
STATUTORY INSTRUMENTS

1995 No. 2052

INCOME TAX

The Income Tax (Manufactured Dividends) (Tradepoint) Regulations 1995

<i>Made</i>	- - - -	<i>1st August 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>4th August 1995</i>
<i>Coming into force</i>	- -	<i>25th August 1995</i>

The Treasury, in exercise of the powers conferred on them by section 737(6), (7A) and (7B) of, and paragraphs 1(1) and 8(2) and (3) of Schedule 23A to, the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

PART I
INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Income Tax (Manufactured Dividends) (Tradepoint) Regulations 1995 and shall come into force on 25th August 1995.

Interpretation

2. In these Regulations unless the context otherwise requires—
- “the Board” means the Commissioners of Inland Revenue;
 - “Board of directors” means the Board of directors of Tradepoint;
 - “clearing participant” means a member (as defined by this regulation) who is also a member of The London Clearing House Limited and who as such is permitted by the Board of directors and that clearing house to clear transactions made on the Exchange for a traded security;
 - “the Exchange” means Tradepoint Investment Exchange;

(1) 1988 c. 1. Subsection (6) of section 737 was amended, and subsections (7A) and (7B) were inserted, by paragraph 3(6) and (7) of Schedule 13 to the Finance Act 1991 (c. 31), and Schedule 23A was inserted by paragraph 1 of Schedule 13 to the Finance Act 1991.

- “Management Act” means the Taxes Management Act 1970⁽²⁾;
- “member” in relation to Tradepoint means a person approved by the Board of directors as a participant in the Exchange;
- “return period” shall be construed in accordance with regulation 12;
- “section 737” means section 737 of the Taxes Act⁽³⁾;
- “Schedule 23A” means Schedule 23A to the Taxes Act;
- “Taxes Act” means the Income and Corporation Taxes Act 1988⁽⁴⁾;
- “Tradepoint” means Tradepoint Financial Networks plc;
- “United Kingdom equities” means shares of any company resident in the United Kingdom.

PART II

PRESCRIPTION OF MATTERS FOR THE PURPOSES OF THE DEFINITION OF “UNAPPROVED MANUFACTURED PAYMENT”

Interpretation of Part II

3. In this Part of these Regulations—

- “manufactured dividend” shall be construed in accordance with paragraph 2(1) of Schedule 23A;
- “sub-paragraph (ii)” and “sub-paragraph (iii)” mean respectively sub-paragraph (ii) and sub-paragraph (iii) of paragraph (b) of the definition of “unapproved manufactured payment” in paragraph 1(1) of Schedule 23A.

Prescribed persons and circumstances for the purposes of sub-paragraph (ii)

4.—(1) For the purposes of sub-paragraph (ii) and in the circumstances prescribed by paragraph (2) below—

- (a) Tradepoint is a recognised investment exchange which is prescribed, and
- (b) in relation to that exchange, a member in relation to Tradepoint who is a clearing participant is prescribed as a class or description of member of that exchange.
- (2) The circumstances prescribed are where—
- (a) a manufactured dividend is paid in respect of United Kingdom equities by the member in his capacity as a clearing participant, and
- (b) the United Kingdom equities in question were purchased by the member in that capacity—
- (i) from a person in circumstances where the member is required to sell United Kingdom equities under a matching transaction to The London Clearing House Limited, or
- (ii) from The London Clearing House Limited in circumstances where he is required to sell United Kingdom equities under a matching transaction to another person.
- (3) In paragraph (2) above “matching transaction” means a transaction under which—

(2) 1970 c. 9.

(3) Section 737 was amended by paragraph 3 of Schedule 13, and Part V of Schedule 19, to the Finance Act 1991, paragraph 14 of Schedule 6 to the Finance Act 1993 (c. 34), paragraph 18 of Schedule 16 to the Finance Act 1994 (c. 9), and section 82 of the Finance Act 1995 (c. 4).

(4) 1988 c. 1.

- (a) the United Kingdom equities to be sold by the member are of the same kind as the United Kingdom equities purchased by him, and
- (b) the number and price of the United Kingdom equities to be sold by the member are identical to the number and price of the United Kingdom equities purchased by him.

Prescribed recognised clearing house and circumstances for the purposes of sub-paragraph (iii)

5.—(1) For the purposes of sub-paragraph (iii) and in the circumstances prescribed by paragraph (2) below, The London Clearing House Limited is a recognised clearing house which is prescribed.

(2) The circumstances prescribed are where a manufactured dividend is paid in respect of United Kingdom equities by The London Clearing House Limited acting in its capacity as a person providing clearing services in connection with a transaction made on the Exchange.

