

1966 No. 1191

INCOME TAX

**The Overseas Trading Income (Transitional Relief)
Regulations 1966**

Made - - - - 19th September 1966

Coming into Operation 26th September 1966

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 84(7) of the Finance Act 1965(a) and paragraph 23(7) of Schedule 6 to the Finance Act 1966(b), hereby make the following Regulations:—

1.—(1) These regulations may be cited as the Overseas Trading Income (Transitional Relief) Regulations 1966 and shall come into operation on 26th September 1966.

(2) The Interpretation Act 1889(c) shall apply to these Regulations as it applies to an Act of Parliament.

(3) In these Regulations unless the context otherwise requires

“the Board” means the Commissioners of Inland Revenue;

“relief” means relief under section 84 of the Finance Act 1965.

Time of making claims for relief

2.—(1) Subject to paragraph (2) below, a claim for relief may be made at any time after the beginning of the year of assessment to which it relates provided that the relief allowed in respect of that year shall not at any time exceed the appropriate proportion (computed in accordance with section 84(3) of the Finance Act 1965(a)) of the income tax deducted or deductible from the dividends paid by the company in that year for which the company has at that time accounted.

(2) No claim for relief shall be allowed unless it is made before the end of six years from the end of the year of assessment to which the claim relates.

Recovery of sums paid by way of relief and afterwards found not to have been due

3.—(1) Where (a) any sum has been paid to a company by way of relief before the end of the year of assessment to which the claim relates, (b) after the said sum has been paid but before the end of that year the company pays a further dividend or further dividends and (c) the total sum so paid by way of relief and not repaid exceeds the amount which is at any time found to be due having regard to the total of the dividends which the company has at that time paid since the beginning of that year, the excess may be recovered by the Board immediately.

(2) Without prejudice to the Board's right to recover any sum under paragraph (1) of this Regulation, where any sum paid to a company by way of relief is afterwards found not to have been due the Inspector may

(a) 1965 c. 25.

(b) 1966 c. 18.

(c) 52 & 53 Vict. c. 63.

issue a statement of overpayment to the company showing the amount found by him not to have been due and the amount so shown shall be recoverable by the Board.

Provided that the company may appeal against such a statement, and the provisions of the Income Tax Management Act 1964(a) shall, with any necessary modifications, apply to the appeal as they apply to an appeal against a decision on a claim for relief.

(3) Any amount recoverable by the Board under this Regulation may be recovered as if it were income tax due under an assessment, or by set off against any income tax, profits tax or corporation tax due to be repaid to the company, or against any relief from any such tax to which the company is entitled.

Application of penalty provisions of the Income Tax Acts

4.—(1) In this Regulation and in the provisions applied by this Regulation “paragraph 23” means paragraph 23 of Schedule 6 to the Finance Act 1966(b).

(2) The following provisions shall apply in relation to penalties under paragraph 23, subject to the modifications specified—

Income Tax Act 1952(c), sections 500, 501, 503 and 504: to the extent and in the modified form set out in the Schedule to these Regulations.

Finance Act 1960(d), section 56: with the substitution in subsection (1) of the words “paragraph 23” for the words “the Income Tax Acts”; and with the omission of subsection (4).

By Order of the Commissioners of Inland Revenue.

W. H. B. Johnson,
Secretary.

19th September 1966.

SCHEDULE

Containing certain provisions of the Income Tax Acts as they apply in relation to penalties under paragraph 23 of Schedule 6 to the Finance Act 1966(b).

INCOME TAX ACT 1952(c)

500. The Commissioners of Inland Revenue may in their discretion mitigate any penalty, or stay or compound any proceedings for recovery thereof, and may also, after judgment, further mitigate or entirely remit the penalty.

501.—(1) Proceedings for the recovery of any penalty incurred under paragraph 23 may be commenced at any time within six years next after the date on which it was incurred.

(2) The time limited by subsection (1) of this section for commencing proceedings for the recovery of any penalty from any person in connection with or in relation to any relief claimed shall, where any form of fraud or wilful default has been committed by him or on his behalf in connection with or in relation to that relief, be extended so as to authorise the commencement of such proceedings at any time within three years from the final determination of the amount of relief due on the claim.

(a) 1964 c. 37. (b) 1966 c. 18. (c) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.
(d) 8 & 9 Eliz. 2. c. 44.

For the purposes of this subsection, the amount of relief due on the claim shall be deemed to be finally determined when, but not until, the decision on the claim or, if a statement of overpayment has been issued, the statement of overpayment can no longer be varied, whether by any Commissioners on appeal or by the order of any court.

(3) Nothing in subsection (2) of this section shall extend the time for the bringing of any proceedings against the personal representatives of any person by whom or on whose behalf any form of fraud or wilful default has been committed.

503. The provisions of this Act shall not, save so far as is otherwise provided, affect any criminal proceedings for any felony or misdemeanour.

504.—(1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (2) of this section by reason only that it has been drawn to his attention that—

(a) in relation to relief the Commissioners of Inland Revenue may accept pecuniary settlements instead of instituting proceedings; and

(b) though no undertaking can be given as to whether or not those Commissioners will accept such a settlement in the case of any particular person, it is the practice of the Commissioners to be influenced by the fact that a person has made a full confession of any fraud or default to which he has been a party and has given full facilities for investigation,

and that he was or may have been induced thereby to make the statements or produce the documents.

(2) The proceedings mentioned in subsection (1) of this section are—

(a) any criminal proceedings against the person in question for any form of fraud or wilful default in connection with or in relation to relief; and

(b) any proceedings against him for the recovery of any sum paid by way of relief or for the recovery of any penalty under paragraph 23.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations concern transitional relief to companies with overseas trading income under section 84 of the Finance Act 1965 (Overspill relief). They fix a time within which claims must be made, specify methods of recovery of relief which after payment is found not to have been due, and apply certain relevant provisions of the Income Tax Acts to penalties for fraudulent or negligent claims to the relief.