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STATUTORY INSTRUMENTS

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**1999 No. 2383**

**TAXES**

**The Stamp Duty Reserve Tax (UK Depository Interests in Foreign Securities) Regulations 1999**

<i>Made</i>	- - - -	<i>24th August 1999</i>
<i>Laid before the House of Commons</i>	- - - -	<i>24th August 1999</i>
<i>Coming into force</i>	- -	<i>25th August 1999</i>

The Treasury, in exercise of the powers conferred on them by section 98 of the Finance Act 1986<sup>(1)</sup> and sections 119 and 121 of the Finance Act 1999<sup>(2)</sup>, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Stamp Duty Reserve Tax (UK Depository Interests in Foreign Securities) Regulations 1999 and shall come into force on 25th August 1999.

**Interpretation**

2. In these Regulations—

“the Board” means the Commissioners of Inland Revenue;

“collective investment scheme” has the meaning given by section 75 of the Financial Services Act 1986<sup>(3)</sup>;

“depository interest” means a security which—

- (a) consists of the rights of a person in or relating to securities of a particular kind which, or entitlements to which, are held on trust for the benefit of that person by another person, and
- (b) under the terms of its issue, can only be transferred in accordance with regulations under section 207 of the Companies Act 1989<sup>(4)</sup> (transfer of securities without written

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(1) 1986 c. 41. Section 98 was amended by section 195 of the Finance Act 1996 (c. 8). Section 98, together with the remainder of Part IV of the Finance Act 1986, was repealed by sections 110 and 111(1) of, and Part VII of Schedule 19 to, the Finance Act 1990 (c. 29) with effect from a day to be appointed.

(2) 1999 c. 16.

(3) 1986 c. 60. Section 75 was amended by S.I.1988/803, article 5, S.I. 1990/349, article 6, S.I. 1996/2996, article 3(1) and S.I. 1997/32, article 2(1).

(4) 1989 c. 40. Section 207 was amended by section 35 of the Bank of England Act 1998 (c. 11).

instrument) or by means of a transfer within section 186(1) of the Finance Act 1996<sup>(5)</sup> (transfer of securities to member of electronic transfer system);

“foreign securities” means securities falling within the definition of “securities” in regulation 3(1) of the Uncertificated Securities Regulations 1995<sup>(6)</sup> which—

- (a) are issued or raised by a body corporate that is not incorporated, and whose central management and control is not exercised, in the United Kingdom;
- (b) are not registered in a register kept in the United Kingdom by or on behalf of the body corporate by which they are issued or raised;
- (c) are not units or shares in, or do not otherwise represent rights relating to, a collective investment scheme; and
- (d) are of the same class in the body corporate as securities which are listed on a recognised stock exchange overseas;

“the Management Act” means the Taxes Management Act 1970<sup>(7)</sup>;

“operator” has the meaning given by regulation 2 of the principal Regulations;

“recognised stock exchange overseas” means any stock exchange which is—

- (a) outside the United Kingdom, and
- (b) for the time being designated for the purposes of section 841 of the Income and Corporation Taxes Act 1988<sup>(8)</sup> as a recognised stock exchange by order made by the Board under that section;

“the principal Regulations” means the Stamp Duty Reserve Tax Regulations 1986<sup>(9)</sup>;

“relevant day” has the meaning given by section 87(3) of the Finance Act 1986;

“the Schedule” means the Schedule to the principal Regulations;

“UK depositary interest” means a depositary interest which is issued in the United Kingdom or registered on a register kept in the United Kingdom.

### **Exclusion of a UK depositary interest in foreign securities from the definition of “chargeable securities” in Part IV of the Finance Act 1986**

3.—(1) Subject to paragraph (2), a UK depositary interest in foreign securities is not a chargeable security for the purposes of Part IV of the Finance Act 1986.

(2) Paragraph (1) does not apply to an agreement to transfer a security where the security ceases to be a UK depositary interest in foreign securities on or before the relevant day.

### **Notice relating to UK depositary interests in foreign securities**

4.—(1) This regulation applies to an operator in circumstances where, for the first time, a depositary interest in a particular foreign security is issued and the operator intends to treat the depositary interest as one to which regulation 3(1) applies.

(2) An operator shall, on or before the date which is the fourteenth day following the date of issue, give notice to the Board of—

- (a) the date of issue, and
- (b) the depositary interest issued.

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<sup>(5)</sup> 1996 c. 8.

<sup>(6)</sup> S.I. 1995/3272.

<sup>(7)</sup> 1970 c. 9.

<sup>(8)</sup> 1988 c. 1.

<sup>(9)</sup> S.I. 1986/1711. Relevant amending instruments are S.I. 1993/3110, S.I. 1994/1813 and S.I. 1997/2430.

(3) A notice under this regulation shall be in such form as the Board may prescribe or authorise and shall contain such information as they may reasonably require for the purposes of the Finance Act 1986.

#### **Amendments to Part I of the Schedule**

5.—(1) The Table in Part I of the Schedule (which applies the provisions of the Management Act specified in the first column of that Table subject to any modification specified in the second column of that Table) shall be amended as follows.

(2) In the entry relating to section 98(10) in the second column after the words “The Stamp Duty Reserve Tax Regulations 1986 (other than regulations 4 and 4A)” there shall be added the words “The Stamp Duty Reserve Tax (UK Depository Interests in Foreign Securities) Regulations 1999”.

#### **Amendments to Part II of the Schedule**

6.—(1) Part II of the Schedule(11) (which restates the provisions of the Management Act specified in Part I of the Schedule as modified where appropriate) shall be amended as follows.

(2) In the second column of the Table in section 98 (as modified) after the words “The Stamp Duty Reserve Tax Regulations 1986 (other than regulations 4 and 4A)” there shall be added the words “The Stamp Duty Reserve Tax (UK Depository Interests in Foreign Securities) Regulations 1999”.

24th August 1999

*Bob Ainsworth*  
*Jim Dowd*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(10) Relevant amendments to section 98 were made by section 164 of the Finance Act 1989 (c. 26) and section 68(3) of the Finance Act 1990 (c. 29). The entry relating to section 98 was amended by S.I. 1993/3110, regulation 7(9), S.I. 1994/1813, regulation 30(4), and S.I. 1997/2430, regulation 11(6).

(11) Relevant amendments were made by S.I. 1993/3110, regulation 8(11), S.I. 1994/1813, regulation 31(4), and S.I. 1997/2430, regulation 12(5).

**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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## EXPLANATORY NOTE

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

These Regulations provide for UK depositary interests in foreign securities to be excluded from the definition of “chargeable securities” in Part IV of the Finance Act 1986 for the purposes of stamp duty reserve tax.

Regulation 1 provides for citation and commencement.

Regulation 2 provides for interpretation and includes definitions of “depositary interest”, “UK depositary interest” and “foreign securities”.

Regulation 3 provides that a UK depositary interest in foreign securities is not a chargeable security for the purposes of Part IV of the Finance Act 1986.

Regulation 4 provides for the giving of notice to the Inland Revenue where an operator of an electronic system first treats a depositary interest relating to a particular foreign security as one to which regulation 3 applies.

Regulation 5 amends Part I of the Schedule to the Stamp Duty Reserve Tax Regulations 1986 (“the principal Regulations”) by amending the entry relating to section 98 of the Taxes Management Act 1970 (“the Management Act”). The amendment reflects the obligations on operators under regulation 4 of these Regulations.

Regulation 6 amends Part II of the Schedule to the principal Regulations by amending section 98 of the Management Act as modified.