STATUTORY INSTRUMENTS

1993 No. 1623

INCOME TAX

The Debts of Overseas Governments (Determination of Relevant Percentage) (Amendment) Regulations 1993

Made - - - -	*29th June 1993*
Coming into force - -	*30th June 1993*

The Treasury, in exercise of the powers conferred on them by section 88B of the Income and Corporation Taxes Act 1988(**1**), hereby make the following Regulations, a draft of which has been laid before, and approved by a resolution of, the House of Commons:

Citation, commencement and effect

1. These Regulations may be cited as the Debts of Overseas Governments (Determination of Relevant Percentage) (Amendment) Regulations 1993, shall come into force on 30th June 1993, and shall have effect with respect to any period of account of a company ending on or after that date.

Interpretation

2. In these Regulations—

"the principal Regulations" means the Debts of Overseas Governments (Determination of Relevant Percentage) Regulations 1990(**2**);

"Schedule 1" means Schedule 1 to the principal Regulations.

Amendments to the principal Regulations

3. In regulation 3 of the principal Regulations—

(a) in paragraph (1) for the words "subsections (2) and (3)" there shall be substituted the words "subsection (2)";

(b) for paragraphs (2) to (5) there shall be substituted—

"(2) The percentage referred to in paragraph (1) shall be that given by Schedule 2 to these Regulations as corresponding to the number which is found by aggregating the numerical values attributed by Schedule 1 to these Regulations to such of the A, B and C

(**1**) 1988 c. 1; section 88B was inserted by section 74 of the Finance Act 1990 (c. 29).
(**2**) S.I. 1990/2529.

factors as are applicable at the end of the period of account in question in the case of the State or territory with which the debt is connected."

4. In paragraph 1 of Schedule 1 the words "or period of three months" in paragraph (a) of sub-paragraph (2) shall be omitted.

5. For Table A in paragraph 2 of Schedule 1 there shall be substituted—

"**Table A**

Factor	Numerical Value
(a) (1) The State or territory has entered into an agreement to reschedule or restructure its obligations as to repayment of debts, or payment of interest on debts, to a general class of external creditors and at the relevant date the agreement was entered into—	
more than fifty four months ago but not more than sixty months ago;	2
more than forty eight months ago but not more than fifty four months ago;	4
more than forty two months ago but not more than forty eight months ago;	6
more than thirty six months ago but not more than forty two months ago;	8
more than thirty months ago but not more than thirty six months ago;	10
more than twenty four months ago but not more than thirty months ago;	12
more than eighteen months ago but not more than twenty four months ago;	14
more than twelve months ago but not more than eighteen months ago;	16
more than six months ago but not more than twelve months ago;	18
six months ago or less or has only been reached in principle;	20
(b) the State or territory within the period of five years preceding the relevant date has refused to co-operate in a rescheduling or restructuring of its obligations as to repayment of debts, or payment of interest on debts, to a general class of external creditors;	20

Factor	Numerical Value
(c) the State or territory within the period of five years preceding the relevant date— (i) has imposed a limit on the performance of its obligations as to repayment of debts, or payment of interest on debts, to a general class of external creditors, without the agreement of those creditors, or	
(ii) has had severe problems in performing those obligations, or	20
(iii) has both imposed such a limit and had such problems;	
but so that the numerical value attributable under this factor shall not exceed 20.	
(a) (2) The State or territory either— (i) has entered into an agreement to reschedule or restructure its obligations as to repayment of debts, or payment of interest on debts, to a general class of external creditors, under which the creditors have lent further amounts to enable the State or territory to make repayments of debt which are in arrear and pay arrears of interest, or arrears of interest have been added to the amount of outstanding debt or have been paid and immediately lent back to the State or territory, or arrears in repayment of debts which have already been the subject of a rescheduling or restructuring agreement or of unrescheduled debts are rescheduled or restructured, or	
(ii) has entered into a further agreement to reschedule or restructure obligations as to repayment of debt to a general class of external creditors which have already been	

Factor	Numerical Value
rescheduled or restructured since January 1983,	
and at the relevant date the agreement or, as the case may be, the further agreement was entered into—	
more than fifty four months ago but not more than sixty months ago;	2
more than forty eight months ago but not more than fifty four months ago;	4
more than forty two months ago but not more than forty eight months ago;	6
more than thirty six months ago but not more than forty two months ago;	8
more than thirty months ago but not more than thirty six months ago;	10
more than twenty four months ago but not more than thirty months ago;	12
more than eighteen months ago but not more than twenty four months ago;	14
more than twelve months ago but not more than eighteen months ago;	16
more than six months ago but not more than twelve months ago;	18
six months ago or less or has only been reached in principle;	20
(b) the State or territory within the period of five years preceding the relevant date has refused to co-operate in a rescheduling or restructuring of its obligations as to repayment of debts, or payment of interest on debts, to a general class of external creditors, so that it might have been expected to have entered into an agreement on more than one occasion to reschedule or restructure those obligations and, if it had done so, would be likely still to have arrears of payment at the relevant date;	20
(c) the State or territory within the period of five years preceding the relevant date—	
(i) has imposed a limit on the performance of its obligations	

