxation Relief Regulations” means the Double Taxation Relief (Taxes on Income) (General) (Manufactured Overseas Dividends) Regulations 1993(4);

“gross amount of the manufactured overseas dividend” has the meaning given by paragraph 4(5)(b) of Schedule 23A;

“the Income Tax Acts” has the meaning given by section 831(1)(b) of the Taxes Act;

“the Management Act” means the Taxes Management Act 1970(5);

“manufactured overseas dividend” shall be construed in accordance with paragraph 4(1) of Schedule 23A;

“overseas dividend”, “overseas dividend manufacturer”, “overseas securities”, “overseas tax” and “overseas tax credit” have the meanings given by paragraph 1(1) of Schedule 23A;

“relevant withholding tax” has the meaning given by paragraph 4(5)(a) of Schedule 23A;

“Schedule 23A” means Schedule 23A to the Taxes Act;

“the Taxes Act” means the Income and Corporation Taxes Act 1988;

“the Tax Acts” has the meaning given by section 831(2) of the Taxes Act;

“unapproved manufactured payment” has the meaning given by paragraph 1(1) of Schedule 23A in so far as that meaning relates to a manufactured overseas dividend;

“United Kingdom recipient” has the meaning given by paragraph 4(3) of Schedule 23A.

Prescribed rates of relevant withholding tax

3.—(1) Subject to paragraph (4), the rate of relevant withholding tax which is prescribed in relation to any manufactured overseas dividend is the rate which is equal to the rate (or, if more than one, the highest rate) at which tax would have been payable (and not repayable) under the law of the overseas territory specified in paragraph (3) in respect of–

(4) S.I. 1993/1957.

(5) 1970 c. 9.

- (a) an overseas dividend paid on the same date that the manufactured overseas dividend is paid to a person who is—
 - (i) resident in the United Kingdom and not carrying on a trade outside the United Kingdom through a branch or agency,
 - (ii) subject to tax under the law of the United Kingdom, and
 - (iii) not subject to a special relationship with any other person as respects any commercial or financial dealings,in respect of the same kind of overseas securities as those in respect of which the manufactured overseas dividend was paid, and
 - (b) the overseas tax credit, if any, relating to that overseas dividend.
- (2) The reference in paragraph (1) above to tax which would have been payable is a reference to tax which would have been eligible for relief either—
- (a) pursuant to arrangements made with the government of the overseas territory specified in paragraph (3) which have effect by virtue of section 788 of the Taxes Act and relate to the overseas dividend concerned, or
 - (b) by virtue of other provisions of Part XVIII of the Taxes Act other than section 790(5)(c)(ii) of that Act.
- (3) The overseas territory specified in this paragraph is the territory of the government or public or local authority which issued the securities in question or, where the securities were issued by any other body of persons not resident in the United Kingdom, the territory under whose law that tax would have been payable.
- (4) Where a manufactured overseas dividend is paid—
- (a) to or for the benefit of—
 - (i) an individual beneficially entitled to the payment who is resident in a territory outside the United Kingdom, or
 - (ii) a company beneficially entitled to the payment whose central management and control is situated in a territory outside the United Kingdom and which is not resident in the United Kingdom, or
 - (iii) any other body of persons resident in a territory outside the United Kingdom, and
 - (b) in respect of securities issued by the government, or a public or local authority, of that territory or any other body of persons resident in that territory, and
 - (c) in circumstances where arrangements, if any, made between the United Kingdom and the government of that territory which have effect under section 788 of the Taxes Act do not contain an article providing for exemption from United Kingdom tax in respect of the payment as constituting income not expressly mentioned in other articles of the arrangements,
- the rate prescribed in relation to that manufactured overseas dividend is the rate which is equal to the rate at which tax would have fallen to be deducted under the law of that territory in respect of—
- (i) an overseas dividend paid to that recipient in respect of those securities, and
 - (ii) the overseas tax credit, if any, relating to that overseas dividend.

Tax treatment of approved manufactured overseas dividends paid to approved United Kingdom intermediaries or approved United Kingdom collecting agents

4.—(1) For the purposes of the provisions of the Tax Acts relating to the charge to tax under Schedule D other than paragraph 4(3) of Schedule 23A, an approved manufactured overseas dividend paid in the circumstances prescribed in paragraph (2)—

- (a) shall not be treated as an annual payment pursuant to paragraph 4(2) of Schedule 23A;
- (b) shall be paid without deduction of an amount on account of income tax;
- (c) where the maker of the payment is an investment company within the meaning of section 130 of the Taxes Act, shall be treated as if it was an expense of management in relation to that company.

(2) The circumstances prescribed by this paragraph are where an approved manufactured overseas dividend is paid to an approved United Kingdom intermediary or an approved United Kingdom collecting agent by an overseas dividend manufacturer who—

- (a) is resident in the United Kingdom or, if not so resident, makes the payment in the course of a trade which he carries on through a branch or agency in the United Kingdom, and
- (b) is not an approved United Kingdom intermediary.

(3) Subject to paragraph (4), the approved United Kingdom intermediary or approved United Kingdom collecting agent referred to in paragraph (2) shall account for and pay an amount of tax in respect of the manufactured overseas dividend which he receives equal to that which the maker of the payment would have been required to account for and pay had paragraph 4(2) of Schedule 23A applied to the payment.

