STATUTORY INSTRUMENTS

1966 No. 312

INCOME TAX

The Double Taxation Relief (Taxes on Income) (General) Regulations 1966

Made - - - 22*nd March* 1966

Coming into Operation 6*th April* 1966

The Commissioners of Inland Revenue in exercise of the powers conferred upon them by section 351 of the Income Tax Act 1952(a) and section 64 of the Finance Act 1965(b) hereby make the following Regulations:—

1.—(1) These Regulations may be cited as the Double Taxation Relief (Taxes on Income) (General) Regulations 1966 and shall come into operation on 6th April 1966.

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

(3) In these Regulations " the Board " means the Commissioners of Inland Revenue; " year " means year of assessment.

(4) Except in relation to payments which are income of the year 1965–66 or an earlier year the following Regulations shall cease to have effect from 6th April 1966, that is to say—

The Double Taxation Relief (Taxes on Income) (General) Regulations 1946(d).

The Double Taxation Relief (Taxes on Income) (General) (No. 2) Regulations 1950(e).

The Double Taxation Relief (Taxes on Income) (General) (No. 3) Regulations 1954(f).

The Double Taxation Relief (Taxes on Income) (General) (No. 4) Regulations 1965(g).

Provided that any notice given under paragraph (2) or direction given under paragraph (6), or claim made under paragraph (8), of Regulation 3 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1946 which was in force immediately before the coming into operation of these Regulations shall continue in force as if given or made under the corresponding provision of these Regulations and the following provisions of these Regulations shall apply accordingly.

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10. (b) 1965 c. 25.
(c) 52 & 53 Vict. c. 63.
(d) S.R. & O. 1946/466 (Rev. X, p. 328: 1946 I, p. 867).
(e) S.I. 1950/1517 (1950 I, p. 996). (f) S.I. 1954/1366 (1954 I, p. 968).
(g) S.I. 1965/636 (1965 I, p. 2018).

2.—(1) The following provisions of these Regulations shall have effect where, under arrangements having effect under section 347 of the Income Tax Act 1952(**a**), persons resident in the territory with the Government of which the arrangements are made are entitled to exemption or partial relief from United Kingdom income tax in respect of any income from which deduction of tax is authorised or required by the Income Tax Acts.

(2) Any person who pays any such income (referred to in these Regulations as " the United Kingdom payer ") to a person in the said territory who is beneficially entitled to the income (such person being referred to in these Regulations as " the non-resident ") may be directed by a notice in writing given by or on behalf of the Board that in paying any such income specified in the notice to the non-resident he shall—

(a) not deduct tax, or

(b) not deduct tax at a higher rate than is specified in the notice, or

(c) deduct tax at a rate specified in the notice instead of at the standard rate otherwise appropriate;

and where such notice is given, any income to which the notice refers, being income for a year for which the arrangements have effect, which the United Kingdom payer pays after the date of the notice to the non-resident named therein shall, subject to the following provisions of these Regulations, be paid as directed in the notice.

Provided that income specified in a notice given under this paragraph shall not include distributions in respect of which income tax is chargeable under Schedule F.

3. Where a notice given under Regulation 2(2) directs the United Kingdom payer to deduct tax at a rate specified in the notice, the provisions of the Income Tax Acts under which he would, but for the notice, have been chargeable with or liable to account for all or part of any tax deducted at the standard rate shall apply as if those Acts required him to deduct tax at the rate so specified.

4.—(1) Where but for a notice given under Regulation 2(2) the United Kingdom payer would have been entitled to retain any income tax deductible on making any payment, there shall be made to him against the income tax otherwise payable by him for the relevant year an allowance equal to the amount of tax which, but for the notice, he would have been entitled to retain on making the payment but in compliance with the notice has not deducted.

(2) " The relevant year " means the year the standard rate for which would (but for the notice) have determined the amount of the deduction authorised.

5. The United Kingdom payer shall not, in respect of any payment, be charged with or liable to account for any tax which, but for a notice given under Regulation 2(2), he would have been required by the Income Tax Acts to deduct and account for on making the payment but in compliance with the notice has not deducted.

