
STATUTORY INSTRUMENTS

2003 No. 1829

INCOME TAX

The Double Taxation Relief (Surrender of Relievable Tax Within a Group) (Amendment) Regulations 2003

<i>Made</i>	- - - -	<i>16th July 2003</i>
<i>Laid before the House of Commons</i>	- - - -	<i>17th July 2003</i>
<i>Coming into force</i>	- -	<i>7th August 2003</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 806H of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Double Taxation Relief (Surrender of Relievable Tax Within a Group) (Amendment) Regulations 2003 and shall come into force on 7th August 2003.

(2) These Regulations have effect in relation to distributions made on or after 9th April 2003 in accounting periods ending on or after 7th August 2003.

Amendments to regulation 4 of the Double Taxation Relief (Surrender of Relievable Tax Within a Group) Regulations 2001

2.—(1) Regulation 4 of the Double Taxation Relief (Surrender of Relievable Tax Within a Group) Regulations 2001 (amount of EUFT available for surrender)(2) is amended as follows.

(2) In paragraph (4)—

(a) after “attributable” insert “by virtue of section 797(1)”, and

(b) after “referable” insert “by virtue of section 432A(3)”.

(3) In paragraph (5)—

(1) 1988 c. 1. Sections 806A to 806J were inserted by paragraph 21 of Schedule 30 to the Finance Act 2000 (c. 17).

(2) S.I. 2001/1163.

(3) The reference is to section 432A of the Income and Corporation Taxes Act 1988 which, together with sections 432B to 432E, was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 (c. 29). Section 432A was amended by section 91(2)(a) of, and Part 3(8) of Schedule 23 to, the Finance Act 1993 (c. 34), paragraph 13 of Schedule 8 to the Finance Act 1995 (c. 4), section 167(2) of the Finance Act 1996 (c. 8), section 109(3), (4)(a), (5) and (6) of the Finance Act 2000, article 52(1)(c) and (2)(c) of S.I. 2001/3629, paragraph 46 of Schedule 25, and Part 3(12) of Schedule 40, to the Finance Act 2002 (c. 23), and paragraph 26 of Schedule 33, and Part 3(12) of Schedule 43, to the Finance Act 2003 (c. 14).

- (a) omit the definition of “attributable”,
- (b) in the definition of “BLAGAB” after “business” insert “within the meaning given by section 431F(4)”, and
- (c) for the definitions of “the policy holder’s share of the amount of EUFT attributable to BLAGAB” and “the policy holders' share of the corporation tax attributable to any single dividend referable to the claimant company’s BLAGAB” substitute—

“the policy holders' share of the amount of EUFT attributable to BLAGAB” means the relevant fraction of—

- (a) where all of the company’s long-term business within the meaning given by section 431(2)(5) is BLAGAB, the whole of the amount of EUFT;
- (b) in any other case, so much of the amount of EUFT as is attributable to BLAGAB by virtue of section 804B(3) or (4)(6);

“the policy holders' share of the corporation tax attributable to any single dividend referable to the claimant company’s BLAGAB” means the relevant fraction of that tax;

“the relevant fraction” means the fraction arrived at by dividing—

- (a) the policy holders' share of the company’s relevant profits for the relevant accounting period, by
- (b) the company’s BLAGAB profits for that period,

and, for the purposes of this definition, “the policy holders' share of the company’s relevant profits” shall be construed in accordance with sections 88(3) and 89 of the Finance Act 1989(7) and “the company’s BLAGAB profits” shall be construed in accordance with section 89(1B) of that Act;”.

*Ann Chant
Dave Hartnett*

16th July 2003

Two of the Commissioners of Inland Revenue

(4) The reference is to section 431F of the Income and Corporation Taxes Act 1988 which, together with sections 431B to 431E, was inserted by paragraph 2 of Schedule 8 to the Finance Act 1995.

(5) The reference is to section 431(2) of the Income and Corporation Taxes Act 1988 which was relevantly amended by article 26(5) of S.I. 2001/3629.

(6) The reference is to section 804B of the Income and Corporation Taxes Act 1988 which was inserted by paragraph 17 of Schedule 30 to the Finance Act 2000. Subsection (4) of that section was amended by paragraph 6(b) of Schedule 25 to the Finance Act 2001 (c. 9) and article 52(2)(k) of S.I. 2001/3629.

(7) 1989 c. 26. Section 88(3) was substituted by paragraph 21(2) of Schedule 8 to the Finance Act 1995 and was amended by paragraph 56 of Schedule 14 to the Finance Act 1996. Section 89 was substituted by section 45(3) of the Finance Act 1990 and was amended by paragraph 26(3) of Schedule 6 to the Finance Act 1996, paragraph 14 of Schedule 3, paragraph 19 of Schedule 6, and Part 2(6) and (11) of Schedule 8, to the Finance (No. 2) Act 1997 (c. 58), articles 58 and 60(3) of S.I. 2001/3629 and paragraphs 6(2) to (5), 7(1), 12(4) and 13(4) of Schedule 33, and Part 3(12) of Schedule 43, to the Finance Act 2003.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Double Taxation Relief (Surrender of Relievable Tax Within a Group) Regulations 2001 (S.I.2001/1163) (“the principal Regulations”). The principal Regulations provide for the surrender of eligible unrelieved foreign tax (“EUFT”) by one company in a group to another. The main amendments in consequence of amendments made to the legislation governing the taxation of insurance companies by Schedule 33 to the Finance Act 2003 (c. 14).

Regulation 1 provides for citation, commencement and effect.

Regulation 2 amends regulation 4 of the principal Regulations (amount of EUFT available for surrender).