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## 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”) to take account of the changes introduced by the Finance Act 2011 to the taxation of foreign permanent establishments of companies resident in the United Kingdom.

Regulation 1 provides for citation, commencement and effect.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends regulation 2 (interpretation) of the principal Regulations to insert definitions of “foreign permanent establishment payment” and “foreign permanent establishment receipt”, these are payments and receipts by a company in respect of a trade carried on through a permanent establishment in a territory outside the United Kingdom where section 18A of the Corporation Tax Act 2009 has effect in relation to the company (section 18A of the Corporation Tax Act 2009 was inserted by Schedule 13 to the Finance Act 2011 and provides an exemption for the profits and losses of a foreign permanent establishment of a company resident in the United Kingdom). The statutory references in the definition of “United Kingdom recipient” are also updated.

Regulation 4 amends regulation 4 (tax treatment of approved manufactured overseas dividends paid to approved United Kingdom intermediaries or approved United Kingdom collecting agents) of the principal Regulations so that a manufactured overseas dividend cannot be paid without deduction of an amount on account of income tax under that regulation if the receipt by the approved United Kingdom intermediary or approved United Kingdom collecting agent is a foreign permanent establishment receipt. The approved United Kingdom collecting agent or intermediary will then not need to account for and pay tax under regulation 4 in respect of that receipt.

Regulation 5 amends regulation 5 (tax treatment of approved manufactured overseas dividends paid to persons resident outside the United Kingdom) of the principal Regulations and regulation 6 amends regulation 5A (chains of payments where last payment made to, or for the benefit of, registered pension scheme or is linked solely to pension business) of the principal Regulations so that a chain of payments under those regulations cannot include a foreign permanent establishment payment.

Regulation 7 amends regulation 7 (disapplication of paragraph 4(3) of Schedule 23A) of the principal Regulations so the disapplication of the reverse charge under section 923 of the Income Tax Act 2007 (this was previously paragraph 4(3) of Schedule 23A of the Income and Corporation Taxes Act 1988 (c. 1)) applies where a manufactured overseas dividend is received by an approved United Kingdom collecting agent and the person who is beneficially entitled to the dividend would receive it otherwise than in the course of a trade carried on through a branch or agency in the United Kingdom or as a foreign permanent establishment receipt.

Regulation 8 amends regulation 9 (offsetting of tax by overseas dividend manufacturers) of the principal Regulations and regulation 9 amends regulation 9A (offsetting of tax by overseas dividend manufacturers who are not United Kingdom intermediaries) of the principal Regulations to exclude foreign permanent establishment receipts from the amounts available to be offset in determining a persons liability to tax.

Regulation 10 amends regulation 10 (matching of dividends and manufactured overseas dividends) of the principal Regulations so that foreign permanent establishment receipts and

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foreign permanent establishment payments cannot be matched with other overseas dividends or manufactured overseas dividends.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.