(4) Paragraph (3) shall not apply where—

- (a) the approved United Kingdom intermediary is entitled under regulation 5 to pay without deduction of tax an approved manufactured overseas dividend representative of the same overseas dividend as is represented by the approved manufactured overseas dividend received by him, or
- (b) the approved United Kingdom collecting agent has entered into arrangements with the Board under the Double Taxation Relief Regulations enabling him to pay without deduction of tax an approved manufactured overseas dividend representative of the same overseas dividend as is represented by the approved manufactured overseas dividend received by him, or
- (c) the approved United Kingdom collecting agent is required to pay to an approved United Kingdom intermediary an approved manufactured overseas dividend representative of the same overseas dividend as is represented by the approved manufactured overseas dividend received by him, the approved United Kingdom intermediary is entitled as mentioned in sub-paragraph (a) above and issues a notice to the approved United Kingdom collecting agent authorising him to make the payment without deduction of tax.

Tax treatment of approved manufactured overseas dividends paid to persons resident outside the United Kingdom

5.—(1) For the purposes of the provisions of the Tax Acts relating to the charge to tax under Schedule D, an approved manufactured overseas dividend paid in the circumstances prescribed by paragraph (2) shall not be treated as an annual payment pursuant to paragraph 4(2) of Schedule 23A, and accordingly shall be paid without deduction of an amount on account of income tax.

(2) The circumstances prescribed by this paragraph are where an approved manufactured overseas dividend is paid by an approved United Kingdom intermediary who, if not resident in the United Kingdom, makes the payment in the course of a trade which he carries on through a branch or agency in the United Kingdom, and either—

- (a) the payment is made in circumstances where the approved United Kingdom intermediary has entered into arrangements with the Board under the Double Taxation Relief Regulations enabling him to make the payment without deduction of tax, or
- (b) the payment is made to another approved United Kingdom intermediary or to an approved United Kingdom collecting agent as part of a chain of payments where—

- (i) each payment in the chain is a payment by an approved United Kingdom intermediary or an approved United Kingdom collecting agent of an approved manufactured overseas dividend representative of the same overseas dividend,
- (ii) the maker of the last payment in the chain, if not resident in the United Kingdom, makes the payment in the course of a trade which he carries on through a branch or agency in the United Kingdom and has entered into arrangements under the Double Taxation Relief Regulations enabling him to make the payment without deduction of tax, and
- (iii) each recipient of a payment in the chain has issued a notice to the maker of the payment authorising him to make the payment without deduction of tax.

Retention and record of notices given under regulations 4 and 5

6.—(1) A notice given under regulation 4(4)(c) or regulation 5(2)(b)(iii) shall be in the form provided, or in a form authorised, by the Board.

(2) A recipient of such a notice—

- (a) shall retain the notice for a period of six years and, whenever required to do so within that period, shall make it available for inspection by an officer of the Board, and
- (b) if he receives more than one such notice during any chargeable period, shall in addition maintain a record showing—
 - (i) the date of each such notice received in that period, and
 - (ii) a description and the amount of the manufactured overseas dividend referred to in each such notice received in that period.

(3) A person who issues such a notice—

- (a) shall retain a copy of it for a period of six years and, whenever required to do so within that period, shall make that copy available for inspection by an officer of the Board, and
- (b) if he issues more than one such notice during any chargeable period, shall in addition maintain a record showing—
 - (i) the date of each such notice issued in that period, and
 - (ii) a description and the amount of the manufactured overseas dividend referred to in each such notice issued in that period.

(4) Any record required to be maintained by the recipient of a notice under paragraph (2)(b), or by the issuer of a notice under paragraph (3)(b), shall be retained by that person for a period of six years from the end of the chargeable period to which the record relates.

(5) Where the issuer of a notice fails to retain a copy of it for the period specified in paragraph (3)(a), or fails to maintain any such record as is specified in paragraph (3)(b) or to retain any such record for the period specified in paragraph (4), the Board may require that person to carry out, at his own expense, an audit of manufactured overseas dividends received by that person in order to ascertain the amount of tax, if any, liable to be deducted under paragraph 4(2) of Schedule 23A which was not deducted.

(6) The scope and method of the audit referred to in paragraph (5) shall be agreed between the Board and the issuer of the notice or, in the absence of agreement, determined by the Board, and the issuer of the notice shall account for and pay any tax which on the basis of the findings of the audit was liable to be deducted but which was not deducted from manufactured overseas dividends received by him.

Disapplication of paragraph 4(3) of Schedule 23A

7.—(1) For the purposes of the provisions of the Tax Acts relating to the charge to tax under Schedule D, tax shall not be required to be accounted for and paid pursuant to paragraph 4(3) of Schedule 23A by a United Kingdom recipient of a manufactured overseas dividend which is received by him in any of the circumstances prescribed by paragraph (2).

