STATUTORY INSTRUMENTS

2011 No. 2503

INCOME TAX

CORPORATION TAX

The Income Tax (Manufactured Overseas Dividends) (Amendment No. 2) Regulations 2011

Made - - - -	*19th October 2011*
Laid before the House of Commons	*20th October 2011*
Coming into force - -	*10th November 2011*

The Treasury make the following Regulations in exercise of the powers conferred by sections 585, 586 and 588 of the Income Tax Act 2007(**a**) and sections 789, 803 and 804 of the Corporation Tax Act 2010(**b**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Manufactured Overseas Dividends) (Amendment No. 2) Regulations 2011 and come into force on 10th November 2011.

(2) These Regulations have effect in relation to manufactured overseas dividends paid or treated as paid on or after that day.

Amendments to the Income Tax (Manufactured Overseas Dividends) Regulations 1993

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

Amendment of regulation 5 (tax treatment of approved manufactured overseas dividends paid to persons resident outside the United Kingdom)

3. In regulation 5 (tax treatment of approved manufactured overseas dividends paid to persons resident outside the United Kingdom), in paragraph (2)(b)(iii), after "chain" insert ", apart from the last,".

(**a**) 2007 c. 3, see section 591 for the definition of "prescribed".
(**b**) 2010 c. 4.
(**c**) S.I. 1993/2004, relevantly amended by S.I. 1996/2643, 2003/2582, 2007/2487 and 2011/1787.

Amendment of 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)

4.—(1) Amend 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)(**a**) as follows.

(2) In paragraph (5), after "chain" insert ", apart from the last,".

(3) In paragraph (6), after "chain" insert "to an approved United Kingdom intermediary or to an approved United Kingdom collecting agent".

Insertion of new regulation 5B

5. After regulation 5A insert—

"Chains of payments involving central counterparties

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

(a) a person pays a manufactured overseas dividend, and

(b) the payment is made as part of a chain of payments ("a CCP chain"), which may form part of a chain of payments to which regulation 5(2)(**b**) or 5A applies, where conditions A to C are met.

(2) Condition A is that each payment in the CCP chain is a payment of a manufactured overseas dividend representative of the same overseas dividend.

(3) Condition B is that each payment in the CCP chain is made—

(a) by or to a central counterparty,

(b) to a clearing member acting in the capacity as clearing member for another person where a corresponding payment is made by the clearing member to a central counterparty, or

(c) by a clearing member acting in the capacity as clearing member for another person where a corresponding payment is made to the clearing member by a central counterparty.

(4) Condition C is that a notice has been issued by or on behalf of the central counterparty to the first CCP payer and the final CCP recipient—

(a) confirming that conditions A and B are met, and

(b) either—

(i) stating names and registered addresses of the first CCP payer and the final CCP recipient, or

(ii) containing sufficient information to enable the parties to the CCP chain to meet their tax obligations in the United Kingdom with respect to the manufactured overseas dividend.

(5) For the purposes of Chapter 9 of Part 15 of the Income Tax Act 2007 and these Regulations—

(a) the first CCP payer is treated as required to pay to the final CCP recipient a manufactured overseas dividend representative of an overseas dividend on overseas securities paid under an arrangement for the transfer of securities,

(b) the payments in the CCP chain are disregarded, and

(c) a manufactured overseas dividend representative of the same overseas dividend is treated as paid by the first CCP payer to the final CCP recipient.

(**a**) Regulation 5A was inserted by S.I. 2007/2487 and amended by S.I. 2011/1787.
(**b**) Regulation 5(2) was amended by S.I. 2011/1787.