Factor	Numerical Value
as to repayment of debts, or payment of interest on debts, to a general class of external creditors, without the agreement of those creditors, or	
(ii) has had severe problems in performing those obligations, or	
(iii) has both imposed such a limit and had such problems,	
so that it might have been expected to have entered into an agreement on more than one occasion to reschedule or restructure those obligations and, if it had done so, would be likely still to have arrears of payment at the relevant date;	20
but so that the numerical value attributable under this factor shall not exceed 20.”.	

6. For Table B in paragraph 3 of Schedule 1 there shall be substituted—

“Table B

Factor	Numerical Value
(3) The State or territory is in arrear in repaying debt, or in paying interest on debt, to one or more international financial institutions so that, in the case of the International Monetary Fund, it has been declared ineligible to draw on the general resources of that Fund as held in the General Resources Account or any account which may be substituted for it by amendment of the Articles of Agreement of that Fund or, in the case of the World Bank, the International Bank for Reconstruction and Development, the International Development Agency, the International Finance Corporation or a regional development bank, disbursement of loans to it has stopped.	10
(4) The State or territory is in arrear in repaying debt, or in paying interest on debt, to external creditors other than international financial institutions, the arrears have neither been the subject of a rescheduling or restructuring agreement nor been repaid or, as the case may be, paid, and immediately lent back to that State or territory, and at the relevant date they have existed—	

Factor	Numerical Value
for six months or less;	10
for more than six months but not more than one year;	15
for more than one year.	20”.

7. For Table C in paragraph 4 of Schedule 1 there shall be substituted—

“Table C

Factor	Numerical Value
(5) The ratio between debt and gross domestic product applicable in the case of the State or territory on the basis of the figures for the latest available period, that is to say the total external debt of the State or territory at the end of that period divided by the annual total of goods produced and services provided in that period, the result being expressed as a percentage and rounded to the nearest one tenth of one percentage point, is—	
between 30 per cent. and 49.9 per cent.;	2
between 50 per cent. and 69.9 per cent.;	4
between 70 per cent. and 89.9 per cent.;	6
between 90 per cent. and 109.9 per cent.;	8
110 per cent. or greater.	10
(6) The ratio between debt and exports applicable in the case of the State or territory on the basis of the figures for the latest available period, that is to say the total external debt of the State or territory at the end of that period divided by the value of exports of goods and services (including interest and net transfer receipts) in that period, the result being expressed as a percentage and rounded to the nearest one tenth of one percentage point, is—	
between 165 per cent. and 274.9 per cent.;	2
between 275 per cent. and 384.9 per cent.;	4
between 385 per cent. and 494.9 per cent.;	6
between 495 per cent. and 604.9 per cent.;	8
605 per cent. or greater.	10
(7) The debt service ratio applicable in the case of the State or territory on the basis of the figures for the latest available period, that is to say the result of dividing the sum of the	

Factor	Numerical Value
total amount of the external debt of the State or territory repayable for that period, other than debt which falls to be repaid within twelve months of the date on which it was incurred, and the total amount of interest payable for that period by the value of exports of goods and services (including interest and net transfer receipts) in that period, expressing that result as a percentage and rounding that percentage to the nearest one tenth of one per cent., is—	
between 18 per cent. and 29.9 per cent.;	2
between 30 per cent. and 41.9 per cent.;	4
between 42 per cent. and 53.9 per cent.;	6
between 54 per cent. and 65.9 per cent.;	8
66 per cent. or greater.	10
(8) The interest service ratio applicable in the case of the State or territory on the basis of the figures for the latest available period, that is to say the result of dividing the total amount of interest payable for that period by the value of exports of goods and services (including interest and net transfer receipts) for the same period, expressing that result as a percentage and rounding that percentage to the nearest one tenth of one per cent., is—	
between 12 per cent. and 19.9 per cent.;	2
between 20 per cent. and 27.9 per cent.;	4
between 28 per cent. and 35.9 per cent.;	6
between 36 per cent. and 43.9 per cent.;	8
44 per cent. or greater.	10
(9) The number of months for which the State or territory has visible import cover at the relevant date, that is to say the result rounded to the nearest one tenth of one month of the formula— $\frac{A}{B} \times 12$ where— A is the amount or value of the assets held by the monetary authorities of the State or territory, which may freely be used to support the exchange value of the currency of that State or territory, on the basis of the figures at the latest	