(2) The circumstances prescribed by this paragraph are where the United Kingdom recipient—

- (a) is an approved United Kingdom intermediary who has entered into arrangements with the Board under the Double Taxation Relief Regulations enabling him to pay without deduction of tax a manufactured overseas dividend representative of the same overseas dividend as is represented by the manufactured overseas dividend received by him, or who is authorised by a notice under regulation 5(2)(b)(iii) to make such a payment without deduction of tax, or
- (b) is an approved United Kingdom intermediary who is required to pay a manufactured overseas dividend representative of the same overseas dividend as is represented by the manufactured overseas dividend received by him, in circumstances where regulation 3(4) applies in relation to the payment, or
- (c) is an approved United Kingdom collecting agent and the person beneficially entitled to the manufactured overseas dividend received by the approved United Kingdom collecting agent is not resident in the United Kingdom, or
- (d) is an approved United Kingdom collecting agent who is required to pay to an approved United Kingdom intermediary an approved manufactured overseas dividend representative of the same overseas dividend as is represented by the approved manufactured overseas dividend received by him, the approved United Kingdom intermediary is enabled or authorised as mentioned in sub-paragraph (a) above and issues a notice to the approved United Kingdom collecting agent authorising him to pay the approved manufactured overseas dividend without deduction of tax.

(3) A notice given under paragraph (2)(d) shall be in the form provided, or in a form authorised, by the Board.

(4) The United Kingdom recipient—

- (a) shall maintain a record of all manufactured overseas dividends received by him in any chargeable period in the circumstances prescribed by paragraph (2), showing—
 - (i) a description and the amount of each such manufactured overseas dividend, and the date on which it was received, and
 - (ii) the total amount of all such manufactured overseas dividends received in that period;
- (b) where he is an approved United Kingdom intermediary within sub-paragraph (b), or an approved United Kingdom collecting agent within sub-paragraph (c), of paragraph (2), shall in addition maintain a record of all manufactured overseas dividends paid by him as mentioned in sub-paragraph (b) or, as the case may be, sub-paragraph (c), of that paragraph in any chargeable period, showing—
 - (i) the name and address of the person beneficially entitled to each such payment,
 - (ii) a description and the amount of each such payment, and the date of the payment, and
 - (iii) the total amount of all such payments made in that period;
- (c) shall retain any such record as is specified in sub-paragraph (a) or (b) of this paragraph for a period of six years from the end of the chargeable period to which the record relates, and shall make any such record available for inspection by an officer of the Board whenever required to do so during the period of retention;

- (d) where he is an approved United Kingdom collecting agent within sub-paragraph (d) of paragraph (2), shall in addition—
- (i) retain for a period of six years any notice received by him as mentioned in that sub-paragraph and, whenever required to do so, make it available for inspection by an officer of the Board, and
 - (ii) if he receives more than one such notice during any chargeable period, maintain a record showing the date of each such notice received in that period and a description and the amount of the manufactured overseas dividend referred to in each such notice, and retain the record for a period of six years from the end of the chargeable period to which the record relates.

(5) Where the United Kingdom recipient fails to maintain, or to retain for the requisite period, any such record as is referred to in paragraph (4), or fails to retain for the requisite period any such notice as is referred to in that paragraph, the Board may require that person to carry out, at his own expense, an audit of manufactured overseas dividends received by him in order to ascertain the amount of tax, if any, for which he was liable to account under paragraph 4(3) of Schedule 23A.

(6) The scope and method of the audit referred to in paragraph (5) shall be agreed between the Board and the United Kingdom recipient or, in the absence of agreement, shall be determined by the Board, and the United Kingdom recipient shall account for and pay any tax which on the basis of the findings of the audit he was liable under paragraph 4(3) of Schedule 23A to account for and pay.

Tax treatment of manufactured overseas dividends to which regulations 4, 5 and 7 apply – further provision

8. For all purposes of the Tax Acts as they apply in relation to persons resident in the United Kingdom or to persons not so resident but carrying on a business through a branch or agency in the United Kingdom, any manufactured overseas dividend to which regulation 4, 5 or 7 applies shall be treated in relation to the recipient, and all persons claiming title through or under him—

- (a) as if it were an overseas dividend of an amount equal to the amount of the manufactured overseas dividend, or
- (b) where paragraph (3) of regulation 4 applies and the amount of tax required under that paragraph in respect of the manufactured overseas dividend has been accounted for and paid, as if it were an overseas dividend of an amount equal to the gross amount of the manufactured overseas dividend, but paid after the withholding therefrom, on account of overseas tax, of the amount accounted for and paid; and the amount accounted for and paid shall accordingly be treated in relation to the recipient, and all persons claiming title through or under him, as an amount so withheld instead of an amount on account of income tax.

Offsetting of tax by overseas dividend manufacturers

9.—(1) In the circumstances prescribed by paragraph (2) and subject to paragraph (4), a person who is an overseas dividend manufacturer in any chargeable period shall be entitled to set off against each other—

- (a) overseas tax in respect of overseas dividends, or amounts deducted under paragraph 4(2) of Schedule 23A from manufactured overseas dividends, received by him in that chargeable period, or amounts accounted for and paid under paragraph 4(3) of Schedule 23A or under regulation 4(3) in respect of manufactured overseas dividends received by him in that period, and

