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STATUTORY INSTRUMENTS

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**1996 No. 1780**

**INCOME TAX**

**The Income Tax (Paying and  
Collecting Agents) Regulations 1996**

<i>Made</i>	- - - -	<i>5th July 1996</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th July 1996</i>
<i>Coming into force</i>	- -	<i>30th July 1996</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 118A(n), 118D(8) and (9), 118F(4), 118H(1) and (3) and 118K of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Preliminary

**Citation and commencement**

1. These Regulations may be cited as the Income Tax (Paying and Collecting Agents) Regulations 1996 and shall come into force on 30th July 1996.

**Interpretation**

2.—(1) In these Regulations unless the context otherwise requires—

“appropriate person” means any person to whom, or at whose direction, relevant payments or relevant receipts are payable by a paying agent or collecting agent, other than an eligible person or, where the relevant receipts concerned are payable by a collecting agent, a person who is a collecting agent in relation to those receipts;

“the Board” means the Commissioners of Inland Revenue;

“eligible person” in relation to a relevant payment or relevant receipt to which subsection (4) of section 118G applies means—

- (a) a person who at the chargeable date falls within paragraph (a) of that subsection,
- (b) a bank which at the chargeable date falls within paragraph (b) of that subsection,

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(1) 1988 c. 1; sections 118A to 118K were inserted as Chapter VIIA of Part IV of the Income and Corporation Taxes Act 1988 by paragraph 1 of Schedule 29 to the Finance Act 1996 (c. 8).

- (c) a trustee of a qualifying discretionary or accumulation trust referred to in paragraph (c) of that subsection,
- (d) a person who is entitled to relief from tax as mentioned in paragraph (d) or (e) of that subsection, or
- (e) a sovereign power or international organisation referred to in paragraph (j) of that subsection;

“notice” means notice in writing;

“the principal sections” means sections 118A to 118K;

“quarter” means—

- (a) the period from 30th July 1996 to 30th September 1996;
- (b) any subsequent period of 3 months ending with the last day of December, March, June or September;

“relevant payment” means a foreign dividend payable to a person in the United Kingdom, other than a foreign dividend falling within section 118B(4).

(2) In these Regulations any reference to a particular section, without more, is a reference to that section of the Income and Corporation Taxes Act 1988.

### Non-chargeability of relevant payments or relevant receipts: declarations

#### **Declaration by depository for recognised clearing system**

**3.—**(1) Subsection (1)(a) of section 118 D shall not apply in respect of a relevant payment payable by a paying agent to, or at the direction of, a depository for a recognised clearing system, and subsection (2)(a) of that section shall not apply in respect of a relevant receipt payable by a collecting agent to, or at the direction of, such a depository, or for which a collecting agent is accountable to, or at the direction of, such a depository, unless the depository has made a declaration in writing to the paying agent or, as the case may be, the collecting agent concerned.

(2) A declaration under paragraph (1) shall be in such form as the Board may require, and shall contain the information specified in paragraph (3) and the undertaking specified in paragraph (4).

(3) The information specified is—

- (a) the full name of the recognised clearing system;
- (b) the full name of the depository;
- (c) the address of the principal place of business of the depository;
- (d) the full name of the paying agent or the collecting agent to whom the declaration is made;
- (e) a statement by the depository either—
  - (i) that the relevant payments payable by the paying agent are payable in respect of foreign holdings held in the recognised clearing system for which he acts as depository, or
  - (ii) that the relevant receipts payable by the collecting agent or for which the collecting agent is accountable, are payable in respect of relevant holdings held in the recognised clearing system for which he acts as depository;
- (f) a statement by the depository that the information contained in the declaration is correct to the best of his knowledge and belief.

(4) The undertaking specified is an undertaking that the depository will notify the paying agent or the collecting agent to whom the declaration is made of any relevant payments or relevant receipts to which the declaration does not apply, or has ceased to apply.

(5) A declaration under paragraph (1) shall be signed by an officer of the depositary authorised for that purpose, stating the capacity in which he signs.

(6) A declaration under paragraph (1) shall have effect in relation to any relevant payments or relevant receipts arising to a depositary that are paid or accounted for by a paying or collecting agent after the declaration is made to the agent, unless and until the agent—

- (a) receives a notification relating to those payments or receipts in accordance with the undertaking contained in the declaration,
- (b) receives a notice from the Board under regulation 10(2) relating to those payments or receipts, or
- (c) has reason to believe, by reference to information in his possession, that the declaration is, or has become, incorrect as respects those payments or receipts.

