
STATUTORY INSTRUMENTS

2001 No. 1156

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Underlying Tax on Dividends and Dual Resident Companies) Regulations 2001

<i>Made</i>	- - - -	<i>26th March 2001</i>
<i>Laid before the House of Commons</i>	- - - -	<i>26th March 2001</i>
<i>Coming into force</i>	- -	<i>31st March 2001</i>

The Treasury in exercise of the powers conferred by section 801(2A)(b) of the Income and Corporation Taxes Act 1988(1) hereby make the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Double Taxation Relief (Taxes on Income) (Underlying Tax on Dividends and Dual Resident Companies) Regulations 2001.

(2) These Regulations shall come into force on 31st March 2001 and shall apply in relation to any claim for an allowance by way of credit made on or after that date in respect of a dividend paid by an overseas company to a company resident in the United Kingdom, unless the dividend was paid before that date.

Interpretation

2. In these Regulations—

“the Act” means the Income and Corporation Taxes Act 1988, and a reference to a numbered section is a reference to the section of the Act which is so numbered;

“dual resident company” means a company which is liable, by reason of its domicile, residence or place of management or of incorporation, or other similar criterion, to tax in two or more territories;

“overseas company” has the meaning given in section 801(1) (dividends paid between related companies: relief for UK and third country taxes); and

“third company” means the company referred to as such in section 801(2).

(1) 1988 c. 1. Subsection (2A) is inserted into section 801 by paragraph 11 of Schedule 30 to the Finance Act 2000 (c. 17).

Additional cases prescribed for the purposes of section 801(2) of the Act

3.—(1) The cases specified in paragraphs (2) and (3) are prescribed for the purposes of section 801(2) (cases where the overseas company receives a dividend from a related third company and in respect of which relief allowable for underlying tax is subject to a restriction under section 799(1)(b)).

(2) The case specified in this paragraph is that the overseas company is a dual resident company as respects an accounting period, and although resident in the same territory as the third company—

- (a) it is treated for the purposes of Chapter IV of Part XVII of the Act (tax avoidance: controlled foreign companies) as resident in a different territory; or
- (b) it would be so treated in accordance with paragraphs (a) to (c) of subsection (3) of section 749 (residence of controlled foreign companies)⁽²⁾ if that subsection applied to it.

(3) The case specified in this paragraph is that the third company is a dual resident company as respects an accounting period and although resident in the same territory as the overseas company—

- (a) it is treated for the purposes of Chapter IV of Part XVII of the Act as resident in a different territory; or
- (b) it would be so treated in accordance with paragraphs (a) to (c) of subsection (3) of section 749 if that subsection applied to it.

26th March 2001

Jim Dowd
Greg Pope
Two of the Lords Commissioners of Her
Majesty's Treasury

(2) Section 749 was substituted by paragraph 4 of Schedule 17 to the Finance Act 1998 (c. 39).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe additional cases in which the restriction on relief from UK tax to the underlying rate of tax applies in respect of dividends which are paid to the United Kingdom by overseas companies.

Regulation 1 provides for the citation and commencement of the Regulations.

Regulation 2 provides for the interpretation of expressions used in the Regulations.

Regulation 3 prescribes additional cases in which the cap on relief in respect of foreign taxation on dividends paid by overseas companies is to apply. The cap is contained in section 799(1)(b) and (1A) of the Income and Corporation Taxes Act 1988 (c. 1) (“the Taxes Act”). The additional cases are those in which either the overseas company paying the dividend to the United Kingdom, or the third company which has paid a dividend over to an overseas company which it in turn pays to the United Kingdom, is a dual resident company resident in the same overseas territory as the other company but treated as resident in a different territory.

A company may be so treated because—

- (a) it is a controlled foreign company which is treated, by virtue of section 749(3) of the Taxes Act as a resident in a different territory; or
- (b) it would be so treated under paragraphs (a) to (c) of that subsection if section 749(3) applied to it.

Section 799 of the Taxes Act is amended by paragraph 8 of Schedule 30 to the Finance Act 2000 (c. 17) with respect to any claim for an allowance by way of credit made on or after 31st March 2001 in respect of a dividend paid by an overseas company to a company resident in the United Kingdom, unless the dividend was paid before that date.