
STATUTORY INSTRUMENTS

1997 No. 993

INCOME TAX

The Manufactured Dividends (Tax) Regulations 1997

<i>Made</i>	- - - -	<i>20th March 1997</i>
<i>Laid before the House of Commons</i>	- - - -	<i>20th March 1997</i>
<i>Coming into force</i>	- -	<i>1st July 1997</i>

The Treasury, in exercise of the powers conferred on them by paragraphs 1(1), 2(3) to (5) and 8(1) and (2) to (4) of Schedule 23A to the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Manufactured Dividends (Tax) Regulations 1997 and shall come into force on 1st July 1997.

Interpretation

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

“the Board” means the Commissioners of Inland Revenue;

“chargeable period” has the meaning given by regulation 3;

“dividend” means a dividend on United Kingdom equities, not being a foreign income dividend within Chapter VA of Part VI of the Taxes Act(2);

“the Management Act” means the Taxes Management Act 1970(3);

“manufactured dividend” shall be construed in accordance with paragraph 2(1) of Schedule 23A;

“relevant period” means—

(1) 1988 c. 1. Schedule 23A was inserted by paragraph 1 of Schedule 13 to the Finance Act 1991 (c. 31). Paragraph 2 of Schedule 23A was substituted by paragraph 10(1) of Schedule 10 to the Finance Act 1997 (c. 16), and paragraph 8 of Schedule 23A was amended by section 159(7) and (8) of the Finance Act 1996 (c. 8) and by paragraph 13 of Schedule 10 to the Finance Act 1997. See the definition of “dividend manufacturing regulations” in paragraph 1(1) of Schedule 23A.

(2) Chapter VA of Part VI was inserted by paragraph 1 of Schedule 16 to the Finance Act 1994 (c. 9).

(3) 1970 c. 9.

- (a) each complete quarter falling within a chargeable period, that is to say, each of the periods of three months ending with 31st March, 30th June, 30th September or 31st December which falls within that period;
- (b) each part of the chargeable period which is not a complete quarter and ends on the first (or only), or begins immediately after the last (or only), of those dates which falls within the chargeable period;
- (c) if none of those dates falls within a chargeable period which is an accounting period, the whole chargeable period;

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

(2) References in these Regulations to a “creditable amount” in respect of a dividend or manufactured dividend received in any period—

- (a) are references to the tax credit in respect of that dividend or manufactured dividend, not being an amount of tax credit to which paragraph (3) applies, or
- (b) where the recipient of the dividend or manufactured dividend is a company that is not resident in the United Kingdom and the dividend or manufactured dividend is attributable to a branch or agency through which the company trades in the United Kingdom, are references to an amount of tax equal to the amount of advance corporation tax payable in respect of that dividend or manufactured dividend, or (as the case may be) the amount of advance corporation tax that would have been payable in respect of that dividend or manufactured dividend if—
 - (i) the person by whom the dividend or manufactured dividend was paid were a company resident in the United Kingdom, and
 - (ii) the manufactured dividend were a distribution by that company.

(3) This paragraph applies to the amount of tax credit in respect of a distribution which—

- (a) is comprised in the UK distribution income (within the meaning given by paragraph 5B(4) of Schedule 19AC(4)) of an overseas life insurance company falling within that Schedule, and
- (b) is a distribution in respect of which that company has claimed or may claim the payment of a tax credit under section 438(4) or 441A(7)(5).

(4) References in these Regulations to a section or Schedule, without more, are references to that section of, or that Schedule to, the Taxes Act.

Chargeable period

3.—(1) In these Regulations “chargeable period” means—

- (a) as respects a company, its accounting period;
- (b) as respects a person other than a company who draws up accounts for any period (“the accounts period”), one of the periods specified in paragraph (2);
- (c) as respects a person other than a company who does not draw up accounts, a year of assessment.

(2) The periods specified in this paragraph are—

- (a) the period which begins at the beginning of the accounts period and ends at the expiration of 12 months from that date or, if earlier, at the end of the accounts period;

(4) Schedule 19AC was inserted by paragraph 1 of Schedule 9 to the Finance Act 1993 (c. 34), and paragraph 5B of that Schedule was inserted by paragraph 35(1) of Schedule 8 to the Finance Act 1995 (c. 4).

