
STATUTORY INSTRUMENTS

1997 No. 988

INCOME TAX

The Income Tax (Manufactured Overseas Dividends) (Amendment) 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), 4(7) and 8 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 Income Tax (Manufactured Overseas Dividends) (Amendment) Regulations 1997 and shall come into force on 1st July 1997.

Interpretation

2. In these Regulations “the principal Regulations” means the Income Tax (Manufactured Overseas Dividends) Regulations 1993(2), and “regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3. In regulation 2A(3) —

(a) in paragraph (1)—

- (i) in sub-paragraph (b) for the words from “pays” to “being” there shall be substituted the words “draws up accounts for any period (“the accounts period”), means”;
- (ii) in sub-paragraph (c) for the words from “pays” to the end there shall be substituted the words “does not draw up accounts, means a year of assessment”;

(1) 1988 c. 1. Schedule 23A was inserted by paragraph 1 of Schedule 13 of the Finance Act 1991 (c. 31). Paragraph 4(7) of Schedule 23A was amended by section 159(6) of the Finance Act 1996 (c. 8), and paragraph 8 of that Schedule was amended by section 159(7) and (8) of the Finance Act 1996 and by paragraph 13 of Schedule 10 to the Finance Act 1997 (c. 16).
(2) S.I. 1993/2004, amended by S.I. 1995/1324, 1996/1229 and 2643, and 1997/987.
(3) Inserted by S.I. 1995/1324.

- (b) paragraph (3) shall be omitted.
4. In regulation 4 for paragraph (2) there shall be substituted—
- “(2) The circumstances prescribed by this paragraph are where—
- (a) a manufactured overseas dividend is paid to an approved United Kingdom intermediary or an approved United Kingdom collecting agent by an overseas dividend manufacturer who—
- (i) 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
- (ii) is not an approved United Kingdom intermediary; and
- (b) the manufactured overseas dividend is not representative of the overseas dividend received by the overseas dividend manufacturer.”
5. In regulation 7(3A)(4) after the words “paragraph 4(3) of that Schedule” there shall be inserted the words “were an amount equal to the excess of the gross amount of the overseas dividend over the amount of that overseas dividend received by the overseas dividend manufacturer and”.
6. In regulation 9 for paragraph (4A)(5) there shall be substituted—
- “(4A) Subject to paragraphs (4B) and (5), where overseas dividends or manufactured overseas dividends received by the overseas dividend manufacturer in any chargeable period fall to be matched, in accordance with regulation 10(1), against manufactured overseas dividends paid by him in that period, relief under Part XVIII of the Taxes Act may not be claimed by the overseas dividend manufacturer in respect of any tax referred to in paragraph (1A) that is attributable to those overseas dividends or manufactured overseas dividends received.
- (4B) Where overseas dividends or manufactured overseas dividends received by the overseas dividend manufacturer in any chargeable period fall to be matched, in accordance with regulation 10(1), against manufactured overseas dividends to which regulation 5 applies that are paid by him in that period, relief under section 811 of the Taxes Act(6) shall be given to the overseas dividend manufacturer in respect of any tax referred to in paragraph (1A) that is attributable to those overseas dividends or manufactured overseas dividends received.
- (4C) Subject to paragraph (5), where tax referred to in paragraph (1A) that is attributable to overseas dividends or manufactured overseas dividends received by the overseas dividend manufacturer in any chargeable period is set off, in accordance with this regulation, against tax referred to in paragraph (1B) that is attributable to manufactured overseas dividends paid by him in that period, relief under Part XVIII of the Taxes Act may not be claimed by the overseas dividend manufacturer in respect of any tax referred to in paragraph (1A) that is attributable to those overseas dividends or manufactured overseas dividends received.”
7. After regulation 9 there shall be inserted the following regulation—

(4) Inserted by S.I. 1996/2643.

(5) Inserted by S.I. 1995/1324.