PART III

MODIFICATIONS OF SECTION 737

Interpretation of Part III

6.—(1) In this Part of these Regulations—

“approved manufactured dividend” means a manufactured dividend in respect of United Kingdom equities which is not an unapproved manufactured payment within the meaning of paragraph 1(1) of Schedule 23A;

“dividend manufacturer” and “manufactured dividend” shall be construed in accordance with subsection (1)(5);

(2) References in this Part of these Regulations to specified subsections, without more, are references to specified subsections of section 737.

Prescribed persons for the purposes of subsection (7A)

7. For the purposes of paragraph (b) of subsection (7A), Tradepoint is a recognised investment exchange which is prescribed and, in relation to that exchange, a member in relation to Tradepoint who is a clearing participant is prescribed as a class or description of member of that exchange.

Modification of subsection (1)

8. In any case where a dividend manufacturer is a member in relation to Tradepoint and a clearing participant, subsection (1) shall apply in respect of approved manufactured dividends paid by him in any return period only to the extent that the aggregate of those payments exceeds the aggregate of dividends and manufactured dividends received by him in that period.

Modification of subsection (5A)

9.—(1) In any case where—

- (a) a dividend manufacturer is a member in relation to Tradepoint and a clearing participant, and

(5) Subsection (1) of section 737 was substituted by paragraph 3(2) of Schedule 13 to the Finance Act 1991.

(b) the manufactured dividend paid by the dividend manufacturer is not an approved manufactured dividend,
 subsection (5A)(6) shall apply with the modification prescribed by paragraph (2) below.

(2) Subsection (5A) shall apply as if the reference in that subsection to the amount in respect of which relief is not to be given included a reference to the net amount of the manufactured dividend after deduction of tax pursuant to subsection (1).

Modification of provisions of the Tax Acts where regulation 8 applies

10.—(1) In any case where regulation 8 applies in any return period, the provisions of the Tax Acts relating to the charge to tax under Schedule D shall apply as if—

- (a) the income of the dividend manufacturer consisting of dividends and manufactured dividends received by him in the return period were limited to the amount (if any) by which the aggregate of those dividends and manufactured dividends exceeds the aggregate of approved manufactured dividends paid by him in that period; and
 - (b) the dividend manufacturer were not entitled to relief in respect of approved manufactured dividends paid by him in the return period except to the extent that the aggregate of those payments exceeds the aggregate of dividends and manufactured dividends received by him in that period.
- (2) In paragraph (1)(b) above “relief” means relief by way of—
- (a) deduction in computing profits or gains; or
 - (b) deduction or set off against income or total profits.

PART IV

ADMINISTRATIVE ARRANGEMENTS RELATING TO SECTION 737

Interpretation of Part IV

11. In this Part of these Regulations—

- (a) “dividend manufacturer” and “manufactured dividend” shall be construed in accordance with subsection (1);
- (b) references to specified subsections, without more, are references to specified subsections of section 737.

Accounting for tax by dividend manufacturers

12.—(1) This regulation applies in any case where a dividend manufacturer is a member in relation to Tradepoint and a clearing participant.

- (2) The dividend manufacturer shall make a return—
 - (a) for each complete quarter falling within any trading period, that is to say, for each of the periods of three months ending with 31st March, 30th June, 30th September or 31st December, as the case may be, which falls within that period;
 - (b) for each part of any trading period which is not a complete quarter and which ends on the first (or only), or begins immediately after the last (or only), of those dates which falls within that period;

(6) Subsection (5A) of section 737 was substituted by paragraph 3(2) of Schedule 13 to the Finance Act 1991.