(5) Section 441A was inserted by paragraph 3 of Schedule 7 to the Finance Act 1990 (c. 29).

- (b) any subsequent period which—
 - (i) begins at the end of the immediately preceding period, being a period specified in this paragraph, and
 - (ii) ends at the expiration of 12 months from that date or, if earlier, at the end of the accounts period.

Accountability for tax

4.—(1) Where—

- (a) a manufactured dividend is paid by any person other than a company resident in the United Kingdom, and
- (b) the payment is one in relation to which either the dividend manufacturer or the recipient of the payment is a person to whom paragraph (2) below applies (“the appropriate person”),

the appropriate person shall be liable to account to the Board, to the extent and in the manner specified in these Regulations, for tax as mentioned in paragraph 2(3) of Schedule 23A.

(2) Subject to regulation 5, the appropriate person is—

- (a) where paragraph 2(5) of Schedule 23A applies in relation to the manufactured dividend, the dividend manufacturer;
- (b) where sub-paragraph (a) above does not apply in relation to the manufactured dividend and either of the conditions specified in paragraph (3) below applies, the recipient of the payment.

(3) The conditions specified in this paragraph are—

- (a) that the recipient is a person resident in the United Kingdom;
- (b) that the recipient is a company that is not so resident but carries on a trade in the United Kingdom through a branch or agency, and the manufactured dividend is attributable to the carrying on of that trade through that branch or agency.

Liability for tax where the manufacturer receives the dividend of which the manufactured dividend is representative

5.—(1) Regulation 4(2)(b) shall not apply in any case where the recipient of the manufactured dividend shows that—

- (a) the dividend manufacturer was entitled to payment of the dividend of which the manufactured dividend is representative either—
 - (i) as the holder of the securities concerned, or
 - (ii) directly or indirectly from a person from whom he acquired those securities, or to whom he transferred them, and who was so entitled as the holder of those securities, and
- (b) the aggregate of the amount of the dividend received by the dividend manufacturer and any amount paid to him in respect of a tax credit in relation to that dividend (“the aggregate amount”) does not exceed the amount of the dividend.

(2) Where paragraph (1) applies, the dividend manufacturer concerned shall be liable for tax, in respect of the manufactured dividend paid by him, in an amount equal to the amount (if any) of a tax credit in respect of the dividend received by him which, assuming him to have made a claim under arrangements having effect by virtue of section 788, the dividend manufacturer is entitled to have paid to him in respect of the dividend received by him.

(3) The amount of tax for which the dividend manufacturer is liable shall be set against the amount of the tax credit to which, on the assumption made in paragraph (2), he is entitled as mentioned in that paragraph.

(4) Where paragraph (1) does not apply by reason only of the fact that sub-paragraph (b) of that paragraph does not apply, the amount of tax for which the recipient of the manufactured dividend shall be liable to account under paragraph 2(3) of Schedule 23A shall be reduced to an amount equal to the amount by which the aggregate amount exceeds the amount of the dividend.

Accounting for tax by recipients that are United Kingdom resident companies

6.—(1) This regulation applies in any case where a recipient of a manufactured dividend—

- (a) is liable under regulation 4 to account to the Board for any tax in respect of that manufactured dividend, and
- (b) is a company resident in the United Kingdom.

(2) Paragraphs 1 to 3, 8 and 10 of Schedule 13 (collection of advance corporation tax) and, on or after the appointed day referred to in section 137(2) of the Finance Act 1996, paragraph 7A of that Schedule, shall apply in relation to the amount of tax for which the company is liable to account in respect of that manufactured dividend as if—

- (a) paragraph 1 of that Schedule required a return under that paragraph to include in addition manufactured dividends received by the company in each of its accounting periods and the tax for which it is liable to account in respect of those manufactured dividends;
- (b) paragraph 2(1) of that Schedule required a return for any return period to include in addition the amount of any manufactured dividends received by the company in that period, and the amount of tax for which it is liable to account in respect of those manufactured dividends;
- (c) references in paragraph 3 of that Schedule to franked payments and advance corporation tax in respect of such payments included references to manufactured dividends required to be included in a return under that Schedule by virtue of this regulation and tax for which the company is liable to account in respect of those manufactured dividends;
- (d) paragraph 8 of that Schedule included a reference to a manufactured dividend included in a return under that Schedule by virtue of this regulation;
- (e) paragraph 10 of that Schedule included a reference to tax for which the company is liable to account in respect of manufactured dividends received in any accounting period.