(6) Section 811 was amended by section 103(2)(g) of, and Part III (9) of Schedule 23 to, the Finance Act 1993 (c. 34), and by paragraph 47 of Schedule 14 to the Finance Act 1996.

“Offsetting of tax by overseas dividend manufacturers who are not United Kingdom intermediaries

9A.—(1) An overseas dividend manufacturer who is not an approved United Kingdom intermediary shall be entitled to set off in any chargeable period amounts of overseas tax in respect of overseas dividends received by him in that chargeable period against sums due from him on account of the amounts deducted by him under paragraph 4(2) of Schedule 23A from manufactured overseas dividends paid by him in that chargeable period that are representative of those overseas dividends.

(2) Where overseas tax referred to in paragraph (1) is set off against sums referred to in that paragraph, relief under Part XVIII of the Taxes Act may not be claimed by the overseas dividend manufacturer in respect of that overseas tax.

(3) References in this regulation to overseas tax shall be construed in accordance with regulation 9(7).”

8. In regulation 10(1)(a)(iii) for “9(3)” there shall be substituted “9(1A)”.

9.—(1) In regulation 11(2) for “90” there shall be substituted “30”.

(2) Paragraph (1) has effect in relation to chargeable periods ending on or after 1st July 1997.

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 amend the Income Tax (Manufactured Overseas Dividends) Regulations 1993 (S.I.1993/2004) (“the principal Regulations”).

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

Regulation 3 amends the definition of “chargeable period” in regulation 2A of the principal Regulations (inserted by regulation 4 of S.I. 1995/1324).

Regulation 4 excepts from regulation 4 of the principal Regulations (tax treatment of manufactured overseas dividends paid to approved United Kingdom intermediaries or approved United Kingdom collecting agents) cases where the overseas dividend manufacturer receives a real overseas dividend and then pays a manufactured overseas dividend representative of that overseas dividend.

Regulation 5 amends regulation 7 of the principal Regulations (disapplication of paragraph 4(3) of Schedule 23A to the Income and Corporation Taxes Act 1988) (“the Taxes Act”) so as to provide that, in cases where the non-resident overseas dividend manufacturer is entitled to payment of the overseas dividend of which the manufactured overseas dividend paid by him is representative, the recipient of the manufactured overseas dividend is treated for the purposes of the Tax Acts as receiving a real dividend in the amount of that overseas dividend after deduction of overseas tax.

Regulation 6 amends regulation 9 of the principal Regulations (offsetting of tax by overseas dividend manufacturers who are approved United Kingdom intermediaries). Regulation 9(4A) (inserted by S.I. 1995/1324) provides that double taxation relief may not be claimed where overseas dividends or manufactured overseas dividends received by the overseas dividend manufacturer in a chargeable period are matched, in accordance with regulation 10, against manufactured overseas dividends paid by him in that period. The amendment made allows, by way of an exception, relief under section 811 of the Taxes Act to be given where overseas dividends or manufactured overseas dividends received by the overseas dividend manufacturer are matched against manufactured overseas dividends paid by him without deduction of tax under regulation 5 of the principal Regulations.

Regulation 7 inserts a new regulation (9A) in the principal Regulations enabling an overseas dividend manufacturer who is not an approved United Kingdom intermediary to offset overseas tax on overseas dividends received by him in a chargeable period against manufactured overseas dividends paid by him in that period that are representative of those overseas dividends.

Regulation 8 amends regulation 10 of the principal Regulations (matching of dividends and manufactured overseas dividends) so as to ensure that regulation 10(1)(a) refers to regulation 9(1A) of the principal Regulations in connection with tax attributable to manufactured overseas dividends received by an overseas dividend manufacturer.

Regulation 9 amends regulation 11(2) of the principal Regulations so as to provide in relation to chargeable periods ending after 1st July 1997 that the time limit for the rendering of a return by an overseas dividend manufacturer shall be 30 days from the end of a chargeable period, and not 90 days.