Factor	Numerical Value
available date including assets which may readily be used to obtain such assets and gold valued at 75 per cent. of its price expressed in United States dollars per fine troy ounce as declared at the morning fixing in the London Bullion Market on that date; and B is the annual value of imports of goods into the State or territory on the basis of the figure for the latest available period; is—	
between 3.1 and 4 months;	2
between 2.1 and 3 months;	4
between 1.1 and 2 months;	6
between 0.6 of one month and one month;	8
0.5 of one month or less.	10
(10) The State or territory at the relevant date— (a) is in breach of performance criteria which were set for it (and which have not been subsequently waived) in an agreement which it has entered into with the International Monetary Fund; or (b) has problems in relation to its external debt of such a nature as would justify an approach to the International Monetary Fund for assistance, but— (i) it is unwilling to make such an approach, or (ii) it is unable to make such an approach either because it is not a member of that Fund or because that Fund has refused to have any dealings with that State or territory, or (iii) an approach for assistance having been made, that Fund has refused to discuss the question of assistance with that State or territory.	5
(11) The price expressed as a percentage of its face value which the external debt of the State or territory might reasonably have been expected to fetch on a sale in the open market at the relevant date, that percentage	

Factor	Numerical Value
being rounded to the nearest one tenth of one per cent., is—	
between 85.1 per cent. and 95 per cent.;	2
between 75.1 per cent. and 85 per cent.;	4
between 65.1 per cent. and 75 per cent.;	6
between 55.1 per cent. and 65 per cent.;	8
between 45.1 per cent. and 55 per cent.;	10
between 35.1 per cent. and 45 per cent.;	12
between 25.1 per cent. and 35 per cent.;	14
between 15.1 per cent. and 25 per cent.;	16
between 5.1 per cent. and 15 per cent.;	18
5 per cent. or less.	20".

8. For the Table in Schedule 2 to the principal Regulations there shall be substituted the following Table—

"Table

(1) Number	(2) Percentage	(1) Number	(2) Percentage
0–9	0	78	53
10–30	5	79	54
31	6	80	55
32	7	81	56
33	8	82	57
34	9	83	58
35	10	84	59
36	11	85	60
37	12	86	61
38	13	87	62
39	14	88	63
40	15	89	64
41	16	90	65
42	17	91	66
43	18	92	67
44	19	93	68
45	20	94	69

(1) Number	(2) Percentage	(1) Number	(2) Percentage
46	21	95	70
47	22	96	71
48	23	97	72
49	24	98	73
50	25	99	74
51	26	100	75
52	27	101	76
53	28	102	77
54	29	103	78
55	30	104	79
56	31	105	80
57	32	106	81
58	33	107	82
59	34	108	83
60	35	109	84
61	36	110	85
62	37	111	86
63	38	112	87
64	39	113	88
65	40	114	89
66	41	115	90
67	42	116	91
68	43	117	92
69	44	118	93
70	45	119	94
71	46	120	95
72	47	121	96
73	48	122	97
74	49	123	98
75	50	124	99
76	51	125	100
77	52	126–145	100”.

Irvine Patnick
Tim Wood
Two of the Lord Commissioners of Her Majesty's Treasury

29th June 1993

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Debts of Overseas Governments (Determination of Relevant Percentage) Regulations 1990 (S.I.1990/2529) ("the principal Regulations") which provide the method of determining the "relevant percentage" in relation to a debt owed to a company which is owed or guaranteed by an overseas State authority (or payment of which is or may be prevented or restricted by an overseas State). By virtue of section 88B(1) of the Income and Corporation Taxes Act 1988 the "relevant percentage" of such a debt is the maximum amount of that debt which may be estimated to be bad for the purposes of deduction in computing profits under section 74(j) of that Act.

The principal Regulations broadly reflect the guidelines published by the Bank of England for banks in relation to the amount of the provisions to be made in their accounts against loans which are not expected to be recovered in full. The amendments made by the present Regulations are made in the light of recently published changes to the Bank of England's guidelines, and have effect with respect to periods of account of a company ending on or after the date of coming into force of these Regulations.

Regulation 1 provides for citation, commencement and effect, and regulation 2 contains definitions.

Regulation 3 amends regulation 3 of the principal Regulations. The amendment repeals the parts of regulation 3 which provide for an averaging process in determining the relevant percentage.

Regulation 4 amends paragraph 1(2)(a) of Schedule 1 to the principal Regulations ("Schedule 1") following the repeal by regulation 3 of the averaging process.

Regulations 5 to 7 substitute new Tables for the Tables A to C in Schedule 1 which attribute numerical values to various factors relating to the overseas State and its ability to repay, or make payments of interest on, its debts. The new Tables abolish certain factors contained in the previous Tables, merge others, and introduce a new factor relating to a State's debt service/export ratio, resulting in an overall reduction of factors from 15 to 11. They also make changes to the numerical values attributable to certain factors and the scoring systems relating to those values.

Regulation 8 amends Schedule 2 to the principal Regulations by substituting a new table of percentages corresponding to the aggregate of the numerical values attributed by Schedule 1 in the case of the particular State or territory with which the debt is connected.