#### **Declaration by eligible person or appropriate person**

4.—(1) Subsection (1) of section 118G shall not apply as regards a relevant payment or a relevant receipt, other than a payment or receipt to which subsection (4)(f) of that section applies, unless a declaration in writing relating to the payment or receipt has been made by the eligible person or by an appropriate person to the paying agent or, as the case may be, the collecting agent concerned, confirming that, to the best of the eligible person's or appropriate person's knowledge and belief, the requirements of that section with respect to the payment or receipt are satisfied.

(2) Subject to paragraphs (3) to (5), a declaration under paragraph (1) shall be regarded as relating to a relevant payment or a relevant receipt if—

- (a) the chargeable date for the payment or receipt falls—
  - (i) in the month in which the declaration is made to the paying agent or collecting agent, or
  - (ii) where the declaration is made within the period of 14 days commencing with the first day of a month, in the preceding month; or
- (b) the payment is made, or the receipt is received or arises, after the end of the month in which the declaration is made.

(3) A declaration under paragraph (1) shall not be regarded as relating to a relevant payment or a relevant receipt if, prior to receipt of the declaration, the paying agent or collecting agent to whom it is made has furnished a certificate under section 118E(4) with respect to that payment or receipt.

(4) A declaration under paragraph (1) shall not be regarded as relating to more than one relevant payment in respect of foreign holdings that are in bearer form.

(5) A declaration under paragraph (1) shall not be regarded as relating to a relevant payment or relevant receipt if the agent concerned—

- (a) receives a notification relating to that payment or receipt in accordance with the undertaking contained in the declaration,
- (b) receives a notice from the Board under regulation 10(2) relating to that payment or receipt, or
- (c) has reason to believe, by reference to information in his possession, that the declaration is, or has become, incorrect as respects that payment or receipt.

#### **Declaration by eligible person— additional provisions**

5.—(1) A declaration by an eligible person under regulation 4 shall be in the form prescribed, or in a form authorised, by the Board, and shall contain the information specified in paragraph (2) and the undertaking specified in paragraph (3).

- (2) The information specified is—
- (a) the full name of the eligible person;
  - (b) the principal address of the eligible person, that is to say—
    - (i) where the eligible person is an individual, or a trustee other than a corporate or a professional trustee, his principal residential address,
    - (ii) where the eligible person is a body corporate (including a corporate trustee), the address of its registered office or principal place of business,
    - (iii) where the eligible person is a professional trustee, the address of his employment or principal place of business;
  - (c) the full name of the paying agent or the collecting agent to whom the declaration is made;
  - (d) a statement that the status of the eligible person is such as to result in the relevant payments and relevant receipts concerned falling within section 118G(4);
  - (e) where the declaration relates to a relevant payment in respect of foreign holdings that are in bearer form, the name of the stock and the amount of the relevant payment;
  - (f) a statement that the information contained in the declaration is correct to the best of the eligible person's knowledge and belief.
- (3) The undertaking specified is an undertaking that the eligible person will notify the paying agent or collecting agent to whom the declaration is made of any relevant payments or relevant receipts to which the declaration does not apply, or has ceased to apply.
- (4) A declaration under paragraph (1) shall be signed—
- (a) where the eligible person is an individual, by that individual,
  - (b) where the eligible person is a trustee of a qualifying discretionary or accumulation trust (other than a corporate trustee), by that trustee, stating the capacity in which he signs,
  - (c) where the eligible person is a body corporate (including a corporate trustee), by the secretary of that company or other officer of that company duly authorised for that purpose, stating the capacity in which he signs,
  - (d) where the eligible person is a sovereign power or international organisation, by an authorised representative of that sovereign power or international organisation, stating the capacity in which he signs,
  - (e) in any other case, by an officer of the organisation concerned duly authorised for that purpose, stating the capacity in which he signs.

#### **Declaration by appropriate person— additional provisions**

6.—(1) A declaration by an appropriate person under regulation 4 shall be in the form prescribed, or in a form authorised, by the Board, and shall contain the information specified in paragraph (2) and the undertaking specified in paragraph (3).

- (2) The information specified is—
- (a) the full name of the appropriate person;
  - (b) the principal address of the appropriate person, that is to say—
    - (i) where the appropriate person is an individual, or a trustee other than a corporate or a professional trustee, his principal residential address,
    - (ii) where the appropriate person is a body corporate (including a corporate trustee), the address of its registered office or principal place of business,
    - (iii) where the appropriate person is a professional trustee, the address of his employment or principal place of business;