Accounting for tax by persons other than United Kingdom resident companies

7.—(1) This regulation applies in any case where the payer or recipient of a manufactured dividend (“the relevant person”)—

- (a) is liable under regulation 4 to account to the Board for any tax in respect of that manufactured dividend, and
- (b) is not a company resident in the United Kingdom.

(2) The relevant person shall be liable to account in respect of any relevant period for an amount of tax equal to the sum of the following—

- (a) the amount (if any) by which for that period the aggregate amount of tax for which he is accountable in respect of manufactured dividends paid by him exceeds the aggregate amount of creditable amounts in respect of dividends and manufactured dividends received by him, and

(b) the amount (if any) for that period of the aggregate amount of tax for which he is accountable in respect of manufactured dividends received by him.

(3) Tax for which the relevant person is accountable under paragraph (2)—

(a) shall be due not later than 14 days after the end of the relevant period concerned, and

(b) shall be payable without the making of an assessment.

(4) Tax due under paragraph (3) shall, whether or not an assessment is made under paragraph (10) of this regulation or under regulation 8(4), carry interest at the rate applicable under section 178 of the Finance Act 1989⁽⁶⁾ to section 87 of the Management Act⁽⁷⁾ from the end of the period of 14 days referred to in that paragraph until payment.

(5) Where the aggregate amount of creditable amounts in respect of dividends and manufactured dividends received by the relevant person in a relevant period exceeds the aggregate amount of tax for which he is accountable in respect of manufactured dividends paid by him in that period, the amount of the excess may be carried forward to any subsequent relevant period falling within the same chargeable period for the purposes of offsetting, pursuant to paragraph (2)(a), that excess amount against the aggregate amount of tax for which he is accountable in respect of manufactured dividends paid by him in respect of that subsequent relevant period.

(6) Where—

(a) the aggregate amount of tax for which the relevant person is accountable in respect of manufactured dividends paid by him in a relevant period (“the first period”) exceeds the aggregate amount of creditable amounts in respect of dividends and manufactured dividends received by him in that period, and

(b) in any subsequent relevant period falling within the same chargeable period there is an excess of the aggregate amount of creditable amounts in respect of dividends and manufactured dividends received by him over the aggregate amount of tax for which he is accountable in respect of manufactured dividends paid by him,

that excess amount may be set off, for the purposes of paragraph (2)(a), against the aggregate amount of tax for which the relevant person is accountable in respect of manufactured dividends paid by him in the first period, and a repayment of tax shall be made accordingly.

(7) Where—

(a) the relevant person is a company that is not resident in the United Kingdom, and

(b) the aggregate amount of creditable amounts in respect of dividends and manufactured dividends received by him in a chargeable period exceeds the aggregate amount of tax for which the company is accountable in respect of manufactured dividends paid by him in that period,

the amount of that excess may be carried forward so as to be regarded, for the purposes of paragraph (2), as a creditable amount in respect of dividends or manufactured dividends received by him in the first relevant period of the next chargeable period.

(8) Where—

(a) the relevant person was under an obligation to make a return under regulation 20 of the Income Tax (Dividend Manufacturing) Regulations 1992⁽⁸⁾ in respect of the return period ending 30th June 1997, and

⁽⁶⁾ 1989 c. 26.

⁽⁷⁾ Section 87 was substituted by section 111 of, and paragraph 10 of Schedule 24 to, the Finance Act 1972 (c. 41) and the section as substituted was amended by section 46(3) of the Finance (No. 2) Act 1975 (c. 45), section 62(1) and (2) of the Finance Act 1980 (c. 48), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988 and section 179(1)(b)(i) of, and Part VIII of Schedule 17 to, the Finance Act 1989.

⁽⁸⁾ S.I.1992/569.

- (b) surplus tax credits received by the relevant person fell to be carried forward on that date to its next accounting period under paragraph (10)(a) of that regulation or would have fallen so to be carried forward if its accounting period had ended on that date,

references in these Regulations to creditable amounts shall, as respects the relevant period commencing 1st July 1997, be taken as including references to those surplus tax credits.