- (b) sums due from him on account of the amounts deducted by him under paragraph 4(2) of Schedule 23A from the manufactured overseas dividends paid by him in that chargeable period.
- (2) The circumstances prescribed by this paragraph are where—
- (a) the overseas dividend manufacturer is an approved United Kingdom intermediary,
 - (b) the overseas dividends and manufactured overseas dividends referred to in paragraph (1)(a), if received by an overseas dividend manufacturer within sub-paragraph (a) of this paragraph who carries on a business in the ordinary course of which he receives overseas dividends and manufactured overseas dividends and pays manufactured overseas dividends, are such that a profit on the sale of the overseas securities to which those overseas dividends and manufactured overseas dividends relate would form part of the trading profits of that business,
 - (c) the manufactured overseas dividends paid are approved manufactured overseas dividends, and
 - (d) except in a case to which paragraph (3) applies, the overseas dividends or, as the case may be, the manufactured overseas dividends received by him, do not fall to be matched, in accordance with regulation 10(1), against manufactured overseas dividends paid by him in that period.
- (3) This paragraph applies to a case where, under regulation 10(1), overseas dividends in respect of which overseas tax is payable received by the overseas dividend manufacturer in any chargeable period, and manufactured overseas dividends so received from which tax has been deducted or in respect of which tax falls to be accounted for and paid as mentioned in paragraph (1)(a) above, are matched against manufactured overseas dividends paid by him under deduction of tax in that period.
- (4) Where paragraph (3) applies in respect of any chargeable period, the overseas dividend manufacturer shall be entitled to set off against each other—
- (a) the tax attributable to the matched overseas dividends and manufactured overseas dividends received, and
 - (b) the tax attributable to the matched manufactured overseas dividends paid.
- (5) Except in a case to which paragraph (3) applies, where in accordance with this regulation tax is set off by an overseas dividend manufacturer in any chargeable period and in relation to that period the sum of the overseas tax and amounts referred to in paragraph (1)(a) exceeds the total amount of the sums due as mentioned in paragraph (1)(b), relief under Part XVIII of the Taxes Act may be claimed by the overseas dividend manufacturer in respect of the amount of the excess.
- (6) Where in accordance with this regulation tax is set off by an overseas dividend manufacturer in any chargeable period and in relation to that period the total amount of the sums due from the overseas dividend manufacturer as mentioned in paragraph (1)(b) exceeds the sum of the overseas tax and amounts referred to in paragraph (1)(a), the amount of the excess shall be payable to the Board.
- (7) References to overseas tax in this regulation are references to the amount of such tax which is eligible for relief under Part XVIII of the Taxes Act either—
- (a) pursuant to arrangements made with the government of the overseas territory specified in paragraph (8) which have effect by virtue of section 788 of the Taxes Act and relate to the overseas dividend concerned, or
 - (b) by virtue of other provisions of Part XVIII of the Taxes Act other than section 790(5)(c)(ii) of that Act.
- (8) The overseas territory specified in this paragraph is the territory of the government or public or local authority which issued the securities in question or, where the securities were issued by any

other body of persons not resident in the United Kingdom, the territory under whose law that tax would have been payable.

Matching of dividends and manufactured overseas dividends

10.—(1) For the purpose of paragraphs (2)(d) and (3) of regulation 9, overseas dividends paid on overseas securities of a particular kind in respect of a particular dividend date which are received in any chargeable period by an overseas dividend manufacturer, and manufactured overseas dividends representative of those overseas dividends which are received by him in that period—

- (a) shall be matched against manufactured overseas dividends representative of those overseas dividends which are paid by him in that period in accordance with the following order of priority—
 - (i) manufactured overseas dividends received without deduction of tax pursuant to notices issued by him under regulation 4(4)(c), 5(2)(b)(iii), or 7(2)(d);
 - (ii) overseas dividends received; and
 - (iii) manufactured overseas dividends received from which tax has been deducted under paragraph 4(2) of Schedule 23A or in respect of which tax has been accounted for and paid under paragraph 4(3) of Schedule 23A or regulation 4(3); and
- (b) shall first be matched against manufactured overseas dividends paid without deduction of tax under paragraph 4(2) of Schedule 23A by reason of—
 - (i) notices issued to him under regulation 5(2)(b)(iii), or
 - (ii) arrangements entered into with the Board under the Double Taxation Relief Regulations, or
 - (iii) in cases to which paragraph (4) of regulation 3 applies, the application of that paragraph resulting in a rate of relevant withholding tax of nil per cent.,and the balance, if any, shall be matched against manufactured overseas dividends paid by him from which tax has been deducted under paragraph 4(2) of Schedule 23A.

(2) Where under paragraph (1) an overseas dividend received is matched with a manufactured overseas dividend paid, any voucher relating to the deduction of overseas tax from the overseas dividend shall, subject to paragraph (3), be forwarded to the recipient of the manufactured overseas dividend.