- (c) if none of those dates falls within the trading period, for the whole of that period.
- (3) A return for any period for which a return is required to be made under this regulation (“a return period”) shall be made within 14 days from the end of that period.
- (4) The return shall show—
 - (a) the aggregate of the manufactured dividends paid by the dividend manufacturer in the return period on which tax is accountable under subsection (1);
 - (b) the aggregate of the dividends and manufactured dividends received by him in the return period;
 - (c) the aggregate of the manufactured dividends received by him in the return period on which tax is accountable under subsection (5); and
 - (d) the aggregate amount of tax accountable under subsections (1) and (5) in respect of manufactured dividends paid or received by him in the return period.
- (5) In any return under this regulation the dividend manufacturer shall show unapproved manufactured payments and the tax accountable in respect of those payments separately from approved manufactured payments.
- (6) Tax in respect of manufactured dividends required to be included in a return for any period under this regulation shall be due at the time by which the return for that period is to be made, and tax so due shall be payable without the making of an assessment.
- (7) Tax which has become so due may be assessed on the dividend manufacturer (whether or not it has been paid when the assessment is made) if the tax, or any part of it, is not paid on or before the due date.
- (8) If it appears to the inspector that there is a manufactured dividend which ought to have been but has not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the dividend manufacturer to the best of his judgment; and any tax due under an assessment made by virtue of this paragraph shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.
- (9) Subsections (1), (7) and (8) of section 87 of the Management Act(7) 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.
- (10) In this regulation “trading period” means—
 - (a) where the dividend manufacturer draws up accounts, the period for which he draws up accounts;
 - (b) where he does not draw up accounts—
 - (i) the period which begins on the date on which he first pays a manufactured dividend and ends at the expiration of 12 months from that date or, if earlier, on the date immediately preceding a period for which he draws up accounts, and
 - (ii) any subsequent period which begins on the date on which he first pays a manufactured dividend after the end of the immediately preceding trading period and ends at the expiration of 12 months from that date or, if earlier, on the date immediately preceding a period for which he draws up accounts.

(7) 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 (c. 26).

Modifications of section 21 of the Management Act

13. Section 21 of the Management Act⁽⁸⁾ shall apply in relation to a dividend manufacturer who is a member in relation to Tradepoint and a clearing participant as it applies to a market maker within the meaning of that section and as if—

- (a) references to “market maker” in subsections (1), (2), (4) and (5) of that section included references to that dividend manufacturer, and
- (b) in subsection (1) of that section the words from “whose” to the end were omitted.

David Willetts

Bowen Wells

Two of the Lords Commissioners of Her
Majesty’s Treasury

1st August 1995

⁽⁸⁾ Section 21 was amended by paragraph 5 of Schedule 21, and Part IV of Schedule 22, to the Finance Act 1973 (c. 51) and by paragraph 7(1) to (3) of Schedule 18 to the Finance Act 1986 (c. 41).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to payments of manufactured dividends in respect of the shares of companies resident in the United Kingdom (“United Kingdom equities”), where the payments are made by persons acting in a clearing capacity for transactions on the newly established Exchange known as Tradepoint (“clearing participants”). The Regulations prescribe the circumstances in which such payments rank as approved manufactured payments for the purposes of Schedule 23A to the Income and Corporation Taxes Act 1988 (Manufactured Dividends and Interest) (“Schedule 23A” and “the 1988 Act” respectively). They also limit the amount of tax to be accounted for in respect of such payments when made by clearing participants who are not United Kingdom resident companies, and make provision for returns and accounting for tax by such persons.

The Regulations are in a number of Parts, of which Part I is introductory. Regulation 1 provides for citation and commencement, and regulation 2 contains definitions.

Part II of the Regulations prescribes persons and circumstances for the purposes of the definition of “unapproved manufactured payment” in paragraph 1(1) of Schedule 23A. Regulation 3 contains definitions for the purposes of this Part. Regulations 4 and 5 prescribe clearing participants of Tradepoint and The London Clearing House Limited and the circumstances in which manufactured dividends paid by those persons rank as approved manufactured payments. Approved manufactured payments made by United Kingdom resident companies qualify for relief in respect of advance corporation tax.

Part III of the Regulations modifies section 737 of the 1988 Act which makes provision for payments of manufactured dividends by clearing participants who are not United Kingdom resident companies to be treated for the purposes of collection of income tax as if they were annual payments made after deduction of tax. Regulation 6 contains definitions for the purposes of this Part. Regulation 7 prescribes clearing participants as dividend manufacturers in relation to whom the modifications made by regulations 8 to 10 to section 737 and other provisions of the Tax Acts apply. Regulation 8 limits the amount on which tax is accountable under section 737 in respect of payments made by clearing participants. Regulation 9 extends the prohibition of tax relief in subsection (5A) of section 737 so as to deny any relief where an unapproved payment is made by clearing participants. Regulation 10 modifies the provisions of the Tax Acts relating to the charge to tax under Schedule D in a case where regulation 8 applies so as to limit the amount chargeable to tax in respect of dividends and manufactured dividends received by clearing participants and the amount qualifying for relief in respect of approved manufactured dividends paid by such persons.

Part IV of the Regulations contains administrative provisions relating to section 737 of the 1988 Act. Regulation 11 contains definitions used in this Part.

Regulation 12 makes provision for accounting for tax in respect of manufactured dividends paid by clearing participants.

Regulation 13 makes provision for the furnishing of information to the Board of Inland Revenue by clearing participants.