
 STATUTORY INSTRUMENTS

2007 No. [pqrs]

INCOME TAX

CORPORATION TAX

**The Income Tax (Manufactured Overseas Dividends)
(Amendment) Regulations 2007**

<i>Made</i>	- - - -	***
<i>Laid before the House of Commons</i>		***
<i>Coming into force</i>	- -	<i>1st October 2007</i>

The Treasury make the following Regulations in exercise of the powers conferred by paragraphs 1(1), 4(6), and 8(1) and (1A) of Schedule 23A to the Income and Corporation Taxes Act 1988(a) and section 590(3) of the Income Tax Act 2007(b).

Citation, commencement and effect

1. These Regulations may be cited as the Income Tax (Manufactured Overseas Dividends) (Amendment) Regulations 2007, shall come into force on 1st October 2007, and shall have effect in relation to manufactured overseas dividends made or treated as made on or after that day.

Amendment of the Income Tax (Manufactured Overseas Dividends) Regulations 1993

2. The Income Tax (Manufactured Overseas Dividends) Regulations 1993(c) are amended as follows.

3.—(1) Amend regulation 3(d) (prescribed rates of relevant withholding tax) as follows.

(2) In paragraph (1) for “paragraph (4)” substitute “paragraphs (5) and (6)”.

(3) Add the following paragraphs at the end—

“(5) Where the recipient of the manufactured overseas dividend is a company, the reference in paragraph (1) to the highest rate is a reference to the highest rate that would have applied in relation to the overseas dividend specified in paragraph (1)(a) paid to a company which is within paragraphs (i) to (iii) of that paragraph.

(6) Where the recipient of the manufactured overseas dividend is a registered pension scheme (within the meaning given in Part 4 of the Finance Act 2004(e)), the reference in

(a) 1998 c. 1; Schedule 23A was inserted by paragraph 1 of Schedule 13 to the Finance Act 1991 (c. 31). Sub-paragraph (1) of paragraph 8 was amended by section 159(7) of the Finance Act 1996 (c. 8) and paragraph 13(1) of Schedule 10 to the Finance Act 1997 (c. 16). Sub-paragraph (1A) of paragraph 8 was inserted, by section 159(8) of the Finance Act 1996. In paragraph 1(1) of Schedule 23A, see the definitions of “dividend manufacturing regulations” and “prescribed”.

(b) 2007 c. 3.

(c) S.I. 1993/2004; relevant amending instruments are S.I. 1996/2643, 1997/988 and 2003/2582.

(d) Regulation 3 was amended by S.I. 2003/2582.

(e) 2004 c. 12.

paragraph (1) to the highest rate is a reference to the rate that would have been suffered by that pension scheme in relation to the overseas dividend of which that manufactured overseas dividend is representative.”.

4. After regulation 5 insert—

“Chains of payments where last payment made to, or for benefit of, registered pension scheme

5A.—(1) This regulation applies where—

- (a) a person (the “original payer”) pays a manufactured overseas dividend, and
- (b) the payment is made to an approved United Kingdom intermediary or to an approved United Kingdom collecting agent as part of a chain of payments where conditions A to D are met.

(2) Condition A is that each payment in the chain, apart from the first, is a payment by an approved United Kingdom intermediary or an approved United Kingdom collecting agent of a manufactured overseas dividend representative of the same overseas dividend.

(3) Condition B is that the last payment in the chain—

- (a) is made to, or for the benefit of a registered pension scheme (within the meaning given in Part 4 of the Finance Act 2004), or
- (b) is linked solely to pension business for the purposes of section 438 of the Taxes Act(a).

(4) Condition C is that the last payment in the chain is made by a person who—

- (a) is resident in the United Kingdom, or
- (b) is not resident in the United Kingdom, but makes the payment in the course of a trade carried on through a permanent establishment.

(5) Condition D is that each recipient of payment in the chain has issued a notice to the original payer to make the payment at the applicable rate of relevant withholding tax.

(6) The applicable rate of relevant withholding tax for each payment in the chain shall be determined as if the person to whom the payment is made were the registered pension scheme to which the last payment in the chain is made.

(7) For the purposes of condition A (see paragraph (2)) it does not matter whether or not the first payment in the chain was made by an approved United Kingdom intermediary or an approved United Kingdom collecting agent.”.

5. In regulation 7(b) (disapplication of paragraph 4(3) of Schedule 23A) for paragraph (3A) substitute—

“(3A) Paragraphs (3B) to (3D) apply where, by virtue of paragraph (1), tax is not required to be accounted for and paid in the circumstances prescribed by paragraph (2)(e).

(3B) For the purposes of the Corporation Tax Acts, paragraph 4(4) of Schedule 23A shall apply as if the amount of tax required under section 923 of the Income Tax Act 2007 to be accounted for and paid were amount A or amount B (whichever should be the lower) and as if that amount of tax had been accounted for and paid.

(3C) For the purposes of the Income Tax Acts, section 923 of the Income Tax Act 2007 shall apply as if the amount of tax which the recipient must account for and pay were amount A or amount B (whichever should be the lower).

(3D) For the purposes of paragraphs (3B) and (3C)—

(a) Section 438 was amended by paragraph 6 of Schedule 3 to the Finance (No. 2) Act 1997 (c. 58), by paragraph 9(1)(a) of Schedule 7 and Part 3 of Schedule 42 to the Finance Act 2004, and by S.I. 2001/3629.
(b) Paragraph (3A) of regulation 7 was inserted by S.I. 1996/2643.

- (a) amount A is an amount equal to the excess of the gross amount of the overseas dividend over the amount of that overseas dividend received by the overseas dividend manufacturer, and
- (b) amount B is an amount equal to the excess of the gross amount of the overseas dividend over the amount of the manufactured overseas dividend paid by the overseas dividend manufacturer which represents that dividend.”.

6. In regulation 9(a) (offsetting of tax by overseas dividend manufacturers), in paragraph (4B), for “regulation 5” substitute “regulation 3(6), 5 or 5A”.

7. In regulation 10(b) (matching of dividends and manufactured overseas dividends), in paragraph (1)(b), for “regulation 5” substitute “regulation 3(6), 5 or 5A”.

[Day] [Month] 2007 [abc]
[def]
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE
(This note is not part of the Regulations)

[To follow.]

(a) Paragraphs (4A) to (4C) of regulation 9 were substituted for paragraph (4A) of that regulation by S.I. 1997/988.
(b) Paragraph (1)(b) of regulation 10 was amended by S.I. 2003/2582.