(9) The same creditable amount shall not be taken into account both under this regulation and under any other provision of the Tax Acts.

(10) Tax which has become due from a person under paragraph (3) may be assessed on that person (whether or not it has been paid when the assessment is made) if that tax, or any part of it, is not paid on or before the due date.

Returns by persons other than United Kingdom resident companies

8.—(1) This regulation applies in any case where under regulation 7 the relevant person is liable to account for an amount of tax in respect of any relevant period falling within a chargeable period.

(2) The relevant person shall, within 30 days from the end of the chargeable period, make a return for that period to the Board.

(3) A return under paragraph (2) shall show—

- (a) the aggregate amount of the manufactured dividends received by the relevant person in the chargeable period in respect of which he is liable to account for tax under regulation 7,
- (b) the aggregate amount of the manufactured dividends paid by the relevant person in the chargeable period in respect of which he is liable to account for tax under regulation 7,
- (c) the aggregate amount of creditable amounts in respect of dividends and manufactured dividends received by the relevant person in the chargeable period,
- (d) the amount of creditable amounts brought forward from the previous chargeable period under regulation 7(7);
- (e) the amount of creditable amounts carried forward to the next chargeable period under regulation 7(7);
- (f) the aggregate amount of tax for which he is liable to account under regulation 7 for the chargeable period which is the subject of the return.

(4) If it appears to an officer of the Board that there is a manufactured dividend which ought to have been and has not been included in a return under paragraph (2), or if he is otherwise dissatisfied with any such return, he may make an assessment on the relevant person to the best of his judgment.

(5) Section 98 of the Management Act⁽⁹⁾ (“Section 98”) shall apply in relation to a return under paragraph (2) with the modification specified in paragraph (6).

(6) At the end of the second column of the Table in section 98 there shall be added—

“Regulation 8(2) of the Manufactured Dividends (Tax) Regulations 1997.”

Set off of tax by companies not resident in the United Kingdom

9.—(1) Subject to the modification specified in paragraph (2), the provisions of section 239 other than subsection (7) of that section, section 246(5) and section 797(4) shall apply in relation to the aggregate amount of tax for which a company that is not resident in the United Kingdom is liable in accordance with regulation 7(2)(a) to account for all relevant periods falling within any chargeable

(9) Section 98 was amended by paragraph 9 of Schedule 29 to the Income and Corporation Taxes Act 1988, section 164(2) to (5) of the Finance Act 1989, and section 68(3) of the Finance Act 1990.

period in respect of manufactured dividends paid by it, as if that tax were advance corporation tax paid by the company in respect of distributions made by it in that chargeable period.

(2) Subsection (3) of section 239 shall apply as if the reference in that subsection to any of the company's accounting periods beginning in the six years preceding the accounting period concerned were a reference to any of the company's accounting periods ending on or after 1st July 1997 and beginning in the six years preceding that accounting period.

20th March 1997

Roger Knapman
Richard Ottaway
Two of the Lords Commissioners of Her
Majesty's Treasury

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for accounting for tax in relation to manufactured dividends on United Kingdom equities other than manufactured dividends paid by companies resident in the United Kingdom.

Regulation 1 provides for citation and commencement and regulations 2 and 3 for interpretation.

Regulation 4 specifies the criteria for determining whether the payer or the recipient of a manufactured dividend is liable to account for tax in respect of the manufactured dividend.

Regulation 5 provides for liability for tax where the dividend manufacturer receives the dividend of which the manufactured dividend is representative.

Regulation 6 makes provision for accounting for tax by recipients of manufactured dividends that are companies resident in the United Kingdom.

Regulation 7 makes provision for accounting for tax by payers or recipients of manufactured dividends other than companies resident in the United Kingdom, including provision for interest on unpaid tax and assessments.

Regulation 8 provides for returns to be made by persons to whom regulation 7 applies, and for assessments and penalties in connection with such returns.

Regulation 9 enables companies not resident in the United Kingdom who are liable to account for tax under regulation 7 in respect of manufactured dividends paid by them to set off that tax against corporation tax on their profits.