- (c) the full name of the paying agent or collecting agent to whom the declaration is made;
  - (d) (where applicable) a statement that the appropriate person has no reason to believe, by reference to information in his possession, that paragraph (a) or (c) of section 118G(4) does not apply to the relevant payments or relevant receipts payable to him or at his direction by the paying or collecting agent;
  - (e) where the declaration relates to a relevant payment in respect of foreign holdings that are in bearer form, the name of the stock and the amount of the relevant payment;
  - (f) a statement that the information contained in the declaration is correct to the best of the appropriate person's knowledge and belief.
- (3) The undertaking specified is an undertaking that the appropriate person will notify the paying agent or collecting agent to whom the declaration is made of any relevant payments or relevant receipts to which the declaration does not apply, or has ceased to apply.
- (4) A declaration by an appropriate person shall be signed—
- (a) where the appropriate person is an individual, by that individual,
  - (b) where the appropriate person is a trustee (other than a corporate trustee), by that trustee, stating the capacity in which he signs,
  - (c) where the appropriate person is a body corporate (including a corporate trustee), by the secretary of that company or other officer of that company duly authorised for that purpose, stating the capacity in which he signs.

## Returns and payment of tax

### Quarterly returns by paying agents

7.—(1) Not later than 30 days after the end of a quarter, a paying agent shall make a return to the Board, in the form provided by the Board, setting out the particulars specified in paragraph (2) and containing the declaration specified in paragraph (3).

- (2) The particulars specified are—
- (a) the total of the chargeable payments made by him in that quarter;
  - (b) the total of any relevant payments made by him in that quarter which would have been chargeable payments but for the provisions of section 118D(1)(a);
  - (c) the total of any relevant payments made by him in that quarter which would have been chargeable payments but for the provisions of section 118G;
  - (d) the total amount of any tax for which he is liable to account in respect of that quarter pursuant to section 118E(1).

(3) The declaration specified is a declaration by the paying agent that the particulars given in the return are to the best of his knowledge and belief correct and complete.

### Quarterly returns by collecting agents

8.—(1) Not later than 30 days after the end of a quarter, a collecting agent shall make a return to the Board, in the form provided by the Board, setting out the particulars specified in paragraph (2) and containing the declaration specified in paragraph (3).

- (2) The particulars specified are—
- (a) the total of the chargeable receipts received or arising in that quarter by virtue of the collecting agent's performance of a relevant function, in respect of which he is liable to account for tax pursuant to section 118E(3);

- (b) the total of any relevant receipts received or arising in that quarter by virtue of his performance of a relevant function, which would have been chargeable receipts but for the provisions of section 118D(2)(a) or (b);
  - (c) the total of any relevant receipts received or arising in that quarter by virtue of his performance of a relevant function, which would have been chargeable receipts but for the provisions of section 118G;
  - (d) the total amount of any tax for which he is liable to account in respect of that quarter pursuant to section 118E(3).
- (3) The declaration specified is a declaration by the collecting agent that the particulars given in the return are to the best of his knowledge and belief correct and complete.

#### **Assessment in respect of unpaid tax**

9.—(1) If it appears to the Board that there is an amount of tax due and payable under section 118F(2) which has not been paid by a paying agent or a collecting agent, or if the Board are dissatisfied with a quarterly return under regulation 7 or 8, they may make an assessment on the agent concerned in respect of the amount which they consider to be due and payable.

(2) The agent on whom an assessment is made by virtue of paragraph (1) may, not later than 30 days after the date of issue of the assessment, by notice to the Board appeal against that assessment.

(3) The appeal shall be to the Special Commissioners.

#### **Notices by the Board to paying or collecting agents**

10.—(1) Where the Board are satisfied that relevant payments made by a paying agent are not chargeable payments, or relevant receipts received or arising by virtue of a collecting agent's performance of a relevant function are not chargeable receipts, they may by notice to the paying agent or collecting agent concerned direct that relevant payments made, or (as the case may be) relevant receipts received or arising, after the expiry of the period of 30 days following the date of issue of the notice are not chargeable payments or chargeable receipts.

(2) Where the Board have reason to believe that—

- (a) a depositary, or an eligible person or an appropriate person, has failed to comply with the requirements of regulation 14, or
- (b) a paying agent or a collecting agent has failed to comply with the requirements of regulation 11, 12 or 16, or
- (c) relevant payments made by a paying agent are chargeable payments, or relevant receipts received or arising by virtue of a collecting agent's performance of a relevant function are chargeable receipts,

they may by notice to the paying agent or collecting agent concerned direct that relevant payments made, or (as the case may be) relevant receipts received or arising, after the expiry of the period of 30 days following the date of issue of the notice are chargeable payments or chargeable receipts.

(3) Where the Board issue a notice under paragraph (2), any declaration under regulation 3 or 4 which relates to any of the relevant payments or relevant receipts referred to in the notice, whether the declaration is made before or after the date of issue of the notice, shall be of no effect.

(4) A paying agent or a collecting agent in respect of whom a notice is issued by the Board under paragraph (2) may, not later than 30 days after the date of issue of the notice, appeal against that notice by notice to the Board.