(3) Where under paragraph (1) an overseas dividend is matched with more than one manufactured overseas dividend paid, the overseas dividend manufacturer—

- (a) shall endeavour to obtain from the payer of the overseas dividend a voucher corresponding to each such manufactured overseas dividend, or
- (b) if, despite reasonable attempts to do so, he is unable to obtain such a voucher, shall prepare a voucher corresponding to each such manufactured overseas dividend and showing the following amounts—
 - (i) so much of the gross amount of the overseas dividend as corresponds to the gross amount of the manufactured overseas dividend,
 - (ii) so much of the overseas tax in respect of the overseas dividend as would be eligible for relief as mentioned in regulation 9(7) and relates to the amount of the overseas dividend calculated in paragraph (i) above, and
 - (iii) so much of the actual amount of the overseas dividend received by him as corresponds to the amount of the manufactured overseas dividend paid by him, and

- (c) shall forward the voucher obtained or, as the case may be, prepared by him to the recipient of the manufactured overseas dividend to which the voucher relates, instead of the voucher referred to in paragraph (2).
- (4) Where a voucher has been forwarded as mentioned in paragraph (3)(c) and subsequently a manufactured overseas dividend received by an overseas dividend manufacturer to which that voucher relates is matched under paragraph (1) with more than one manufactured overseas dividend paid, the overseas dividend manufacturer—
 - (a) shall endeavour to obtain from the payer of the overseas dividend of which the manufactured overseas dividend received is representative a voucher corresponding to each such manufactured overseas dividend paid, or
 - (b) if, despite reasonable attempts to do so, he is unable to obtain such a voucher, shall prepare a voucher corresponding to each such manufactured overseas dividend paid and showing the details specified in paragraphs (i) to (iii) of paragraph (3)(b), and
 - (c) shall forward the voucher obtained or, as the case may be, prepared by him to the recipient of the manufactured overseas dividend to which the voucher relates.

Accounting for tax payable under paragraph 4(2) and (3) of Schedule 23A and these Regulations

- 11.—**(1) Within 30 days of the end of a chargeable period—
- (a) an overseas dividend manufacturer shall pay to the Board all amounts which he was liable to deduct under paragraph 4(2) of Schedule 23A on account of income tax from manufactured overseas dividends paid by him in that period;
 - (b) an overseas dividend manufacturer who is an approved United Kingdom intermediary shall pay to the Board the amount of any excess payable under regulation 9(6) attributable to that period;
 - (c) a United Kingdom recipient shall pay to the Board all amounts of tax for which he was liable to account under paragraph 4(3) of Schedule 23A in respect of manufactured overseas dividends received by him in that period;
 - (d) an approved United Kingdom intermediary or an approved United Kingdom collecting agent shall pay to the Board all amounts of tax for which he was liable to account under regulation 4(3) in respect of approved manufactured overseas dividends received by him in that period.
- (2) Within 90 days of the end of a chargeable period—
- (a) an overseas dividend manufacturer shall make a return to the Board or an inspector, in such form as the Board may prescribe, showing—
 - (i) the amounts which he was liable to deduct under paragraph 4(2) of Schedule 23A on account of income tax from approved manufactured overseas dividends paid by him in that period,
 - (ii) the amounts which he was liable to deduct under paragraph 4(2) of Schedule 23A on account of income tax from unapproved manufactured overseas dividends paid by him in that period, and
 - (iii) the amount of any excess payable under regulation 9(6) attributable to that period;
 - (b) a United Kingdom recipient shall make a return to the Board or an inspector, in such form as the Board may prescribe, showing the amounts of tax for which he was liable to account under paragraph 4(3) of Schedule 23A in respect of manufactured overseas dividends received by him in that period;

- (c) an approved United Kingdom intermediary or an approved United Kingdom collecting agent shall make a return to the Board or an inspector, in such form as the Board may prescribe, showing the amounts of tax for which he was liable to account under regulation 4(3) in respect of approved manufactured overseas dividends received by him in that period.

(3) Any amount referred to in paragraph (1) shall be due at the end of the period of 30 days specified in that paragraph and shall be payable without the making of any assessment but may be assessed on the overseas dividend manufacturer or, as the case may be, the United Kingdom recipient, approved United Kingdom intermediary or approved United Kingdom collecting agent (whether or not it has been paid when the assessment is made) if it is not paid in full on or before that date.

(4) In any case where—

(a) it appears to the inspector that there is—

- (i) a manufactured overseas dividend paid, or an overseas dividend or a manufactured overseas dividend received, by an overseas dividend manufacturer in a chargeable period, or
- (ii) an overseas dividend or a manufactured overseas dividend received by a United Kingdom recipient, an approved United Kingdom intermediary or an approved United Kingdom collecting agent in a chargeable period,

which ought to have been but which has not been included in a return under paragraph (2) relating to that period, or

(b) the inspector is dissatisfied with any return under paragraph (2),

the inspector may make an assessment to the best of his judgment on the overseas dividend manufacturer or, as the case may be, the United Kingdom recipient, approved United Kingdom intermediary or approved United Kingdom collecting agent.

(5) Any income tax due under an assessment made by virtue of paragraph (4) shall be treated for the purposes of interest on unpaid tax as having been payable at the end of the period of 30 days specified in paragraph (1).

(6) Any amount for which an approved United Kingdom intermediary is liable to account under regulation 6(6), and any amount for which a United Kingdom recipient is liable to account under regulation 7(6), in respect of manufactured overseas dividends received by them in a chargeable period, shall be due at the end of the period of 30 days from the end of that period, and shall be payable without the making of any assessment but may be assessed on the approved United Kingdom intermediary or, as the case may be, the United Kingdom recipient (whether or not it has been paid when the assessment is made) if it is not paid in full on or before that date.