6. Where in compliance with a notice given under Regulation 2(2) a company makes a payment without deducting tax which, but for the notice, it would have been required to deduct in accordance with Section 170 of the Income Tax Act 1952, the payment shall be treated for the purposes of Section 52(5) of the Finance Act 1965(**b**) (which prohibits certain payments from being treated as charges on income for corporation tax) as if the company had deducted that tax in accordance with the said Section 170 and had accounted for it under Part IV of the Finance Act 1965.

(**a**) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10. (**b**) 1965 c. 25.

7. Where, but for a notice given under Regulation 2(2), a person would have been chargeable with tax under Section 170 of the Income Tax Act 1952 (a) in respect of any payment, the provisions of the Income Tax Acts relating to relief for losses shall apply as if the tax with which he would have been so chargeable but in accordance with Regulation 5 is not so chargeable had been paid by him under an assessment under the said Section 170.

8. Any notice given under Regulation 2(2) may be expressed to become ineffective if certain specified events happen, or, whether so expressed or not, may be cancelled by a notice of cancellation given by or on behalf of the Board, and if to the knowledge of the United Kingdom payer any of those events happens or if such notice of cancellation is given, any payment made to the non-resident by the United Kingdom payer after the happening of that event becomes known to the United Kingdom payer or after the receipt of that notice, as the case may be, shall be subject to deduction of tax in accordance with the Income Tax Acts.

9. If it is discovered after a notice has been given under Regulation 2(2) that the non-resident is not entitled to exemption or partial relief from tax in respect of income referred to in the notice, any tax which, but for the notice, would have been deductible from any payment made to the non-resident by the United Kingdom payer but in compliance with the notice has not been so deducted—

(a) may be assessed on the non-resident under Case VI of Schedule D by an Inspector, or

(b) shall, if a direction to that effect is given by or on behalf of the Board, be deducted by the United Kingdom payer out of so much of the first payment made to the non-resident after the date of the direction as remains after the deduction of any tax deductible therefrom under the Income Tax Acts, and any balance which cannot be deducted out of the first such payment shall be deducted, subject to the same limitation, out of the next such payment, and so on until the whole of the tax (the amount of which shall be specified in the direction) has been deducted.

Any tax which the United Kingdom payer is required to deduct under paragraph *(b)* of this Regulation shall be accounted for as if it was tax deductible under Section 170 of the Income Tax Act 1952 in respect of the payment from which it is deducted.

10. A notice may be given under Regulation 2(2) where income is paid to a person authorised to receive that income on behalf of the non-resident, and in such a case the references in these Regulations to payment to the non-resident shall be treated as including references to payment to that person.

11. Regulations 2(2) and 8 shall not apply to payments in respect of coupons for any interest, but any such payments may, under arrangements approved by the Board, be made without deduction of tax or with tax deducted at a rate specified in the arrangements, if the non-resident or any person acting on his behalf makes a claim to the United Kingdom payer to that effect in such form as may be prescribed by the Board, and in the case of any payments so made Regulations 3 to 7 inclusive and Regulation 9 shall, with any necessary modifications, apply as if the claim were a notice given under Regulation 2(2).

By order of the Commissioners of Inland Revenue.

N. C. Price,
Secretary.

22nd March 1966.

(a) 15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which take effect from 6th April 1966, replace earlier Regulations governing the way in which relief from United Kingdom tax, due, on certain payments of interest or royalties, to non-residents by virtue of a double taxation agreement, may be given at source.

They provide for the payment of such interest or royalties without deduction of United Kingdom income tax or for payment under deduction of a limited rate of tax, and for consequential adjustments required to put the payer in the same position as regards his own income tax or corporation tax liability as if the full standard rate of income tax had been deducted.

In addition the Regulations bring formally to an end Regulations, governing the determination of the net United Kingdom rate of tax applicable to certain dividends, which for the tax year 1966–67 and subsequent years cease to have effect following the repeal by the Finance Act 1965 of Section 350 Income Tax Act 1952.

The Regulations do not otherwise apply to dividends.