(6) In this regulation—

"central counterparty" means a recognised clearing house or recognised investment exchange which carries on a business of providing a central counterparty clearing service in relation to arrangements for the transfer of overseas securities;

"central counterparty clearing service" means the service provided to parties to an arrangement for the transfer of overseas securities, or to a clearing member acting on behalf of either of those parties, where there are contracts between each of those parties, or a clearing member, and the central counterparty in place of, or as an alternative to, a contract directly between those parties;

"clearing member" means a party who provides clearing arrangements between a party to an arrangement for the transfer of overseas securities and a central counterparty;

"final CCP recipient" means the party to whom the last payment in the CCP chain is made;

"first CCP payer" means the maker of the first payment in the CCP chain;

"recognised clearing house" has the meaning given by section 285 of the Financial Services and Markets Act 2000(**a**);

"recognised investment exchange" means—

(a) a recognised investment exchange within the meaning of the Financial Services and Markets Act 2000 (see section 285),

(b) a regulated market within the meaning of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments(**b**), or

(c) a multilateral trading facility within the meaning of that Directive.".

Amendment of regulation 6 (retention and record of notices given under regulations 4 and 5)

6.—(1) Amend regulation 6 (retention and record of notices given under regulations 4 and 5) as follows.

(2) In the heading, for "4 and 5" substitute "4 to 5B".

(3) In paragraph (1)(**c**), for "or regulation 5(2)(b)(iii)" substitute ", 5(2)(b)(iii), 5A(5) or 5B(4)".

Amendment of regulation 10 (matching of dividends and manufactured overseas dividends)

7. In regulation 10 (matching of dividends and manufactured overseas dividends), omit paragraphs (2) to (4)(**d**).

Amendment of regulation 15 (issue of vouchers in respect of manufactured overseas dividends paid under deduction of tax)

8.—(1) Amend regulation 15 (issue of vouchers in respect of manufactured overseas dividends paid under deduction of tax)(**e**) as follows.

(2) In paragraph (1), for "paragraphs (2) and (3)" substitute "paragraph (3)".

(3) Omit paragraph (2).

Michael Fabricant
Angela Watkinson
19th October 2011 Two of the Lords Commissioners of Her Majesty's Treasury

(**a**) 2000 c. 8.
(**b**) OJ L 145, 30.4.2004, p.1-44.
(**c**) Regulation 6(1) has been amended by S.I. 2003/2582.
(**d**) Regulation 10(2) to (4) has been amended by S.I. 1996/2643 and 2003/2582.
(**e**) Regulation 15 has been amended by S.I. 1996/2643.

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").

Regulation 1 provides for citation, commencement and effect.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends regulation 5 (tax treatment of approved manufactured overseas dividends paid to persons resident outside the United Kingdom) so that the recipient of the last payment in a chain of payments of manufactured overseas dividends is not required to issue a notice authorising the payment to be made without deduction of tax.

Regulation 4 makes two amendments to 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). The first amendment removes the requirement that the recipient of the last payment in a chain of payments of manufactured overseas dividends issue a notice to the original payer to make the payment at the applicable rate of withholding tax. The second amendment ensures that the determination of the applicable rate of relevant withholding tax under regulation 5A for each payment in the chain does not apply in relation to the last payment in the chain.

Regulation 5 inserts regulation 5B (chains of payments involving central counterparties). This provides that where certain conditions are met, payments in a chain of payments involving a central counterparty are ignored and the maker of the first payment in the chain is treated as making a payment of a manufactured overseas dividend to the party receiving the last payment in the chain.

Regulation 6 amends regulation 6 (retention and record of notices given under regulations 4 and 5) to insert references to regulations 5A(5) and 5B so that notices under those provisions are subject to the requirements as to form, retention and record keeping imposed by regulation 6.

Regulation 7 amends regulation 10 (matching of dividends and manufactured overseas dividends) to omit paragraphs (2) to (4) to remove the requirement to forward vouchers relating to the deduction of overseas tax from an overseas dividend to the United Kingdom recipient.

Regulation 8 amends regulation 15 (issue of vouchers in respect of manufactured overseas dividends paid under deduction of tax) to omit references to regulation 10(2) to (4).

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.

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