(7) The like provisions as are contained in the Income Tax Acts with respect to the time within which an assessment may be made, so far as they refer or relate to the year of assessment for which an assessment is made, or the year to which an assessment relates, shall have effect in relation to an assessment under this regulation notwithstanding that, under this regulation, the assessment may be said to relate to a period which is not a year of assessment; and the like provisions as are contained in section 36 of the Management Act(6) as to the circumstances in which an assessment may be made out of time shall have effect accordingly on the footing that any such assessment relates to the year of assessment in which the period in question ends.

(8) Income tax assessed on a person under this regulation shall be due at the end of the period of 30 days after the issue of the notice of assessment (unless due earlier under paragraph (3) or (6)).

(6) Section 36 was substituted by section 149(1) of the Finance Act 1989 (c. 26), and the section as substituted was amended by paragraph 4(1) of Schedule 11 to the Finance Act 1990 (c. 29), and paragraph 9(2) of Schedule 5 to the Finance (No. 2) Act 1992.

(9) Any tax assessable under any one or more of the provisions of this regulation may be included in one assessment if the tax so included is all due on the same date.

(10) Section 31(7) and Part V of the Management Act shall apply to an appeal against any assessment to tax under this regulation.

(11) Subsections (1), (7) and (8) of section 87 of the Management Act(8) shall apply to tax assessable under this regulation as they apply to tax assessable in accordance with Schedules 13 and 16 to the Taxes Act, and accordingly those subsections shall have effect as if references to those schedules included references to this regulation.

(12) Section 98 of the Management Act(9) shall apply in relation to a return under paragraph (2) with the modification specified in paragraph (13).

(13) At the end of the second column of the Table in section 98 of the Management Act there shall be inserted—

“Regulation 11(2) of the Income Tax (Manufactured Overseas Dividends) Regulations 1993”.

Tax treatment of manufactured overseas dividends representative of foreign dividends

12.—(1) This regulation applies to a case where a manufactured overseas dividend—

- (a) is representative of an overseas dividend specified in paragraph (a), (b), (c) or (d) of paragraph 4(8) of Schedule 23A;
- (b) is paid to an approved United Kingdom collecting agent in circumstances where, had it been the overseas dividend of which it is representative, tax would have been chargeable under subsection (2) or (3) of section 123 or under section 17(1) of the Taxes Act(10) in respect of the dividend or, as the case may be, in respect of the proceeds of sale or other realisation of any coupon for that dividend; and
- (c) is not paid to an approved United Kingdom collecting agent whose appointment as such an agent was a condition of the Board’s approval of an arrangement under regulation 7 or 8 of the Income Tax (Stock Lending) Regulations 1989, in circumstances where the overseas dividend of which it is representative would not, in the absence of the arrangement, have been chargeable under subsection (2) or (3) of section 123 or section 17(1) of the Taxes Act.

(2) Where this regulation applies—

- (a) deduction of an amount determined by reference to the gross amount of the manufactured overseas dividend shall be made by the approved United Kingdom collecting agent from the manufactured overseas dividend on account of income tax similar to the deduction that would, in the case of the overseas dividend of which the manufactured overseas dividend is representative, have been made under subsection (2) or (3) of section 123 or under section 17(1) of the Taxes Act, as the case may be; and
- (b) the provisions of Parts III and IV of Schedule 3 to the Taxes Act shall apply in relation to amounts falling to be deducted under sub-paragraph (a) as if—

(7) Section 31 was amended by paragraph 3(1) of Schedule 22 to the Finance Act 1984 (c. 43), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, Part V of Schedule 17 to the Finance Act 1989, paragraph 14 of Schedule 14 to the Finance Act 1990 and paragraph 2(7) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12).

(8) Section 87 was substituted by paragraph 10 of Schedule 24 to the Finance Act 1972 (c. 41), and subsections (1), (7) and (8) of that section as substituted were amended by section 46(3)(b) of the Finance (No. 2) Act 1975 (c. 45), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 and section 179(1)(b) of the Finance Act 1989.

(9) Section 98 was amended by paragraph 9 of Schedule 29 to the Income and Corporation Taxes Act 1988, section 164 of the Finance Act 1989 and section 68(3) of the Finance Act 1990.

(10) Section 17 was amended by section 76(1) of the Finance Act 1988.

- (i) references in paragraphs 6(1)(c) and (d), 6A, 6C and 6D of that Schedule(11) to dividends, foreign dividends or the sale or other realisation of coupons for dividends, or the proceeds of such sale or realisation, included references to manufactured overseas dividends to which this regulation applies or, as the case may be, the sale or other realisation of manufactured overseas dividends to which this regulation applies;
- (ii) references to income tax in paragraph 6A of that Schedule included references to amounts falling to be deducted under sub-paragraph (a) of this paragraph; and
- (iii) paragraph 15 of that Schedule applied to an approved United Kingdom collecting agent who obtains payment of any manufactured overseas dividend to which this regulation applies or who would be obliged by virtue of this regulation to pay income tax in respect of the proceeds of sale or other realisation of any such manufactured overseas dividend, as it applies to any person entrusted with the payment of any such interest, dividends or other annual payments as is or are mentioned in sub-paragraph (1) of that paragraph.

