STATUTORY INSTRUMENTS

2010 No. 925

INCOME TAX

CORPORATION TAX

The Income Tax (Manufactured Overseas Dividends) (Amendment) Regulations 2010

Made - - - -	*24th March 2010*
Laid before the House of Commons	*24th March 2010*
Coming into force - -	*14th April 2010*

The Treasury make the following Regulations in exercise of the powers conferred by sections 924, 925 and 927 of the Income Tax Act 2007(**a**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Income Tax (Manufactured Overseas Dividends) (Amendment) Regulations 2010 and shall come into force on 14th April 2010.

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

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

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

Amendment of regulation 2 (interpretation)

3. In regulation 2 (interpretation), in paragraph (1) after the definition of "gross amount of the manufactured overseas dividend" insert—

""gross amount of the overseas dividend" has the meaning given by—

(a) section 589(4) of the Income Tax Act 2007 for income tax purposes, and

(b) section 813(3) of the Corporation Tax Act 2010(**c**) for corporation tax purposes;".

(**a**) 2007 c. 3.
(**b**) S.I. 1993/2004, relevantly amended by S.I. 1996/2643, 1997/988, 2003/2582, 2007/2487.
(**c**) 2010 c. 4.

Amendment of regulation 6A (reduction of tax payable under paragraph 4(3) of Schedule 23A)

4. In regulation 6A (reduction of tax payable under paragraph 4(3) of Schedule 23A)(**a**) in paragraph (6) omit ", other than relief given by virtue of section 811 of that Act,".

Amendment of regulation 9 (offsetting of tax by overseas dividend manufacturers)

5.—(1) Amend regulation 9 (offsetting of tax by overseas dividend manufacturers) as follows.

(2) In paragraph (1), at the end insert—

"This is subject to regulation 9ZA.".

(3) For paragraph (4B)(**b**) substitute—

"(4B) Where—

(a) overseas dividends or manufactured overseas dividends received by the overseas dividend manufacturer in any chargeable period fall to be matched, in accordance with regulation 10(1), against manufactured overseas dividends to which regulation 3(6), 5 or 5A applies that are paid by him in that period, and

(b) the gross amount of the overseas dividends or the manufactured overseas dividends is brought into account by the overseas dividend manufacturer as income for the purposes of income tax or corporation tax for that period,

relief under section 112 of the Taxation (International and Other Provisions) Act 2010 (deduction from income for foreign tax (instead of credit against UK tax))(**c**) shall be given to the overseas dividend manufacturer in respect of any tax referred to in paragraph (1A) that is attributable to those overseas dividends or manufactured overseas dividends received.".

Insertion of new regulation 9ZA

6. After regulation 9 insert—

"Entitlement to offsetting

9ZA.—(1) There shall be no entitlement to set off under regulation 9(1) in relation to overseas dividends or manufactured overseas dividends received by an overseas dividend manufacturer in any chargeable period if—

(a) the overseas dividends or the manufactured overseas dividends do not fall to be matched, in accordance with regulation 10(1), against manufactured overseas dividends paid by the overseas dividend manufacturer in that period, and

(b) the gross amount of the overseas dividends or manufactured overseas dividends is not brought into account in accordance with generally accepted accounting practice by the overseas dividend manufacturer as income for the purposes of income tax or corporation tax for that period.

This is subject to paragraph (2).

(2) Paragraph (1) does not apply if the overseas dividend manufacturer elects to bring into account the gross amount of the overseas dividends or manufactured overseas dividends received in any chargeable period as income for the purpose of calculating his liability to income tax or corporation tax for that period.

(3) An election under paragraph (2)—

(a) must be made in writing to Her Majesty's Revenue and Customs,

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(**a**) Regulation 6A was inserted by S.I. 1996/2643.
(**b**) Paragraph (4B) of regulation 9 was inserted by S.I. 1997/988 and amended by S.I. 2007/2487.
(**c**) 2010 c. 8.

(b) applies in relation to overseas dividends and manufactured overseas dividends received in the chargeable period in which the election is made and in subsequent periods, and

(c) may be revoked by notice in writing to Her Majesty's Revenue and Customs with effect from the chargeable period in which the notice is given.".

Amendment of regulation 9A (offsetting of tax by overseas dividend manufacturers who are not United Kingdom intermediaries)

7. In regulation 9A (offsetting of tax by overseas dividend manufacturers who are not United Kingdom intermediaries)(**a**) after paragraph (2B) insert—

"(2C) But paragraph (2B) only applies to a case where the gross amount of the overseas dividends or, as the case may be, the manufactured overseas dividends received by the overseas dividend manufacturer in any chargeable period is brought into account as income for the purposes of income tax or corporation tax for that period.".

Tony Cunningham
Dave Watts
24th March 2010 Two of the Lords Commissioners of Her Majesty's Treasury

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 2 (interpretation) to insert a definition of "gross amount of the overseas dividend".

Regulation 4 amends regulation 6A (reduction of tax payable under paragraph 4(3) of Schedule 23A) to extend the restriction of double taxation relief under Part 2 of the Taxation (International and Other Provisions) Act 2010 (previously Part 18 of the Income and Corporation Taxes Act 1988) in relation to relief given under section 112 of that Act (deduction from income for foreign tax (instead of credit against UK tax)) (previously section 118 of the Income and Corporation Taxes Act 1988) where overseas tax was charged on the manufactured overseas dividend concerned.

Regulation 5 amends regulation 9 (offsetting of tax by overseas dividend manufacturers). Regulation 9 provides that an approved United Kingdom intermediary shall be entitled to set off tax on overseas dividends and manufactured overseas dividends received in any chargeable period against tax on approved manufactured overseas dividends paid in that period. The amendment to paragraph (1) makes this entitlement subject to new regulation 9ZA. Paragraph (4B) is amended to restrict double taxation relief under section 112 of the Taxation (International and Other Provisions) Act 2010 in the case of certain overseas dividends or manufactured overseas dividends which are matched against each other under regulation 10 of the principal Regulations. The amendment ensures such elief is only available if the gross amount of the dividend is brought into account.

(**a**) Regulation 9A was inserted by S.I. 1997/988 and paragraph (2B) was inserted by S.I. 2003/2582.

Regulation 6 inserts a new regulation 9ZA. This provision restricts the entitlement to offsetting where the overseas dividends or manufactured overseas dividends are not matched against each other under regulation 10 of the principal Regulations to cases where the gross amount of the dividend is brought into account, either in accordance with generally accepted accounting practice or by election under this provision.

Regulation 7 amends regulation 9A (offsetting of tax by overseas dividend manufacturers who are not United Kingdom Intermediaries) to restrict the availability of relief under section 112 of the Taxation (International and Other Provisions) Act 2010 by overseas dividend manufacturers who are not approved United Kingdom intermediaries to cases where the gross amount of the overseas dividends or manufactured overseas dividends is brought into account.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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