(5) The appeal shall be to the Special Commissioners who shall confirm the notice appealed against unless they are satisfied that the notice ought to be quashed.

## Provision of information and inspection and keeping of records

### **Information to be provided to the Board by paying or collecting agents**

**11.** The Board may by notice require any person who is or has at any time been a paying agent or a collecting agent, within such time (not being less than 14 days) as may be provided by the notice, to furnish them with such information (including copies of, or extracts from, any books, documents or other records) as they may reasonably require to satisfy themselves that that person has complied with the requirements of the principal sections and these Regulations.

### **Inspection of records by officer of the Board**

**12.—(1)** The Board may by notice require any person who is or has at any time been a paying agent or a collecting agent, within such time (not being less than 14 days) as may be provided by the notice, to make available for inspection by an officer of the Board authorised for that purpose all such books, documents and other records in his possession or under his control as they may reasonably require to satisfy themselves that that person has complied with the requirements of the principal sections and these Regulations.

(2) Where a document or other record is maintained by a computer, the person to whom the notice is issued shall provide the officer making the inspection with all the facilities necessary for obtaining information from that document or other record.

### **Keeping of records**

**13.—(1)** A paying agent or a collecting agent shall, throughout the period specified in paragraph (2), maintain and retain sufficient records, other than declarations to which regulation 15 applies, to enable an officer of the Board to satisfy himself on inspection of those records that the agent has complied with the requirements of these Regulations.

(2) The period specified is the period of six years commencing with the chargeable date of the relevant payment or relevant receipt to which the record concerned relates.

### **Information relating to declarations**

**14.** The Board may by notice require a depositary who has made a declaration under regulation 3, or an eligible person or an appropriate person who has made a declaration under regulation 4, within such time (not being less than 14 days) as may be provided by the notice, to provide such information as they may reasonably require to enable them to establish whether the declaration is valid.

### **Keeping of declarations**

**15.—(1)** A paying agent or a collecting agent shall retain, throughout the period specified in paragraph (2) and the period of two years immediately following the end of that period, any declaration made to him under regulation 3 or 4.

(2) The period specified is the period during which relevant payments or relevant receipts to which the declaration relates are excluded, by virtue of the declaration, from being chargeable payments or chargeable receipts.

### **Production of declarations**

**16.—(1)** The Board may by notice require a paying agent or a collecting agent, within such time (not being less than 14 days) as may be provided by the notice, to produce for inspection by an officer of the Board authorised for that purpose all documents in which declarations made to him under regulation 3 or 4 are contained.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(2) The officer of the Board to whom the documents referred to in paragraph (1) are produced may take copies of or extracts from those documents.

(3) In paragraph (1) the reference to a paying agent or a collecting agent includes a reference to a person who is no longer a paying agent or a collecting agent at the time when the notice under that paragraph is issued.

5th July 1996

*S C T Matheson*  
*C W Corlett*  
Two of the Commissioners of Inland Revenue



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations supplement the provisions of Chapter VIIA of Part IV of the Income and Corporation Taxes Act 1988 (inserted by paragraph 1 of Schedule 29 to the Finance Act 1996) which relate to the accounting for tax on foreign dividends by paying agents, and the accounting for tax on foreign dividends and quoted Eurobond interest by collecting agents. The Regulations make further provision in relation to the circumstances whereby paying and collecting agents are not liable to account for tax in respect of such dividends or interest paid or received by them.

Regulation 1 provides for citation and commencement, and regulation 2 for interpretation.

Regulation 3 provides that the exemption from liability to account for tax on dividends or interest paid or accounted for to, or at the direction of, a depositary for a recognised clearing system shall not apply unless the depositary makes a declaration in the terms set out in the regulation.

Regulation 4 makes a similar provision to regulation 3 in relation to declarations by non-residents and other persons to whom, or at whose direction, dividends or interest are payable.

Regulations 5 and 6 supplement the provisions of regulation 4 in connection with the terms of the declarations.

Regulations 7 and 8 provide for quarterly returns to be made to the Board of Inland Revenue (“the Board”) by paying and collecting agents, setting out details of dividends or interest paid or received in that quarter and the amount of tax for which the agent is liable to account in respect of that quarter.

Regulation 9 provides for assessments by the Board in respect of unpaid tax.

Regulation 10 provides for notices to be issued by the Board to paying or collecting agents directing that dividends or interest paid or received by those agents are, or (as the case may be) are not, payments in respect of which they are liable to account for tax.

Regulations 11 to 13 provide for the furnishing of information to the Board by paying or collecting agents, the inspection of their records by officers of the Board, and the retention of records by such agents.

Regulation 14 provides for the furnishing of information by persons who have made declarations under regulation 3 or 4, and regulations 15 and 16 provide for the retention and production of such declarations by paying and collecting agents.