Further provision relating to manufactured overseas dividends representative of foreign dividends

13.—(1) This regulation applies to a case where a manufactured overseas dividend—

- (a) is representative of an overseas dividend within regulation 12(1)(a) in respect of which tax would, but for the contract or other arrangements under which the manufactured overseas dividend is paid, have been chargeable under subsection (2) or (3) of section 123 or under section 17(1) of the Taxes Act in respect of the dividend or, as the case may be, in respect of the proceeds of sale or other realisation of any coupon for that dividend; and
- (b) is paid by an approved United Kingdom intermediary to or for the benefit of the person entitled to the manufactured overseas dividend and not to an approved United Kingdom collecting agent.

(2) Where this regulation applies—

- (a) deduction of an amount determined by reference to the gross amount of the manufactured overseas dividend shall be made by the approved United Kingdom intermediary from the manufactured overseas dividend on account of income tax similar to the deduction that would, in the case of the overseas dividend of which the manufactured overseas dividend is representative, have been made under subsection (2) or (3) of section 123 or under section 17(1) of the Taxes Act, as the case may be;
- (b) subject to paragraph (3), the provisions of Parts III and IV of Schedule 3 to the Taxes Act shall apply in relation to amounts falling to be deducted under sub-paragraph (a) as if the modifications to that Schedule specified in paragraphs (i) to (iii) of regulation 12(2) (b) also had effect in relation to manufactured overseas dividends to which this regulation applies and tax falling to be deducted under sub-paragraph (a).

(3) Where the approved United Kingdom intermediary is either a company resident in the United Kingdom or a company which is not resident in the United Kingdom but carries on a trade in the United Kingdom through a branch or agency (in this regulation referred to as “a non-resident company”), the like provisions as are contained in Schedule 16 to the Taxes Act shall have effect for the purpose of accounting for and paying amounts deducted under paragraph (2)(a) above as if—

- (a) references to a company included references to a non-resident company, and
- (b) in relation to a non-resident company—

(11) Paragraphs 6A, 6C and 6D of Schedule 3 were inserted by paragraph 2(2) of Schedule 11 to the Finance (No. 2) Act 1992, and paragraph 15 was amended by paragraph 2(3) of Schedule 11 and Part VII(8) of Schedule 18 to that Act.

- (i) paragraph 5 of the Schedule applied only to payments received by that company and falling to be taken into account in computing its profits chargeable to corporation tax, and
- (ii) in paragraph 7 of the Schedule the reference to section 7(2) included a reference to sections 11(3) and 349(1) of the Taxes Act.

Records to be kept in respect of certain manufactured overseas dividends paid without deduction of tax

14.—(1) An overseas dividend manufacturer or an approved United Kingdom collecting agent shall maintain a record in respect of any manufactured overseas dividend paid by him to which this regulation applies showing—

- (a) the date of payment and the amount of the manufactured overseas dividend,
- (b) the name of the person beneficially entitled to the payment, and the territory in which he was resident at the date of payment, and
- (c) particulars of the overseas securities and the overseas dividend on those securities to which the manufactured overseas dividend relates.

(2) This regulation applies to any manufactured overseas dividend in respect of which arrangements have been entered into with the Board by an overseas dividend manufacturer or an approved United Kingdom collecting agent under the Double Taxation Relief Regulations enabling him to make the payment without deduction of tax.

(3) An overseas dividend manufacturer or an approved United Kingdom collecting agent shall retain for a period of six years—

- (a) any record required to be maintained by him under paragraph (1), and
- (b) any certificate under the Double Taxation Relief Regulations received by him,

and, whenever required to do so within that period, shall make any such record or certificate available for inspection by an officer of the Board.

(4) Where an overseas dividend manufacturer or an approved United Kingdom collecting agent fails to maintain, or to retain for the requisite period, any such record, or fails to retain any such certificate for the requisite period, the Board may require that person to carry out, at his own expense, an audit of manufactured overseas dividends paid by him in order to ascertain the amount of tax, if any, liable to be deducted under paragraph 4(2) of Schedule 23A which was not deducted.

(5) The scope and method of the audit referred to in paragraph (4) shall be agreed between the Board and the person concerned or, in the absence of agreement, shall be determined by the Board.

Issue of vouchers in respect of manufactured overseas dividends paid under deduction of tax

15.—(1) Subject to paragraphs (2) and (3), where an overseas dividend manufacturer makes a payment of a manufactured overseas dividend from which an amount is deducted by him under paragraph 4(2) of Schedule 23A or, as the case may be, under regulation 13(2)(a), or under both paragraph 4(2) of Schedule 23A and regulation 13(2)(a), he shall furnish the recipient of the payment with a voucher showing the details specified in paragraph (4).

(2) Except where an amount is deducted under regulation 13(2)(a), paragraph (1) shall not apply in any case where, pursuant to paragraph (2), (3)(c) or (4)(c) of regulation 10, a voucher is forwarded to the recipient of a manufactured overseas dividend.

(3) Where the overseas dividend manufacturer is an approved United Kingdom intermediary, he shall not be required to furnish the recipient of a payment with the voucher referred to in paragraph (1) unless the recipient requests such a voucher.

- (4) The details specified in this paragraph are that the voucher shall show—
- (a) the gross amount of the payment,
 - (b) the amount deducted or, where more than one amount has been deducted, each such amount separately, and
 - (c) the actual amount paid.
- (5) An approved United Kingdom collecting agent, where requested to do so by the person beneficially entitled to a manufactured overseas dividend in respect of which tax has been paid or is due to be paid by the approved United Kingdom collecting agent under paragraph 4(3) of Schedule 23A or regulation 4(3), shall furnish that person with a voucher showing—
- (a) the gross amount of the manufactured overseas dividend received by him,
 - (b) the amount of tax paid or due to be paid by him in respect of the manufactured overseas dividend, and
 - (c) the actual amount paid.

Modifications of section 21 of the Management Act in relation to approved United Kingdom intermediaries and approved United Kingdom collecting agents

16. Section 21 of the Management Act(12) shall apply in relation to approved United Kingdom intermediaries and approved United Kingdom collecting agents as it applies to a market maker within the meaning of that section and shall have effect as if—

- (a) references to “market maker” in subsections (1), (2), (4) and (5) included references to an approved United Kingdom intermediary and an approved United Kingdom collecting agent, and
- (b) in subsection (1) the words from “whose” to the end were omitted.

9th August 1993

Tim Kirkhope
Tim Wood
Two of the Lords Commissioners of Her
Majesty’s Treasury

(12) Section 21 was amended by paragraph 5(a) of Schedule 21 to, and Part IV of Schedule 22 to, the Finance Act 1973 (c. 51), and by paragraph 7(1), (2) and (3) of Schedule 18 to the Finance Act 1986 (c. 41).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st October 1993, are made under provisions in Schedule 23A to the Income and Corporation Taxes Act 1988 (“Schedule 23A”). Schedule 23A was inserted by section 58 of, and Schedule 13 to, the Finance Act 1991. The Regulations contain provisions which apply to manufactured overseas dividends in respect of overseas securities as those terms are defined in Schedule 23A.

Regulation 1 provides for citation and commencement, and regulation 2 contains definitions.

Regulation 3 prescribes the rates of relevant withholding tax which are to apply in relation to manufactured overseas dividends.

Regulation 4 provides that in certain circumstances approved manufactured overseas dividends paid to approved United Kingdom intermediaries or approved United Kingdom collecting agents may be paid without deduction of tax but that, subject to certain exceptions, such persons shall account for tax on those manufactured overseas dividends received by them.

Regulation 5 provides that manufactured overseas dividends paid by approved United Kingdom intermediaries to persons beneficially entitled who are resident outside the United Kingdom may be paid without deduction of tax in certain circumstances.

Regulation 6 provides for the retention and keeping of records of notices given under regulation 4 or 5, and enables the Board of Inland Revenue (“the Board”) to require an issuer of such notices who fails to keep records of them to carry out an audit of manufactured overseas dividends received by him and to account for any tax which should have been deducted from such manufactured overseas dividends under paragraph 4(2) of Schedule 23A.

Regulation 7 provides that in certain circumstances a recipient resident in the United Kingdom of manufactured overseas dividends paid by a person not resident in the United Kingdom need not account for tax in respect of the dividends as required by paragraph 4(3) of Schedule 23A, but that he may be required by the Board to carry out an audit of such dividends received by him and to account for any tax due under paragraph 4(3) if he fails to keep records of dividends received or paid by him.

Regulation 8 provides that a manufactured overseas dividend to which regulation 4, 5 or 7 applies shall be treated in relation to the recipient of the payment as if it were an overseas dividend.

Regulation 9 provides that an approved United Kingdom intermediary shall be entitled to set off tax on overseas dividends and manufactured overseas dividends received by him in any chargeable period against tax on approved manufactured overseas dividends paid by him in that period and to account to the Board for, or as the case may be, claim credit in respect of, the balance, except that the entitlement to set off does not apply in the case of certain overseas dividends and manufactured overseas dividends which can be matched against, or identified with, each other under regulation 10.

Regulation 10 sets out the rules for determining whether overseas dividends and manufactured overseas dividends fall to be matched against each other, and provides for the forwarding of tax vouchers relating to overseas dividends matched against manufactured overseas dividends.

Regulation 11 makes provision for the payment of tax pursuant to paragraph 4(2) or (3) of Schedule 23A, or under these Regulations, and provides for the making of returns, and for the assessment and recovery of tax due.

Regulations 12 and 13 provide for the tax treatment of manufactured overseas dividends which are representative of foreign dividends, interest on quoted Eurobonds, or overseas public revenue dividends, and for accounting for tax in respect of such manufactured overseas dividends.

Regulation 14 provides for the keeping of records by overseas dividend manufacturers and approved United Kingdom collecting agents in respect of certain manufactured overseas dividends paid without deduction of tax, and for the carrying out of an audit of such manufactured overseas dividends in the event of a failure to keep records as required.

Regulation 15 provides for the furnishing of vouchers by overseas dividend manufacturers and approved United Kingdom collecting agents to the recipients of manufactured overseas dividends which are paid under deduction of tax or in respect of which tax has been accounted for and paid.

Regulation 16 applies with modifications the information powers conferred on the Board by section 21 of the Taxes Management Act 1970 to businesses carried on by approved United Kingdom intermediaries and approved United Kingdom collecting agents.